

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1398 Session of 2015

INTRODUCED BY A. HARRIS, THOMAS, MACKENZIE, STAATS, MILLARD, LONGIETTI, GIBBONS, ROZZI, MCGINNIS, GREINER, BARBIN, COHEN, MILNE, MARSICO, PETRI, DeLISSIO, DAVIDSON, JAMES, PEIFER, DAY, GROVE, FARRY, ELLIS, BENNINGHOFF, P. COSTA, F. KELLER, R. BROWN, D. PARKER, KORTZ, EVERETT AND SCHEMEL, JUNE 24, 2015

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 19, 2015

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated
2 Associations) and 54 (Names) of the Pennsylvania Consolidated
3 Statutes, modernizing the law on limited liability
4 partnerships, general partnerships, limited partnerships and
5 limited liability companies; and making conforming changes
6 with respect to associations, corporations, unincorporated
7 nonprofit associations and business trusts by doing the
8 following:
9 As to general provisions, making conforming changes by
10 revising definitions. PROVISIONS ON APPLICATION OF TITLE, <--
11 DEFINITIONS, DEFENSE OF USURY, TAX CLEARANCE OF CERTAIN
12 FUNDAMENTAL TRANSACTIONS AND FEE SCHEDULE.
13 AS TO ENTITIES GENERALLY, MAKING CONFORMING CHANGES BY
14 REVISING REQUIREMENTS FOR FOREIGN ASSOCIATION NAMES.
15 AS TO ENTITY TRANSACTIONS, MAKING CONFORMING CHANGES BY
16 REVISING PROVISIONS ON REGULATORY CONDITIONS AND REQUIRED
17 NOTICES AND APPROVALS, NATURE OF TRANSACTIONS, APPROVAL BY
18 LIMITED PARTNERSHIP, EFFECT OF MERGER, STATEMENT OF DIVISION
19 AND EFFECTIVENESS, EFFECT OF DIVISION AND EFFECT OF
20 DOMESTICATION.
21 AS TO FOREIGN ASSOCIATIONS, MAKING CONFORMING CHANGES BY
22 REVISING PROVISIONS ON GOVERNING LAW.
23 As to corporations, making conforming changes by revising
24 provisions on distributions by business corporations and by
25 adding provisions on the use of special litigation committees
26 by business corporations and nonprofit corporations.

1 As to partnerships generally:  
2 extensively revising provisions on:  
3 interchangeability of partnership, limited  
4 liability company and corporate forms of  
5 organization; and  
6 ownership of certain professional partnerships;  
7 and  
8 adding a provision on failure to observe formalities.

9 As to limited liability partnerships:  
10 extensively revising provisions on:  
11 scope;  
12 definitions;  
13 limitation on liability of partners;  
14 extraterritorial application of subchapter;  
15 foreign registered limited liability  
16 partnerships; and  
17 annual registration; and  
18 adding provisions on:  
19 distributions; and  
20 dissolution.

21 As to general partnerships, repealing existing Chapter 83  
22 and replacing it with a new Chapter 84 relating to:

23 general provisions;  
24 nature of partnership;  
25 relations of partners to persons dealing with  
26 partnership;  
27 relations of partners to each other and to  
28 partnership;  
29 transferable interests and rights of transferees and  
30 creditors;  
31 dissociation;  
32 dissociation as partner if business not wound up; and  
33 dissolution and winding up.

34 As to limited partnerships, repealing existing Chapter 85  
35 and replacing it with a new Chapter 86 relating to:

36 general provisions;  
37 formation and filings;  
38 limited partners;  
39 general partners;  
40 contributions and distributions;  
41 dissociation;  
42 transferable interests and rights of transferees and  
43 creditors;  
44 dissolution and winding up; and  
45 actions by partners.

46 As to limited liability companies, repealing existing  
47 Chapter 89 and replacing it with a new Chapter 88 relating  
48 to:

49 general provisions;  
50 formation and filings;  
51 relations of members and managers to persons dealing

1 with limited liability company;  
2 relations of members to each other and to limited  
3 liability company;  
4 transferable interests and rights of transferees and  
5 creditors;  
6 dissociation;  
7 dissolution and winding up; and  
8 actions by members.

9 As to unincorporated nonprofit associations, making  
10 conforming amendments by revising provisions on ownership and  
11 transfer of property.

12 As to business trusts, making conforming changes by  
13 revising provisions on application and effect of chapter and  
14 liability of trustees and beneficiaries.

15 As to names, revising provisions on register established.

16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 ~~Section 1. The definitions of "association," "general~~ <--  
19 ~~partnership," "limited liability company" and "limited~~  
20 ~~partnership" in section 102(a) of Title 15 of the Pennsylvania~~  
21 ~~Consolidated Statutes, amended October 22, 2014 (P.L.2640,~~  
22 ~~No.172), are amended and the section is amended by adding~~  
23 ~~definitions to read:~~

24 SECTION 1. SECTION 101(C) OF TITLE 15 OF THE PENNSYLVANIA <--  
25 CONSOLIDATED STATUTES IS AMENDED TO READ:

26 § 101. SHORT TITLE AND APPLICATION OF TITLE.

27 \* \* \*

28 (C) REFERENCES TO PRIOR STATUTES.--A REFERENCE IN THE  
29 [ARTICLES OR BYLAWS OR OTHER ORGANIC DOCUMENTS] ORGANIC RULES OF  
30 AN ASSOCIATION TO ANY PROVISION OF LAW SUPPLIED OR REPEALED BY  
31 THIS TITLE SHALL BE DEEMED TO BE A REFERENCE TO THE SUPERSEDING  
32 PROVISION OF THIS TITLE.

33 SECTION 1.1. THE DEFINITIONS OF "ASSOCIATION," "GENERAL  
34 PARTNERSHIP," "LIMITED LIABILITY COMPANY" AND "LIMITED  
35 PARTNERSHIP" IN SECTION 102(A) OF TITLE 15, AMENDED OCTOBER 22,  
36 2014 (P.L.2640, NO.172), ARE AMENDED AND THE SECTION IS AMENDED

1 BY ADDING DEFINITIONS TO READ:

2 § 102. Definitions.

3 (a) Defined terms.--Subject to additional or inconsistent  
4 definitions contained in subsequent provisions of this title  
5 that are applicable to specific provisions of this title, the  
6 following words and phrases when used in this title shall have,  
7 unless the context clearly indicates otherwise, the meanings  
8 given to them in this section:

9 \* \* \*

10 "Association." A corporation, for profit or not-for-profit,  
11 a partnership, a limited liability company, a business or  
12 statutory trust, an entity or two or more persons associated in  
13 a common enterprise or undertaking. The term does not include:

14 (1) a testamentary trust or an inter vivos trust as  
15 defined in 20 Pa.C.S. § 711(3) (relating to mandatory  
16 exercise of jurisdiction through orphans' court division in  
17 general);

18 (2) an association or relationship that:

19 (i) is not a person that has:

20 (A) a legal existence separate from any interest  
21 holder of the person; or

22 (B) the power to acquire an interest in real  
23 property in its own name; and

24 (ii) is not a partnership under the rules stated in  
25 section [8312 (relating to rules for determining the  
26 existence of partnership)] 8422(c) (relating to formation  
27 of partnership) or a similar provision of the laws of  
28 another jurisdiction;

29 (3) a decedent's estate; or

30 (4) a government or a governmental subdivision, agency

1 or instrumentality.

2 \* \* \*

3 "Charitable purposes." The relief of poverty, the  
4 advancement and provision of education, including postsecondary  
5 education, the advancement of religion, the prevention and  
6 treatment of disease or injury, including mental retardation and  
7 mental disorders, governmental or municipal purposes and any  
8 other purpose the accomplishment of which is recognized as  
9 important and beneficial to the public.

10 \* \* \*

11 "Debtor in bankruptcy." A person that is the subject of:

12 (1) an order for relief under 11 U.S.C. (relating to  
13 bankruptcy) or a comparable order under a successor statute  
14 of general application; or

15 (2) a comparable order under Federal, State or foreign  
16 law governing insolvency.

17 \* \* \*

18 "General partnership." [A domestic or foreign partnership as  
19 defined in section 8311 (relating to partnership defined),  
20 whether or not it is a limited liability partnership or electing  
21 partnership.] Either of the following:

22 (1) A partnership as defined in section 8412 (relating  
23 to definitions).

24 (2) An association whose internal affairs are governed  
25 by the laws of a jurisdiction other than this Commonwealth  
26 which would be a partnership if its internal affairs were  
27 governed by the laws of this Commonwealth.

28 \* \* \*

29 "Limited liability company." [A domestic or foreign limited  
30 liability company as defined in section 8903 (relating to

1 definitions and index of definitions).] Either of the following:

2 (1) A limited liability company as defined in section  
3 8812 (relating to definitions).

4 (2) An association whose internal affairs are governed  
5 by the laws of a jurisdiction other than this Commonwealth  
6 which would be a limited liability company if its internal  
7 affairs were governed by the laws of this Commonwealth.

8 \* \* \*

9 "Limited partnership." [A domestic or foreign limited  
10 partnership as defined in section 8503 (relating to definitions  
11 and index of definitions), whether or not it is a limited  
12 liability limited partnership or electing partnership.] Either  
13 of the following:

14 (1) A limited partnership as defined in section 8612  
15 (relating to definitions).

16 (2) An association whose internal affairs are governed  
17 by the laws of a jurisdiction other than this Commonwealth  
18 which would be a limited partnership if its internal affairs  
19 were governed by the laws of this Commonwealth.

20 \* \* \*

21 ~~Section 2. Section 152 of Title 15, amended October 22, 2014 <--~~  
22 ~~(P.L.2640, No.172), is amended to read:~~

23 SECTION 1.2. TITLE 15 IS AMENDED BY ADDING A SECTION TO <--  
24 READ:

25 § 114. DEFENSE OF USURY.

26 A DOMESTIC ASSOCIATION OTHER THAN A BUSINESS CORPORATION  
27 SHALL BE SUBJECT TO SECTION 1510 (RELATING TO CERTAIN  
28 SPECIFICALLY AUTHORIZED DEBT TERMS) WITH RESPECT TO OBLIGATIONS,  
29 AS DEFINED IN THAT SECTION, GOVERNED BY THE LAWS OF THIS  
30 COMMONWEALTH OR AFFECTING REAL PROPERTY SITUATED IN THIS

1 COMMONWEALTH, TO THE SAME EXTENT AS IF THE DOMESTIC ASSOCIATION  
2 WERE A DOMESTIC BUSINESS CORPORATION.

3 SECTION 2. SECTIONS 139(A) AND (C), 152, 153(A) (2) AND (3),  
4 206, 314(A), (D) AND (E), 315, 324(A) AND (C) AND 336(A) (2) OF  
5 TITLE 15, AMENDED OR ADDED OCTOBER 22, 2014 (P.L.2640, NO.172),  
6 ARE AMENDED TO READ:

7 § 139. TAX CLEARANCE OF CERTAIN FUNDAMENTAL TRANSACTIONS.

8 (A) REQUIREMENT.--EXCEPT AS PROVIDED IN SUBSECTION (C) OR  
9 (D), CLEARANCE CERTIFICATES FROM THE DEPARTMENT OF REVENUE AND  
10 THE DEPARTMENT OF LABOR AND INDUSTRY, EVIDENCING THE PAYMENT BY  
11 THE ASSOCIATION OF ALL TAXES AND CHARGES DUE THE COMMONWEALTH  
12 REQUIRED BY LAW, MUST BE DELIVERED TO THE DEPARTMENT FOR FILING  
13 WHEN ANY OF THE FOLLOWING IS DELIVERED TO THE DEPARTMENT FOR  
14 FILING:

15 (1) ARTICLES OR A STATEMENT OR CERTIFICATE OF MERGER  
16 MERGING A DOMESTIC ASSOCIATION INTO A NONREGISTERED FOREIGN  
17 ASSOCIATION.

18 (2) ARTICLES OR A STATEMENT OR CERTIFICATE OF CONVERSION  
19 OR DOMESTICATION EFFECTING A CONVERSION OR DOMESTICATION OF A  
20 DOMESTIC ASSOCIATION INTO A NONREGISTERED FOREIGN  
21 ASSOCIATION.

22 (3) ARTICLES [OR] OF DISSOLUTION, A CERTIFICATE OF  
23 DISSOLUTION OR TERMINATION OR A STATEMENT OF REVIVAL OF A  
24 DOMESTIC ASSOCIATION.

25 (4) AN APPLICATION FOR TERMINATION OF REGISTRATION,  
26 STATEMENT OF WITHDRAWAL OR SIMILAR DOCUMENT BY A REGISTERED  
27 FOREIGN ASSOCIATION.

28 (5) ARTICLES OR A STATEMENT OR CERTIFICATE OF DIVISION  
29 DIVIDING A DOMESTIC ASSOCIATION SOLELY INTO FOREIGN  
30 ASSOCIATIONS.

1 \* \* \*

2 (C) [ALTERNATIVE PROVISIONS.--IF CLEARANCE CERTIFICATES ARE  
3 FILED WITH THE COURT AS REQUIRED UNDER SUBSECTION (B), IT SHALL  
4 NOT BE NECESSARY TO FILE THE CLEARANCE CERTIFICATES WITH THE  
5 DEPARTMENT OF STATE.] EXCEPTIONS.--IT SHALL NOT BE NECESSARY TO  
6 FILE TAX CLEARANCE CERTIFICATES WITH THE DEPARTMENT OF STATE:

7 (1) IF CLEARANCE CERTIFICATES ARE FILED WITH THE COURT  
8 AS REQUIRED UNDER SUBSECTION (B).

9 (2) WITH ARTICLES OF DISSOLUTION UNDER SECTION 1971  
10 (RELATING TO VOLUNTARY DISSOLUTION BY SHAREHOLDERS OR  
11 INCORPORATORS).

12 (3) WITH A CERTIFICATE OF DISSOLUTION UNDER SECTION  
13 8482(B)(2)(I) (RELATING TO WINDING UP AND FILING OF OPTIONAL  
14 CERTIFICATES).

15 (4) WITH A CERTIFICATE OF TERMINATION UNDER SECTION  
16 8681.1 (RELATING TO VOLUNTARY TERMINATION BY PARTNERS).

17 (5) WITH A CERTIFICATE OF DISSOLUTION UNDER SECTION  
18 8872(B)(2)(I) (RELATING TO WINDING UP AND FILING OF OPTIONAL  
19 CERTIFICATES).

20 (6) WITH A CERTIFICATE OF TERMINATION UNDER SECTION 8878  
21 (RELATING TO VOLUNTARY TERMINATION BY MEMBERS OR ORGANIZERS).

22 \* \* \*

23 § 152. Definitions.

24 The following words and phrases when used in this subchapter  
25 shall have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

27 "Ancillary transaction." Includes:

28 (1) preclearance of document;

29 (2) amendment of articles, charter, certificate or other  
30 organic document, restatement of articles, charter,

1 certificate or other organic document;

2 (3) dissolution, cancellation or termination of an  
3 association;

4 ~~(3.1) rescission of dissolution;~~ <--

5 (4) withdrawal OR TRANSFER OF REGISTRATION by foreign <--  
6 association;

7 (5) [withdrawal by] DISSOCIATION AS a partner; <--

8 (5.1) statement or certificate of authority and denial  
9 or negation of authority;

10 (6) any transaction similar to any item listed in  
11 paragraphs (1) through [(5)] (5.1);

12 (6.1) withdrawal, abandonment or termination of a  
13 document which has been delivered to the department for  
14 filing but has not yet become effective; or

15 (7) delivery to the department for filing in, by or with  
16 the department or the Secretary of the Commonwealth of any  
17 articles, statements, proceedings, agreements or any similar  
18 papers affecting associations under the statutes of this  
19 Commonwealth for which a specific fee is not set forth in  
20 section 153 (relating to fee schedule) or other applicable  
21 statute.

22 § 153. FEE SCHEDULE. <--

23 (A) GENERAL RULE.--THE NONREFUNDABLE FEES OF THE BUREAU,  
24 INCLUDING FEES FOR THE PUBLIC ACTS AND TRANSACTIONS OF THE  
25 SECRETARY OF THE COMMONWEALTH ADMINISTERED THROUGH THE BUREAU,  
26 SHALL BE AS FOLLOWS:

27 \* \* \*

28 (2) FOREIGN ASSOCIATIONS:

29 (I) REGISTRATION STATEMENT OR SIMILAR

30 QUALIFICATIONS TO DO BUSINESS..... 250

1	(II) AMENDMENT OF REGISTRATION STATEMENT OR	
2	SIMILAR CHANGE IN QUALIFICATION TO DO BUSINESS....	250
3	(III) DOMESTICATION OF ALIEN ASSOCIATION	
4	UNDER SECTION 161 (RELATING TO DOMESTICATION OF	
5	CERTAIN ALIEN ASSOCIATIONS).....	250
6	[ (IV) STATEMENT OF MERGER, DIVISION OR	
7	CONVERSION OR SIMILAR INSTRUMENT REPORTING	
8	OCCURRENCE OF MERGER, DIVISION OR CONVERSION NOT	
9	EFFECTED BY A FILING IN THE DEPARTMENT.....	70]
10	(V) ADDITIONAL FEE FOR EACH [QUALIFIED]	
11	<u>REGISTERED</u> FOREIGN ASSOCIATION WHICH IS NAMED IN A	
12	STATEMENT OF MERGER OR SIMILAR INSTRUMENT.....	40
13	(VI) EACH ANCILLARY TRANSACTION.....	70
14	(3) PARTNERSHIPS AND LIMITED LIABILITY COMPANIES:	
15	(I) CERTIFICATE OF LIMITED PARTNERSHIP OR	
16	CERTIFICATE OF ORGANIZATION OF A LIMITED LIABILITY	
17	COMPANY.....	125
18	(II) STATEMENT OF REGISTRATION OF	
19	[REGISTERED] LIMITED LIABILITY PARTNERSHIP <u>OR</u>	
20	<u>LIMITED LIABILITY LIMITED PARTNERSHIP</u> OR STATEMENT	
21	OF ELECTION AS AN ELECTING PARTNERSHIP.....	125
22	(III) EACH ANCILLARY TRANSACTION.....	70

23 \* \* \*

24 § 206. REQUIREMENTS FOR FOREIGN ASSOCIATION NAMES.

25 (A) GENERAL RULE.--THE DEPARTMENT SHALL NOT FILE A  
26 REGISTRATION STATEMENT PURSUANT TO SECTION 412 (RELATING TO  
27 FOREIGN REGISTRATION STATEMENT) FOR A FOREIGN ASSOCIATION THAT,  
28 EXCEPT AS PROVIDED UNDER SUBSECTION (B), HAS A NAME THAT IS  
29 RENDERED UNAVAILABLE FOR USE BY A COVERED ASSOCIATION [UNDER  
30 SECTION 202 (A), (B) OR (C) (1) (I), (III), (IV) OR (V) OR (2)

1 (RELATING TO REQUIREMENTS FOR NAMES GENERALLY)] BY ANY PROVISION  
2 OF THIS SUBCHAPTER.

3 (B) EXCEPTION.--THE PROVISIONS OF SECTION 202(B) AND (C)  
4 (RELATING TO REQUIREMENTS FOR NAMES GENERALLY) SHALL NOT PREVENT  
5 THE FILING OF A REGISTRATION STATEMENT OF A FOREIGN ASSOCIATION  
6 [SETTING FORTH A NAME THAT IS PROHIBITED] WHOSE NAME IN ITS  
7 JURISDICTION OF FORMATION WOULD BE PROHIBITED FROM USE IN THIS  
8 COMMONWEALTH BY SECTION 202(B) AND (C) IF THE FOREIGN  
9 ASSOCIATION [DELIVERS TO THE DEPARTMENT FOR FILING A RESOLUTION  
10 OF ITS GOVERNORS ADOPTING] ADOPTS A NAME FOR USE IN REGISTERING  
11 TO DO BUSINESS IN THIS COMMONWEALTH THAT IS AVAILABLE FOR USE BY  
12 A COVERED ASSOCIATION.

13 § 314. REGULATORY CONDITIONS AND REQUIRED NOTICES AND  
14 APPROVALS.

15 (A) REGULATORY APPROVALS.--IF [LAWS] THE LAW OF THIS  
16 COMMONWEALTH OTHER THAN THIS CHAPTER REQUIRES NOTICE TO OR THE  
17 APPROVAL OF A GOVERNMENTAL AGENCY OR OFFICER OF THE COMMONWEALTH  
18 IN CONNECTION WITH THE PARTICIPATION UNDER AN ORGANIC LAW THAT  
19 IS NOT PART OF THIS TITLE BY A DOMESTIC OR FOREIGN ASSOCIATION  
20 IN A TRANSACTION WHICH IS A FORM OF TRANSACTION AUTHORIZED BY  
21 THIS CHAPTER, THE NOTICE MUST BE GIVEN OR THE APPROVAL OBTAINED  
22 BY THE ASSOCIATION BEFORE IT MAY PARTICIPATE IN ANY FORM OF  
23 TRANSACTION UNDER THIS CHAPTER.

24 \* \* \*

25 (D) PRESERVATION OF TRANSFERS.--[A] SUBJECT TO SUBSECTION  
26 (C) AND SECTION 5550 (RELATING TO DEVISES, BEQUESTS AND GIFTS  
27 AFTER CERTAIN FUNDAMENTAL CHANGES), A BEQUEST, DEVISE, GIFT,  
28 GRANT OR PROMISE CONTAINED IN A WILL OR OTHER INSTRUMENT OF  
29 DONATION, SUBSCRIPTION OR CONVEYANCE THAT IS MADE TO:

30 (1) A MERGING ASSOCIATION THAT IS NOT THE SURVIVING

1 ASSOCIATION AND THAT TAKES EFFECT OR REMAINS PAYABLE AFTER  
2 THE MERGER INURES TO THE SURVIVING ASSOCIATION[.]; AND

3 (2) A DIVIDING ASSOCIATION MAY BE ALLOCATED IN THE  
4 DIVISION AS IF IT WERE AN ASSET OF THE DIVIDING ASSOCIATION  
5 AND, IF THE BEQUEST, DEVISE, GIFT, GRANT OR PROMISE TAKES  
6 EFFECT OR REMAINS PAYABLE AFTER THE DIVISION, VESTS AS  
7 PROVIDED IN SECTION 367(A) (4) (RELATING TO EFFECT OF  
8 DIVISION).

9 (E) TRUST OBLIGATIONS.--A TRUST OBLIGATION THAT WOULD GOVERN  
10 PROPERTY:

11 (1) IF TRANSFERRED TO A MERGING ASSOCIATION THAT IS NOT  
12 THE SURVIVING ASSOCIATION APPLIES TO PROPERTY THAT IS  
13 TRANSFERRED AFTER A MERGER TO THE SURVIVING ASSOCIATION[.];  
14 AND

15 (2) IF TRANSFERRED TO A DIVIDING ASSOCIATION THAT IS NOT  
16 A RESULTING ASSOCIATION APPLIES TO PROPERTY THAT IS  
17 TRANSFERRED AFTER A DIVISION TO A RESULTING ASSOCIATION.

18 [(E)] (F) CROSS REFERENCE.--SEE SECTION 318 (RELATING TO  
19 EXCLUDED ENTITIES AND TRANSACTIONS).

20 § 315. NATURE OF TRANSACTIONS.

21 (A) GENERAL RULE.--THE FACT THAT A SALE OR CONVERSION OF THE  
22 INTERESTS IN OR ASSETS OF AN ASSOCIATION OR A TRANSACTION UNDER  
23 A PARTICULAR SUBCHAPTER PRODUCES A RESULT THAT COULD BE  
24 ACCOMPLISHED IN ANY OTHER MANNER PERMITTED BY A DIFFERENT  
25 SUBCHAPTER OR OTHER LAW SHALL NOT BE A BASIS FOR  
26 RECHARACTERIZING THE SALE, CONVERSION OR TRANSACTION AS A  
27 DIFFERENT FORM OF SALE, CONVERSION OR TRANSACTION UNDER ANY  
28 OTHER SUBCHAPTER OR OTHER LAW.

29 (B) BUSINESS PURPOSE NOT REQUIRED.--A TRANSACTION UNDER THIS  
30 CHAPTER DOES NOT REQUIRE AN INDEPENDENT BUSINESS PURPOSE IN

1 ORDER FOR THE TRANSACTION TO BE LAWFUL.

2 § 324. APPROVAL BY LIMITED PARTNERSHIP.

3 (A) PROPOSAL OF PLAN.--[A] EXCEPT AS PROVIDED IN THE ORGANIC  
4 RULES, A PLAN SHALL BE PROPOSED IN THE CASE OF A DOMESTIC  
5 LIMITED PARTNERSHIP BY THE ADOPTION BY A UNANIMOUS VOTE OF THE  
6 GENERAL PARTNERS OF A RESOLUTION APPROVING THE PLAN. EXCEPT  
7 WHERE THE APPROVAL OF THE LIMITED PARTNERS IS UNNECESSARY UNDER  
8 THIS CHAPTER OR THE ORGANIC RULES, THE GENERAL PARTNERS SHALL  
9 SUBMIT THE PLAN TO A VOTE OF THE LIMITED PARTNERS ENTITLED TO  
10 VOTE THEREON AT A REGULAR OR SPECIAL MEETING OF THE LIMITED  
11 PARTNERS.

12 \* \* \*

13 (C) REQUIRED VOTE BY LIMITED PARTNERS.--[THE] EXCEPT AS  
14 PROVIDED IN THE ORGANIC RULES:

15 (1) A PLAN SHALL BE ADOPTED UPON RECEIVING [A MAJORITY  
16 OF THE VOTES CAST BY ALL LIMITED PARTNERS, IF ANY, ENTITLED  
17 TO VOTE THEREON] THE AFFIRMATIVE VOTE OR CONSENT OF LIMITED  
18 PARTNERS OWNING THE RIGHTS TO RECEIVE A MAJORITY OF THE  
19 DISTRIBUTIONS AS LIMITED PARTNERS OF EACH DOMESTIC LIMITED  
20 PARTNERSHIP THAT IS A PARTY TO THE PROPOSED TRANSACTION UNDER  
21 THE PLAN AND, IF ANY CLASS OF LIMITED PARTNERS IS ENTITLED TO  
22 VOTE THEREON AS A CLASS, [A MAJORITY OF THE VOTES CAST] THE  
23 AFFIRMATIVE VOTE OR CONSENT OF LIMITED PARTNERS OWNING THE  
24 RIGHTS TO RECEIVE A MAJORITY OF THE DISTRIBUTIONS AS LIMITED  
25 PARTNERS IN EACH CLASS VOTE.

26 (2) A PROPOSED PLAN [MAY] SHALL NOT BE DEEMED TO HAVE  
27 BEEN ADOPTED BY THE LIMITED PARTNERSHIP UNLESS IT HAS ALSO  
28 BEEN APPROVED BY THE GENERAL PARTNERS, REGARDLESS OF THE FACT  
29 THAT THE GENERAL PARTNERS HAVE DIRECTED OR SUFFERED THE  
30 SUBMISSION OF THE PLAN TO THE LIMITED PARTNERS FOR ACTION.

1 \* \* \*

2 § 336. EFFECT OF MERGER.

3 (A) GENERAL RULE.--WHEN A MERGER UNDER THIS SUBCHAPTER  
4 BECOMES EFFECTIVE, ALL OF THE FOLLOWING APPLY:

5 \* \* \*

6 (2) [EACH] THE SEPARATE EXISTENCE OF EACH MERGING  
7 ASSOCIATION THAT IS NOT THE SURVIVING ASSOCIATION CEASES [TO  
8 EXIST].

9 \* \* \*

10 SECTION 2.1. SECTION 366(H) OF TITLE 15, ADDED OCTOBER 22,  
11 2014 (P.L.2640, NO.172), IS AMENDED AND THE SECTION IS AMENDED  
12 BY ADDING A SUBSECTION TO READ:

13 § 366. STATEMENT OF DIVISION; EFFECTIVENESS.

14 \* \* \*

15 (H) COORDINATION OF TRANSACTIONS.--A NEW ASSOCIATION MAY BE  
16 A PARTY TO ANOTHER TRANSACTION UNDER THIS CHAPTER THAT TAKES  
17 EFFECT SIMULTANEOUSLY WITH THE DIVISION. THE NEW ASSOCIATION  
18 SHALL BE DEEMED TO EXIST BEFORE THE EFFECTIVENESS OF THE OTHER  
19 TRANSACTION, BUT SOLELY FOR THE PURPOSE OF BEING A PARTY TO THE  
20 OTHER TRANSACTION. THE PLAN RELATING TO THE OTHER TRANSACTION  
21 SHALL BE DEEMED TO HAVE BEEN APPROVED BY THE NEW ASSOCIATION IF  
22 THE PLAN IS APPROVED BY THE DIVIDING ASSOCIATION IN CONNECTION  
23 WITH ITS APPROVAL OF THE PLAN OF DIVISION. THE STATEMENT THAT IS  
24 DELIVERED TO THE DEPARTMENT FOR FILING WITH RESPECT TO THE OTHER  
25 TRANSACTION SHALL STATE THAT IT WAS APPROVED BY THE NEW  
26 ASSOCIATION UNDER THIS SUBSECTION.

27 [(H)] (I) CROSS REFERENCES.--SEE SECTIONS 134 (RELATING TO  
28 DOCKETING STATEMENT) AND 135 (RELATING TO REQUIREMENTS TO BE MET  
29 BY FILED DOCUMENTS).

30 SECTION 2.2. SECTIONS 367(A) (2) AND (6) AND 376(F) OF TITLE

1 15, ADDED OCTOBER 22, 2014 (P.L.2640, NO.172), ARE AMENDED TO  
2 READ:

3 § 367. EFFECT OF DIVISION.

4 (A) GENERAL RULE.--WHEN A DIVISION BECOMES EFFECTIVE, ALL OF  
5 THE FOLLOWING APPLY:

6 \* \* \*

7 (2) IF THE DIVIDING ASSOCIATION IS NOT TO SURVIVE THE  
8 DIVISION, THE SEPARATE EXISTENCE OF THE DIVIDING ASSOCIATION  
9 CEASES [TO EXIST].

10 \* \* \*

11 (6) THE LIABILITIES OF THE DIVIDING ASSOCIATION ARE  
12 ALLOCATED BETWEEN OR AMONG THE RESULTING ASSOCIATIONS AS  
13 PROVIDED IN SECTION 368 (RELATING TO ALLOCATION OF  
14 LIABILITIES IN DIVISION) [.] AND THE RESULTING ASSOCIATIONS TO  
15 WHICH LIABILITIES ARE ALLOCATED ARE LIABLE FOR THOSE  
16 LIABILITIES AS SUCCESSORS TO THE DIVIDING ASSOCIATION, AND  
17 NOT BY TRANSFER, WHETHER DIRECTLY, INDIRECTLY OR BY OPERATION  
18 OF LAW.

19 \* \* \*

20 § 376. EFFECT OF DOMESTICATION.

21 \* \* \*

22 [(F) SERVICE OF PROCESS.--WHEN A DOMESTICATION BECOMES  
23 EFFECTIVE, A FOREIGN DOMESTICATED ENTITY MAY BE SERVED WITH  
24 PROCESS IN THIS COMMONWEALTH FOR THE COLLECTION AND ENFORCEMENT  
25 OF ANY OF ITS DEBTS, OBLIGATIONS AND OTHER LIABILITIES IN  
26 ACCORDANCE WITH APPLICABLE LAW.]

27 \* \* \*

28 SECTION 2.3. SECTION 402 OF TITLE 15 IS AMENDED BY ADDING A  
29 SUBSECTION TO READ:

30 § 402. GOVERNING LAW.

1 \* \* \*

2 (G) DEFENSE OF USURY.--A FOREIGN ASSOCIATION SHALL BE  
3 SUBJECT TO SECTION 1510 (RELATING TO CERTAIN SPECIFICALLY  
4 AUTHORIZED DEBT TERMS) WITH RESPECT TO OBLIGATIONS, AS DEFINED  
5 IN THAT SECTION, GOVERNED BY THE LAWS OF THIS COMMONWEALTH OR  
6 AFFECTING REAL PROPERTY SITUATED IN THIS COMMONWEALTH, TO THE  
7 SAME EXTENT AS IF THE FOREIGN ASSOCIATION WERE A DOMESTIC  
8 BUSINESS CORPORATION.

9 Section 3. Sections 521, 522 and 523(a) AND (B) of Title 15 <--  
10 are amended to read:

11 § 521. Pensions and allowances.

12 A banking institution [or a savings association] may grant  
13 allowances or pensions to officers, directors and employees for  
14 faithful and long-continued services and, after the death of the  
15 officer, director or employee either while in the service of the  
16 corporation or after retirement, pensions or allowances may be  
17 granted or continued to their dependents. The allowances to  
18 dependents shall be reasonable in amount and paid only for a  
19 limited time and, unless part of an employee benefit plan or  
20 employment contract in effect at the time of retirement or death  
21 of the officer, director or employee, shall not exceed in total  
22 the amount of the compensation paid to the officer, director or  
23 employee during the 12 months preceding retirement or death.

24 § 522. Indemnification of authorized representatives.

25 A banking institution [or a savings association] shall be  
26 governed by the provisions of Subchapter D of Chapter 17  
27 (relating to indemnification).

28 § 523. Actions by shareholders or members to enforce a  
29 secondary right.

30 (a) General rule.--In any action brought to enforce a

1 secondary right on the part of one or more shareholders or  
2 members against any officer or director or former officer or  
3 director of a banking institution [or a savings association],  
4 because the corporation refuses to enforce rights which may  
5 properly be asserted by it, the plaintiff or plaintiffs must  
6 aver and it must be made to appear that the plaintiff or each  
7 plaintiff was a shareholder or was a member of the corporation  
8 at the time of the transaction of which he complains or that his  
9 stock or membership devolved upon him by operation of law from a  
10 person who was a shareholder or member at that time.

11 (B) SECURITY FOR COSTS.--IN ANY SUCH ACTION INSTITUTED OR <--  
12 MAINTAINED BY A HOLDER OR HOLDERS OF LESS THAN 5% OF THE  
13 OUTSTANDING SHARES OF ANY CLASS OF THE CORPORATION OR VOTING  
14 TRUST CERTIFICATES THEREFOR, OR BY A MEMBER OR MEMBERS OF A  
15 CORPORATION ORGANIZED WITHOUT CAPITAL STOCK WHICH HAS  
16 OUTSTANDING CONTRACTS OR ACCOUNTS WITH ITS MEMBERS IF THE VALUE  
17 OF THE CONTRACTS OR ACCOUNTS HELD OR OWNED BY THE MEMBER OR  
18 MEMBERS INSTITUTING OR MAINTAINING THE SUIT IS LESS THAN 5% OF  
19 THE VALUE OF ALL THE CONTRACTS OR ACCOUNTS OUTSTANDING, THE  
20 CORPORATION IN WHOSE RIGHT THE ACTION IS BROUGHT SHALL BE  
21 ENTITLED, AT ANY STAGE OF THE PROCEEDINGS, TO REQUIRE THE  
22 PLAINTIFF OR PLAINTIFFS TO GIVE SECURITY FOR THE REASONABLE  
23 EXPENSES, INCLUDING ATTORNEYS' FEES, WHICH MAY BE INCURRED BY  
24 [IT] THE CORPORATION IN CONNECTION THEREWITH [AND] OR FOR WHICH  
25 IT MAY BECOME LIABLE PURSUANT TO SECTION 522 (RELATING TO  
26 INDEMNIFICATION OF AUTHORIZED REPRESENTATIVES) (BUT ONLY INSOFAR  
27 AS RELATES TO MANDATORY INDEMNIFICATION IN ACTIONS BY OR IN THE  
28 RIGHT OF THE CORPORATION) TO WHICH SECURITY THE CORPORATION  
29 SHALL HAVE RECOURSE IN SUCH AMOUNT AS THE COURT HAVING  
30 JURISDICTION SHALL DETERMINE UPON THE TERMINATION OF THE ACTION.

1 THE AMOUNT OF THE SECURITY MAY, FROM TIME TO TIME, BE INCREASED  
2 OR DECREASED IN THE DISCRETION OF THE COURT HAVING JURISDICTION  
3 OF THE ACTION UPON SHOWING THAT THE SECURITY PROVIDED HAS OR  
4 [MAY] IS LIKELY TO BECOME INADEQUATE OR EXCESSIVE. THE SECURITY  
5 MAY BE DENIED OR LIMITED BY THE COURT IF THE COURT FINDS AFTER  
6 AN EVIDENTIARY HEARING THAT UNDUE HARDSHIP ON PLAINTIFFS AND  
7 SERIOUS INJUSTICE WOULD RESULT.

8 \* \* \*

9 Section 4. Section 1551(b) of Title 15 is amended and the  
10 section is amended by adding a subsection to read:

11 § 1551. Distributions to shareholders.

12 \* \* \*

13 (b) Limitation.--A distribution, including a distribution  
14 under Subchapter F (relating to voluntary dissolution and  
15 winding up) or H (relating to postdissolution provision for  
16 liabilities) of Chapter 19, may not be made if, after giving  
17 effect thereto:

18 (1) the corporation would be unable to pay its debts as  
19 they become due in the usual course of its business; or

20 (2) the total assets of the corporation would be less  
21 than the sum of its total liabilities plus (unless otherwise  
22 provided in the articles) the amount that would be needed, if  
23 the corporation were to be dissolved at the time as of which  
24 the distribution is measured, to satisfy the preferential  
25 rights upon dissolution of shareholders whose preferential  
26 rights are superior to those receiving the distribution.

27 \* \* \*

28 (d.1) Distribution in winding up.--In measuring the effect  
29 of a distribution under Subchapter F or H of Chapter 19, the  
30 liabilities of a dissolved corporation do not include any

1 liabilities for which adequate provision has been made or any  
2 claim that has been barred under those subchapters.

3 \* \* \*

4 Section 5. Sections 1781 and 1782 heading AND (C) of Title <--  
5 15 are amended to read:

6 § 1781. [(Reserved).] Derivative action.

7 (a) General rule.--Subject to section 1782 (relating to  
8 eligible ~~derivative~~ SHAREHOLDER plaintiffs and security for <--  
9 costs) and subsection (b), a ~~shareholder~~ PLAINTIFF may maintain <--  
10 a derivative action to enforce a right of a business corporation  
11 only if:

12 (1) the ~~shareholder~~ PLAINTIFF first makes a demand on <--  
13 THE CORPORATION OR the board of directors requesting that it <--  
14 cause the corporation to bring an action to enforce the  
15 right, unless demand is excused under subsection (b); and <--

16 ~~(2) both:~~

17 ~~(i) a special litigation committee is not appointed~~  
18 ~~under section 1783 (relating to special litigation~~  
19 ~~committee); and~~

20 ~~(ii) the board does not bring the action within a~~  
21 ~~reasonable time. AND:~~ <--

22 (I) IF A SPECIAL LITIGATION COMMITTEE IS NOT  
23 APPOINTED UNDER SECTION 1783 (RELATING TO SPECIAL  
24 LITIGATION COMMITTEE), THE CORPORATION DOES NOT BRING THE  
25 ACTION WITHIN A REASONABLE TIME; OR

26 (II) IF A SPECIAL LITIGATION COMMITTEE IS APPOINTED  
27 UNDER SECTION 1783, A DETERMINATION IS MADE:

28 (A) UNDER SECTION 1783(E) (1) THAT THE  
29 CORPORATION NOT OBJECT TO THE ACTION; OR

30 (B) UNDER SECTION 1783(E) (5) (I) THAT THE

1 PLAINTIFF CONTINUE THE ACTION;

2 (2) DEMAND IS EXCUSED UNDER SUBSECTION (B);

3 (3) THE ACTION IS MAINTAINED FOR THE LIMITED PURPOSE OF  
4 SEEKING COURT REVIEW UNDER SECTION 1783(F); OR

5 (4) THE COURT HAS ALLOWED THE ACTION TO CONTINUE UNDER  
6 THE CONTROL OF THE PLAINTIFF UNDER SECTION 1783(F)(3)(II).

7 (b) Prior demand excused.--

8 (1) A demand under subsection (a)(1) is excused only if  
9 the ~~shareholder~~ PLAINTIFF makes a specific showing that <--  
10 IMMEDIATE AND irreparable harm to the business corporation <--  
11 would otherwise result.

12 (2) If demand is excused under paragraph (1), demand  
13 shall be made promptly ~~after~~ UPON commencement of the action. <--

14 (c) Contents of demand.--A demand under this section shall <--  
15 MUST BE IN RECORD FORM AND give notice with reasonable <--  
16 specificity of the essential facts relied upon to support each  
17 of the claims made in the demand.

18 (d) Additional claims.--If a derivative action is commenced  
19 after a demand has been made under this section and includes a  
20 claim that was not fairly subsumed under the demand, a new  
21 demand must be made with respect to that claim. THE NEW DEMAND <--  
22 SHALL NOT RELATE BACK TO THE DATE OF THE ORIGINAL DEMAND FOR  
23 PURPOSES OF SUBSECTION (E).

24 (e) Statute of limitations.--The making of a demand tolls  
25 any applicable statute of limitations with respect to a claim  
26 asserted in the demand until the ~~later~~ EARLIER of the date: <--

27 (1) the ~~shareholder~~ PLAINTIFF making the demand is <--  
28 notified either:

29 (i) that the board of directors has decided not to  
30 bring an action and not to appoint a special litigation

1 committee; or  
2 ~~(ii) of the determination under section 1783(e) of a~~ <--  
3 ~~special litigation committee that has been appointed as~~  
4 ~~provided in section 1783; or~~

5 (II) OF A DETERMINATION UNDER SECTION 1783(E) AFTER <--  
6 THE APPOINTMENT OF A SPECIAL LITIGATION COMMITTEE UNDER  
7 SECTION 1783; OR

8 ~~(2) the court determines under section 1783(f) either~~ <--  
9 ~~to:~~

10 ~~(i) enforce the determination of the special~~  
11 ~~litigation committee; or~~  
12 ~~(ii) allow the action to continue under the control~~  
13 ~~of the plaintiff. PLAINTIFF COMMENCES AN ACTION ASSERTING~~ <--  
14 THE CLAIM.

15 (f) Certain provisions of articles ineffective.--This  
16 section may not be relaxed by any provision of the articles.  
17 § 1782. [Actions against directors and officers] Eligible  
18 derivative SHAREHOLDER plaintiffs and security for <--  
19 costs.

20 \* \* \*

21 (C) SECURITY FOR COSTS.--IN ANY ACTION OR PROCEEDING <--  
22 INSTITUTED OR MAINTAINED BY HOLDERS OR OWNERS OF LESS THAN 5% OF  
23 THE OUTSTANDING SHARES OF ANY CLASS OF THE CORPORATION, UNLESS  
24 THE SHARES HELD OR OWNED BY THE HOLDERS OR OWNERS HAVE AN  
25 AGGREGATE FAIR MARKET VALUE IN EXCESS OF \$200,000, THE  
26 CORPORATION IN WHOSE RIGHT THE ACTION OR PROCEEDING IS BROUGHT  
27 SHALL BE ENTITLED AT ANY STAGE OF THE PROCEEDINGS TO REQUIRE THE  
28 PLAINTIFFS TO GIVE SECURITY FOR THE REASONABLE EXPENSES,  
29 INCLUDING ATTORNEYS' FEES, THAT MAY BE INCURRED BY [IT] THE  
30 CORPORATION IN CONNECTION THEREWITH OR FOR WHICH IT MAY BECOME

1 LIABLE PURSUANT TO SECTION 1743 (RELATING TO MANDATORY  
2 INDEMNIFICATION) (BUT ONLY INsofar AS RELATES TO ACTIONS BY OR  
3 IN THE RIGHT OF THE CORPORATION) TO WHICH SECURITY THE  
4 CORPORATION SHALL HAVE RECOURSE IN SUCH AMOUNT AS THE COURT  
5 DETERMINES UPON THE TERMINATION OF THE ACTION OR PROCEEDING. THE  
6 AMOUNT OF SECURITY MAY, FROM TIME TO TIME, BE INCREASED OR  
7 DECREASED IN THE DISCRETION OF THE COURT UPON SHOWING THAT THE  
8 SECURITY PROVIDED HAS OR [MAY] IS LIKELY TO BECOME INADEQUATE OR  
9 EXCESSIVE. THE SECURITY MAY BE DENIED OR LIMITED [IN THE  
10 DISCRETION OF] BY THE COURT [UPON PRELIMINARY SHOWING TO THE  
11 COURT, BY APPLICATION AND UPON SUCH VERIFIED STATEMENTS AND  
12 DEPOSITIONS AS MAY BE REQUIRED BY THE COURT, ESTABLISHING PRIMA  
13 FACIE THAT THE REQUIREMENT OF FULL OR PARTIAL SECURITY WOULD  
14 IMPOSE] IF THE COURT FINDS AFTER AN EVIDENTIARY HEARING THAT  
15 UNDUE HARDSHIP ON PLAINTIFFS AND SERIOUS INJUSTICE WOULD RESULT.

16 \* \* \*

17 Section 6. Title 15 is amended by adding sections to read:

18 ~~§ 1783. Special litigation committee.~~ <--

19 ~~(a) General rule. If a business corporation receives a~~  
20 ~~demand to bring an action to enforce a right of the corporation,~~  
21 ~~or if a derivative action is commenced before demand has been~~  
22 ~~made on the corporation, the corporation may appoint a special~~  
23 ~~litigation committee to investigate the claims asserted in the~~  
24 ~~demand or action and to determine on the basis of that~~  
25 ~~investigation whether pursuing any of the claims asserted is in~~  
26 ~~the best interests of the corporation. A committee may not be~~  
27 ~~appointed under this section if every shareholder of the~~  
28 ~~corporation is also a director of the corporation.~~

29 ~~(b) Discovery stay. If the corporation appoints a special~~  
30 ~~litigation committee and an action is commenced before the~~

1 ~~committee has made a determination under subsection (e):~~

2 ~~(1) On motion by the committee made in the name of the~~  
3 ~~corporation, except for good cause shown, the court shall~~  
4 ~~stay discovery for the time reasonably necessary to permit~~  
5 ~~the committee to complete its investigation.~~

6 ~~(2) The time for the defendants to plead shall be tolled~~  
7 ~~until the process provided for under subsection (f) has been~~  
8 ~~completed.~~

9 ~~(c) Composition of committee. A special litigation~~  
10 ~~committee shall be composed of two or more individuals who:~~

11 ~~(1) are not interested in the action;~~

12 ~~(2) are capable as a group of objective judgment in the~~  
13 ~~circumstances; and~~

14 ~~(3) may, but need not, be shareholders or directors.~~

15 ~~(d) Appointment of committee. A special litigation~~  
16 ~~committee may be appointed:~~

17 ~~(1) by a majority of the directors not named as actual~~  
18 ~~or potential parties in the demand or action; or~~

19 ~~(2) if all the directors are named as actual or~~  
20 ~~potential parties in the demand or action, by a majority of~~  
21 ~~the directors so named.~~

22 ~~(e) Determination by committee. After appropriate~~  
23 ~~investigation, a special litigation committee may determine that~~  
24 ~~it is in the best interests of the business corporation that:~~

25 ~~(1) an action based on some or all the claims asserted~~  
26 ~~in the demand not be brought by the corporation but that the~~  
27 ~~corporation not object to an action being brought by the~~  
28 ~~party that made the demand;~~

29 ~~(2) an action based on some or all of the claims~~  
30 ~~asserted in the demand be brought by the corporation;~~

1       ~~(3) some or all of the claims asserted in the demand be~~  
2 ~~settled on terms approved by the committee;~~

3       ~~(4) an action not be brought based on any of the claims~~  
4 ~~asserted in the demand;~~

5       ~~(5) an action already commenced continue under the~~  
6 ~~control of:~~

7             ~~(i) the plaintiff; or~~

8             ~~(ii) the committee;~~

9       ~~(6) some or all of the claims asserted in an action~~  
10 ~~already commenced be settled on terms approved by the~~  
11 ~~committee; or~~

12       ~~(7) an action already commenced be dismissed.~~

13       ~~(f) Court review and action. If a special litigation~~  
14 ~~committee is appointed and an action is commenced before the~~  
15 ~~committee makes a determination under subsection (e):~~

16             ~~(1) The business corporation shall file with the court~~  
17 ~~after the committee makes a determination under subsection~~  
18 ~~(e) a statement of the committee's determination and a report~~  
19 ~~supporting the determination. The corporation shall serve~~  
20 ~~each party with a copy of the determination and report. If~~  
21 ~~the corporation moves to file the report under seal, the~~  
22 ~~report shall be served on the parties subject to an~~  
23 ~~appropriate protective order agreed to by the parties or~~  
24 ~~ordered by the court.~~

25             ~~(2) The corporation shall file with the court a motion,~~  
26 ~~pleading or notice consistent with the determination of the~~  
27 ~~committee under subsection (e).~~

28             ~~(3) If the committee makes a determination described in~~  
29 ~~subsection (e) (2), (3), (4), (5) (ii), (6) or (7), the court~~  
30 ~~shall determine whether the members of the committee met the~~

~~1 qualifications required under subsection (c) (1) and (2) and  
2 whether the committee conducted its investigation and made  
3 its recommendation in good faith, independently and with  
4 reasonable care. If the court finds that the members of the  
5 committee met the qualifications required under subsection  
6 (c) (1) and (2) and that the committee acted in good faith,  
7 independently and with reasonable care, the court shall  
8 enforce the determination of the committee. Otherwise, the  
9 court shall:~~

~~10 (i) dissolve any stay of discovery entered under  
11 subsection (b);~~

~~12 (ii) allow the action to continue under the control  
13 of the plaintiff; and~~

~~14 (iii) permit the defendants to file preliminary  
15 objections and other appropriate motions and pleadings.~~

~~16 (g) Certain provisions of articles ineffective. The  
17 provisions of this section may not be varied by the articles.~~

~~18 § 1783. SPECIAL LITIGATION COMMITTEE.~~

<--

~~19 (A) GENERAL RULE.--IF A BUSINESS CORPORATION OR THE BOARD OF  
20 DIRECTORS RECEIVES A DEMAND TO BRING AN ACTION TO ENFORCE A  
21 RIGHT OF THE CORPORATION, OR IF A DERIVATIVE ACTION IS COMMENCED  
22 BEFORE DEMAND HAS BEEN MADE ON THE CORPORATION OR THE BOARD, THE  
23 BOARD MAY APPOINT A SPECIAL LITIGATION COMMITTEE TO INVESTIGATE  
24 THE CLAIMS ASSERTED IN THE DEMAND OR ACTION AND TO DETERMINE ON  
25 BEHALF OF THE CORPORATION OR RECOMMEND TO THE BOARD WHETHER  
26 PURSUING ANY OF THE CLAIMS ASSERTED IS IN THE BEST INTERESTS OF  
27 THE CORPORATION. THE CORPORATION SHALL SEND A NOTICE IN RECORD  
28 FORM TO THE PLAINTIFF PROMPTLY AFTER THE APPOINTMENT OF A  
29 COMMITTEE UNDER THIS SECTION NOTIFYING THE PLAINTIFF THAT A  
30 COMMITTEE HAS BEEN APPOINTED AND IDENTIFYING BY NAME THE MEMBERS~~

1 OF THE COMMITTEE. A COMMITTEE MAY NOT BE APPOINTED UNDER THIS  
2 SECTION IF EVERY SHAREHOLDER OF THE CORPORATION IS ALSO A  
3 DIRECTOR OF THE CORPORATION.

4 (B) DISCOVERY STAY.--IF THE BOARD OF DIRECTORS APPOINTS A  
5 SPECIAL LITIGATION COMMITTEE AND AN ACTION IS COMMENCED BEFORE A  
6 DETERMINATION HAS BEEN MADE UNDER SUBSECTION (E):

7 (1) ON MOTION BY THE COMMITTEE MADE IN THE NAME OF THE  
8 BUSINESS CORPORATION, THE COURT SHALL STAY DISCOVERY FOR THE  
9 TIME REASONABLY NECESSARY TO PERMIT THE COMMITTEE TO COMPLETE  
10 ITS INVESTIGATION, EXCEPT FOR GOOD CAUSE SHOWN.

11 (2) THE TIME FOR THE DEFENDANTS TO PLEAD SHALL BE TOLLED  
12 UNTIL THE PROCESS PROVIDED FOR UNDER SUBSECTION (F) HAS BEEN  
13 COMPLETED.

14 (C) COMPOSITION OF COMMITTEE.--A SPECIAL LITIGATION  
15 COMMITTEE SHALL BE COMPOSED OF TWO OR MORE INDIVIDUALS WHO:

16 (1) ARE NOT INTERESTED IN THE CLAIMS ASSERTED IN THE  
17 DEMAND OR ACTION;

18 (2) ARE CAPABLE AS A GROUP OF OBJECTIVE JUDGMENT IN THE  
19 CIRCUMSTANCES; AND

20 (3) MAY, BUT NEED NOT, BE SHAREHOLDERS OR DIRECTORS.

21 (D) APPOINTMENT OF COMMITTEE.--A SPECIAL LITIGATION  
22 COMMITTEE MAY BE APPOINTED:

23 (1) BY A MAJORITY OF THE DIRECTORS NOT NAMED AS ACTUAL  
24 OR POTENTIAL PARTIES IN THE DEMAND OR ACTION; OR

25 (2) IF ALL THE DIRECTORS ARE NAMED AS ACTUAL OR  
26 POTENTIAL PARTIES IN THE DEMAND OR ACTION, BY A MAJORITY OF  
27 THE DIRECTORS SO NAMED.

28 (E) DETERMINATION.--AFTER APPROPRIATE INVESTIGATION BY A  
29 SPECIAL LITIGATION COMMITTEE, THE COMMITTEE OR THE BOARD OF  
30 DIRECTORS MAY DETERMINE THAT IT IS IN THE BEST INTERESTS OF THE

1 BUSINESS CORPORATION THAT:

2 (1) AN ACTION BASED ON SOME OR ALL OF THE CLAIMS  
3 ASSERTED IN THE DEMAND NOT BE BROUGHT BY THE CORPORATION BUT  
4 THAT THE CORPORATION NOT OBJECT TO AN ACTION BEING BROUGHT BY  
5 THE PARTY THAT MADE THE DEMAND;

6 (2) AN ACTION BASED ON SOME OR ALL OF THE CLAIMS  
7 ASSERTED IN THE DEMAND BE BROUGHT BY THE CORPORATION;

8 (3) SOME OR ALL OF THE CLAIMS ASSERTED IN THE DEMAND BE  
9 SETTLED ON TERMS APPROVED BY THE COMMITTEE;

10 (4) AN ACTION NOT BE BROUGHT BASED ON ANY OF THE CLAIMS  
11 ASSERTED IN THE DEMAND;

12 (5) AN ACTION ALREADY COMMENCED CONTINUE UNDER THE  
13 CONTROL OF:

14 (I) THE PLAINTIFF;

15 (II) THE CORPORATION; OR

16 (III) THE COMMITTEE;

17 (6) SOME OR ALL THE CLAIMS ASSERTED IN AN ACTION ALREADY  
18 COMMENCED BE SETTLED ON TERMS APPROVED BY THE COMMITTEE; OR

19 (7) AN ACTION ALREADY COMMENCED BE DISMISSED.

20 (F) COURT REVIEW AND ACTION.--IF A SPECIAL LITIGATION  
21 COMMITTEE IS APPOINTED AND A DERIVATIVE ACTION IS COMMENCED  
22 EITHER BEFORE OR AFTER A DETERMINATION IS MADE UNDER SUBSECTION  
23 (E):

24 (1) THE BUSINESS CORPORATION SHALL FILE WITH THE COURT  
25 AFTER A DETERMINATION IS MADE UNDER SUBSECTION (E) A  
26 STATEMENT OF THE DETERMINATION AND A REPORT OF THE COMMITTEE  
27 SUPPORTING THE DETERMINATION. THE CORPORATION SHALL SERVE  
28 EACH PARTY WITH A COPY OF THE DETERMINATION AND REPORT. IF  
29 THE CORPORATION MOVES TO FILE THE REPORT UNDER SEAL, THE  
30 REPORT SHALL BE SERVED ON THE PARTIES SUBJECT TO AN

1 APPROPRIATE STIPULATION AGREED TO BY THE PARTIES OR A  
2 PROTECTIVE ORDER ISSUED BY THE COURT.

3 (2) THE CORPORATION SHALL FILE WITH THE COURT A MOTION,  
4 PLEADING OR NOTICE CONSISTENT WITH THE DETERMINATION UNDER  
5 SUBSECTION (E).

6 (3) IF THE DETERMINATION IS ONE DESCRIBED IN SUBSECTION  
7 (E) (2), (3), (4), (5) (II), (6) OR (7), THE COURT SHALL  
8 DETERMINE WHETHER THE MEMBERS OF THE COMMITTEE MET THE  
9 QUALIFICATIONS REQUIRED UNDER SUBSECTION (C) (1) AND (2) AND  
10 WHETHER THE COMMITTEE CONDUCTED ITS INVESTIGATION AND MADE  
11 ITS RECOMMENDATION IN GOOD FAITH, INDEPENDENTLY AND WITH  
12 REASONABLE CARE. IF THE COURT FINDS THAT THE MEMBERS OF THE  
13 COMMITTEE MET THE QUALIFICATIONS REQUIRED UNDER SUBSECTION  
14 (C) (1) AND (2) AND THAT THE COMMITTEE ACTED IN GOOD FAITH,  
15 INDEPENDENTLY AND WITH REASONABLE CARE, THE COURT SHALL  
16 ENFORCE THE DETERMINATION OF THE COMMITTEE. OTHERWISE, THE  
17 COURT SHALL:

18 (I) DISSOLVE ANY STAY OF DISCOVERY ENTERED UNDER  
19 SUBSECTION (B);

20 (II) ALLOW THE ACTION TO CONTINUE UNDER THE CONTROL  
21 OF THE PLAINTIFF; AND

22 (III) PERMIT THE DEFENDANTS TO FILE PRELIMINARY  
23 OBJECTIONS, OTHER APPROPRIATE PLEADINGS AND MOTIONS.

24 (G) CERTAIN PROVISIONS OF ARTICLES INEFFECTIVE.--THE  
25 PROVISIONS OF THIS SECTION MAY NOT BE VARIED BY THE ARTICLES.

26 § 1784. Proceeds and expenses.

27 (a) Proceeds.--Except as provided in subsection (b):

28 (1) any proceeds or other benefits of a derivative  
29 action, whether by judgment, compromise or settlement, belong  
30 to the business corporation and not to the plaintiff; and

1           (2) if the plaintiff OR ITS COUNSEL receives any <--  
2           proceeds, the plaintiff shall remit them PROCEEDS SHALL BE <--  
3           REMITTED immediately to the corporation.

4           (b) Expenses.--If a derivative action is successful in whole  
5           or in part, the court may award the plaintiff reasonable  
6           expenses, including reasonable attorney fees and costs, from the  
7           recovery of the business corporation, BUT IN NO EVENT SHALL THE <--  
8           ATTORNEY FEES AWARDED EXCEED A REASONABLE PROPORTION OF THE  
9           VALUE OF THE RELIEF, INCLUDING NONPECUNIARY RELIEF, OBTAINED BY  
10           THE PLAINTIFF FOR THE CORPORATION.

11           (c) Certain provisions of articles ineffective.--This  
12           section may not be relaxed by any provision of the articles.

13           Section 7. Section ~~1907~~ 4146 of Title 15 is amended to read: <--  
14           ~~§ 1907. Purpose of fundamental transactions.~~ <--

15           ~~A transaction under Chapter 3 (relating to entity~~  
16           ~~transactions) or this chapter does not require an independent~~  
17           ~~business purpose in order for the transaction to be lawful.~~

18           § 4146. PROVISIONS APPLICABLE TO ALL FOREIGN CORPORATIONS. <--

19           THE FOLLOWING PROVISIONS OF THIS SUBPART SHALL, EXCEPT AS  
20           OTHERWISE PROVIDED IN THIS SECTION, BE APPLICABLE TO EVERY  
21           FOREIGN CORPORATION FOR PROFIT, WHETHER OR NOT REQUIRED TO  
22           [PROCURE A CERTIFICATE OF AUTHORITY UNDER THIS CHAPTER] REGISTER  
23           UNDER CHAPTER 4 (RELATING TO FOREIGN ASSOCIATIONS):

24           SECTION 1503 (RELATING TO DEFENSE OF ULTRA VIRES), AS TO  
25           CONTRACTS AND CONVEYANCES GOVERNED BY THE LAWS OF THIS  
26           COMMONWEALTH AND CONVEYANCES AFFECTING REAL PROPERTY SITUATED IN  
27           THIS COMMONWEALTH.

28           SECTION 1506 (RELATING TO FORM OF EXECUTION OF INSTRUMENTS),  
29           AS TO INSTRUMENTS OR OTHER DOCUMENTS GOVERNED BY THE LAWS OF  
30           THIS COMMONWEALTH OR AFFECTING REAL PROPERTY SITUATED IN THIS

1 COMMONWEALTH.

2 SECTION 1510 (RELATING TO CERTAIN SPECIFICALLY AUTHORIZED  
3 DEBT TERMS), AS TO OBLIGATIONS (AS DEFINED IN THE SECTION)  
4 GOVERNED BY THE LAWS OF THIS COMMONWEALTH OR AFFECTING REAL  
5 PROPERTY SITUATED IN THIS COMMONWEALTH.

6 SECTION 1782 (RELATING TO [ACTIONS AGAINST DIRECTORS AND  
7 OFFICERS] ELIGIBLE SHAREHOLDER PLAINTIFFS AND SECURITY FOR  
8 COSTS), AS TO ANY DERIVATIVE ACTION [OR PROCEEDING] BROUGHT IN A  
9 COURT OF THIS COMMONWEALTH.

10 SUBCHAPTER F OF CHAPTER 25 (RELATING TO BUSINESS  
11 COMBINATIONS), TO THE EXTENT PROVIDED IN SECTION 2551(C)  
12 (RELATING TO CONTINUING APPLICABILITY).

13 Section 8. The definition of "charitable purposes" in  
14 section 5103(a) of Title 15 is amended to read:

15 § 5103. Definitions.

16 (a) General definitions.--Subject to additional definitions  
17 contained in subsequent provisions of this subpart that are  
18 applicable to specific provisions of this subpart, the following  
19 words and phrases when used in this subpart shall have the  
20 meanings given to them in this section unless the context  
21 clearly indicates otherwise:

22 \* \* \*

23 ["Charitable purposes." The relief of poverty, the  
24 advancement and provision of education, including postsecondary  
25 education, the advancement of religion, the prevention and  
26 treatment of disease or injury, including mental retardation and  
27 mental disorders, governmental or municipal purposes, and any  
28 other purpose the accomplishment of which is recognized as  
29 important and beneficial to the public.]

30 \* \* \*

1 Section 9. Title 15 is amended by adding a section to read:  
2 § 5781. Derivative action.

3 (a) General rule.--Subject to section 5782 (relating to  
4 eligible derivative MEMBER plaintiffs and security for costs) <--  
5 and subsection (b), a member PLAINTIFF may maintain a derivative <--  
6 action to enforce a right of a nonprofit corporation only if:

7 (1) the member PLAINTIFF first makes a demand on THE <--  
8 CORPORATION OR the board of directors, requesting that it  
9 cause the corporation to bring an action to enforce the  
10 right, unless demand is excused under subsection (b); and <--

11 ~~(2) both:~~

12 ~~(i) a special litigation committee is not appointed~~  
13 ~~under section 5783 (relating to special litigation~~  
14 ~~committee); and~~

15 ~~(ii) the board does not bring the action within a~~  
16 ~~reasonable time. AND:~~ <--

17 (I) IF A SPECIAL LITIGATION COMMITTEE IS NOT  
18 APPOINTED UNDER SECTION 5783 (RELATING TO SPECIAL  
19 LITIGATION COMMITTEE), THE CORPORATION DOES NOT BRING THE  
20 ACTION WITHIN A REASONABLE TIME; OR

21 (II) IF A SPECIAL LITIGATION COMMITTEE IS APPOINTED  
22 UNDER SECTION 5783, A DETERMINATION IS MADE:

23 (A) UNDER SECTION 5783(E) (1) THAT THE  
24 CORPORATION NOT OBJECT TO THE ACTION; OR

25 (B) UNDER SECTION 5783(E) (5) (I) THAT THE  
26 PLAINTIFF CONTINUE THE ACTION;

27 (2) DEMAND IS EXCUSED UNDER SUBSECTION (B);

28 (3) THE ACTION IS MAINTAINED FOR THE LIMITED PURPOSE OF  
29 SEEKING COURT REVIEW UNDER SECTION 5783(F); OR

30 (4) THE COURT HAS ALLOWED THE ACTION TO CONTINUE UNDER

1 THE CONTROL OF THE PLAINTIFF UNDER SECTION 5783(F)(3)(II).

2 (b) Prior demand excused.--

3 (1) A demand under subsection (a)(1) is excused only if  
4 the member makes a specific showing that IMMEDIATE AND <--  
5 irreparable harm to the ~~business~~ NONPROFIT corporation would <--  
6 otherwise result.

7 (2) If demand is excused under paragraph (1), demand  
8 shall be made promptly after commencement of the action.

9 (c) Contents of demand.--A demand under this section shall <--  
10 MUST BE IN RECORD FORM AND give notice with reasonable <--  
11 specificity of the essential facts relied upon to support each  
12 of the claims made in the demand.

13 (d) Additional claims.--If a derivative action is commenced  
14 after a demand has been made under this section and includes a  
15 claim that was not fairly subsumed under the demand, a new  
16 demand must be made with respect to that claim. THE NEW DEMAND <--  
17 SHALL NOT RELATE BACK TO THE DATE OF THE ORIGINAL DEMAND FOR  
18 PURPOSES OF SUBSECTION (E).

19 (e) Statute of limitations.--The making of a demand tolls  
20 any applicable statute of limitations with respect to a claim  
21 asserted in the demand until the ~~later~~ EARLIER of the date: <--

22 (1) the ~~member~~ PLAINTIFF making the demand is notified <--  
23 either:

24 (i) that the board of directors has decided not to  
25 bring an action and not to appoint a special litigation  
26 committee; or

27 ~~(ii) of the determination under section 5783(e)~~ <--  
28 ~~(relating to special litigation committee) of a special~~  
29 ~~litigation committee that has been appointed as provided~~  
30 ~~in section 5783; or~~

1 ~~(2) the court determines under section 5783(f) either~~  
2 ~~to:~~

3 ~~(i) enforce the determination of the special~~  
4 ~~litigation committee; or~~

5 ~~(ii) allow the action to continue under the control~~  
6 ~~of the plaintiff.~~

7 (II) OF A DETERMINATION UNDER SECTION 5783(E) AFTER <--  
8 THE APPOINTMENT OF A SPECIAL LITIGATION COMMITTEE UNDER  
9 SECTION 5783; OR

10 (2) THE PLAINTIFF COMMENCES AN ACTION ASSERTING THE  
11 CLAIM.

12 Section 10. Section 5782 heading AND (C) of Title 15 ~~is~~ ARE <--  
13 amended to read:

14 § 5782. [Actions against directors, members of an other body  
15 and officers] Eligible derivative MEMBER plaintiffs <--  
16 and security for costs.

17 \* \* \*

18 (C) SECURITY FOR COSTS.--IN ANY ACTION OR PROCEEDING <--  
19 INSTITUTED OR MAINTAINED BY LESS THAN THE SMALLER OF 50 MEMBERS  
20 OF ANY CLASS OR 5% OF THE MEMBERS OF ANY CLASS OF THE  
21 CORPORATION, THE CORPORATION IN WHOSE RIGHT THE ACTION OR  
22 PROCEEDING IS BROUGHT SHALL BE ENTITLED AT ANY STAGE OF THE  
23 PROCEEDINGS TO REQUIRE THE PLAINTIFFS TO GIVE SECURITY FOR THE  
24 REASONABLE EXPENSES, INCLUDING ATTORNEY FEES, THAT MAY BE  
25 INCURRED BY [IT] THE CORPORATION IN CONNECTION THEREWITH OR FOR  
26 WHICH IT MAY BECOME LIABLE PURSUANT TO SECTION 5743 (RELATING TO  
27 MANDATORY INDEMNIFICATION), BUT ONLY INSOFAR AS RELATES TO  
28 ACTIONS BY OR IN THE RIGHT OF THE CORPORATION, TO WHICH SECURITY  
29 THE CORPORATION SHALL HAVE RECOURSE IN SUCH AMOUNT AS THE COURT  
30 DETERMINES UPON THE TERMINATION OF THE ACTION OR PROCEEDING. THE

1 AMOUNT OF SECURITY MAY FROM TIME TO TIME BE INCREASED OR  
2 DECREASED IN THE DISCRETION OF THE COURT UPON SHOWING THAT THE  
3 SECURITY PROVIDED HAS OR [MAY] IS LIKELY TO BECOME INADEQUATE OR  
4 EXCESSIVE. THE SECURITY MAY BE DENIED OR LIMITED [IN THE  
5 DISCRETION OF] BY THE COURT [UPON PRELIMINARY SHOWING TO THE  
6 COURT, BY APPLICATION AND UPON SUCH VERIFIED STATEMENTS AND  
7 DEPOSITIONS AS MAY BE REQUIRED BY THE COURT, ESTABLISHING PRIMA  
8 FACIE THAT THE REQUIREMENT OF FULL OR PARTIAL SECURITY WOULD  
9 IMPOSE] IF THE COURT FINDS AFTER AN EVIDENTIARY HEARING THAT  
10 UNDUE HARDSHIP ON PLAINTIFFS AND SERIOUS INJUSTICE WOULD RESULT.

11 \* \* \*

12 Section 11. Title 15 is amended by adding sections to read:  
13 § 5783. Special litigation committee.

14 ~~(a) General rule. If a nonprofit corporation receives a~~ <--  
15 ~~demand to bring an action to enforce a right of the corporation,~~  
16 ~~or if a derivative action is commenced before demand has been~~  
17 ~~made on the corporation, the corporation may appoint a special~~  
18 ~~litigation committee to investigate the claims asserted in the~~  
19 ~~demand or action and to determine on the basis of that~~  
20 ~~investigation whether pursuing any of the claims asserted is in~~  
21 ~~the best interests of the corporation.~~

22 ~~(b) Discovery stay. If the corporation appoints a special~~  
23 ~~litigation committee and an action is commenced before the~~  
24 ~~committee has made a determination under subsection (c):~~

25 ~~(1) On motion by the committee made in the name of the~~  
26 ~~corporation, except for good cause shown, the court shall~~  
27 ~~stay discovery for the time reasonably necessary to permit~~  
28 ~~the committee to complete its investigation.~~

29 ~~(2) The time for the defendants to plead shall be tolled~~  
30 ~~until the process provided for under subsection (f) has been~~

1 ~~completed.~~

2 ~~(c) Composition of committee. A special litigation~~  
3 ~~committee shall be composed of two or more individuals who:~~

4 ~~(1) are not interested in the action;~~

5 ~~(2) are capable as a group of objective judgment in the~~  
6 ~~circumstances; and~~

7 ~~(3) may, but need not, be members, directors or members~~  
8 ~~of an other body.~~

9 ~~(d) Appointment of committee. A special litigation~~  
10 ~~committee may be appointed:~~

11 ~~(1) by a majority of the directors not named as actual~~  
12 ~~or potential parties in the demand or action; or~~

13 ~~(2) if all the directors are named as actual or~~  
14 ~~potential parties in the demand or action, by a majority of:~~

15 ~~(i) the members of an other body not named as~~  
16 ~~parties in the proceeding if the other body has the~~  
17 ~~authority to appoint a special litigation committee; or~~

18 ~~(ii) the directors so named.~~

19 ~~(e) Determination by committee. After appropriate~~  
20 ~~investigation, a special litigation committee may determine that~~  
21 ~~it is in the best interests of the nonprofit corporation that:~~

22 ~~(1) an action based on some or all of the claims~~  
23 ~~asserted in the demand not be brought by the corporation but~~  
24 ~~that the corporation not object to an action being brought by~~  
25 ~~the party that made the demand:~~

26 ~~(2) an action based on some or all of the claims~~  
27 ~~asserted in the demand be brought by the corporation;~~

28 ~~(3) some or all of the claims asserted in the demand be~~  
29 ~~settled on terms approved by the committee;~~

30 ~~(4) an action not be brought based on any of the claims~~

1 ~~asserted in the demand;~~

2 ~~(5) an action already commenced continue under the~~  
3 ~~control of:~~

4 ~~(i) the plaintiff; or~~

5 ~~(ii) the committee;~~

6 ~~(6) some or all of the claims asserted in an action~~  
7 ~~already commenced be settled on terms approved by the~~  
8 ~~committee; or~~

9 ~~(7) an action already commenced be dismissed.~~

10 ~~(f) Court review and action. If a special litigation~~  
11 ~~committee is appointed and an action is commenced before the~~  
12 ~~committee makes a determination under subsection (e):~~

13 ~~(1) The nonprofit corporation shall file with the court~~  
14 ~~after the committee makes a determination under subsection~~  
15 ~~(e) a statement of the committee's determination and a report~~  
16 ~~supporting the determination. The corporation shall serve~~  
17 ~~each party with a copy of the determination and report. If~~  
18 ~~the corporation moves to file the report under seal, the~~  
19 ~~report shall be served on the parties subject to an~~  
20 ~~appropriate protective order agreed to by the parties or~~  
21 ~~ordered by the court.~~

22 ~~(2) The corporation shall file with the court a motion,~~  
23 ~~pleading or notice consistent with the determination of the~~  
24 ~~committee under subsection (e).~~

25 ~~(3) If the committee makes a determination described in~~  
26 ~~subsection (e) (2), (3), (4), (5) (ii), (6) or (7), the court~~  
27 ~~shall determine whether the members of the committee met the~~  
28 ~~qualifications required under subsection (c) (1) and (2) and~~  
29 ~~whether the committee conducted its investigation and made~~  
30 ~~its recommendation in good faith, independently and with~~

~~reasonable care. If the court finds that the members of the committee met the qualifications required under subsection (c) (1) and (2) and that the committee acted in good faith, independently and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall:~~

~~(i) dissolve any stay of discovery entered under subsection (b);~~

~~(ii) allow the action to continue under the control of the plaintiff; and~~

~~(iii) permit the defendants to file preliminary objections and other appropriate motions and pleadings.~~

(A) GENERAL RULE.--IF A NONPROFIT CORPORATION OR THE BOARD OF DIRECTORS RECEIVES A DEMAND TO BRING AN ACTION TO ENFORCE A RIGHT OF THE CORPORATION, OR IF A DERIVATIVE ACTION IS COMMENCED BEFORE DEMAND HAS BEEN MADE ON THE CORPORATION OR THE BOARD, THE BOARD MAY APPOINT A SPECIAL LITIGATION COMMITTEE TO INVESTIGATE THE CLAIMS ASSERTED IN THE DEMAND OR ACTION AND TO DETERMINE ON BEHALF OF THE CORPORATION OR RECOMMEND TO THE BOARD WHETHER PURSUING ANY OF THE CLAIMS ASSERTED IS IN THE BEST INTERESTS OF THE CORPORATION. THE CORPORATION SHALL SEND A NOTICE IN RECORD FORM TO THE PLAINTIFF PROMPTLY AFTER THE APPOINTMENT OF A COMMITTEE UNDER THIS SECTION NOTIFYING THE PLAINTIFF THAT A COMMITTEE HAS BEEN APPOINTED AND IDENTIFYING BY NAME THE MEMBERS OF THE COMMITTEE.

(B) DISCOVERY STAY.--IF THE BOARD OF DIRECTORS APPOINTS A SPECIAL LITIGATION COMMITTEE AND AN ACTION IS COMMENCED BEFORE A DETERMINATION HAS BEEN MADE UNDER SUBSECTION (E):

(1) ON MOTION BY THE COMMITTEE MADE IN THE NAME OF THE NONPROFIT CORPORATION, THE COURT SHALL STAY DISCOVERY FOR THE

1 TIME REASONABLY NECESSARY TO PERMIT THE COMMITTEE TO COMPLETE  
2 ITS INVESTIGATION, EXCEPT FOR GOOD CAUSE SHOWN.

3 (2) THE TIME FOR THE DEFENDANTS TO PLEAD SHALL BE TOLLED  
4 UNTIL THE PROCESS PROVIDED FOR UNDER SUBSECTION (F) HAS BEEN  
5 COMPLETED.

6 (C) COMPOSITION OF COMMITTEE.--A SPECIAL LITIGATION  
7 COMMITTEE SHALL BE COMPOSED OF TWO OR MORE INDIVIDUALS WHO:

8 (1) ARE NOT INTERESTED IN THE CLAIMS ASSERTED IN THE  
9 DEMAND OR ACTION;

10 (2) ARE CAPABLE AS A GROUP OF OBJECTIVE JUDGMENT IN THE  
11 CIRCUMSTANCES; AND

12 (3) MAY, BUT NEED NOT, BE MEMBERS, DIRECTORS OR MEMBERS  
13 OF ANOTHER BODY.

14 (D) APPOINTMENT OF COMMITTEE.--A SPECIAL LITIGATION  
15 COMMITTEE MAY BE APPOINTED:

16 (1) BY A MAJORITY OF THE DIRECTORS NOT NAMED AS ACTUAL  
17 OR POTENTIAL PARTIES IN THE DEMAND OR ACTION; OR

18 (2) IF ALL THE DIRECTORS ARE NAMED AS ACTUAL OR  
19 POTENTIAL PARTIES IN THE DEMAND OR ACTION, BY A MAJORITY OF:

20 (I) THE MEMBERS OF ANOTHER BODY NOT NAMED AS PARTIES  
21 IN THE PROCEEDING IF THE OTHER BODY HAS THE AUTHORITY TO  
22 APPOINT A SPECIAL LITIGATION COMMITTEE; OR

23 (II) THE DIRECTORS SO NAMED.

24 (E) DETERMINATION.--AFTER APPROPRIATE INVESTIGATION BY A  
25 SPECIAL LITIGATION COMMITTEE, THE COMMITTEE OR THE BOARD OF  
26 DIRECTORS MAY DETERMINE THAT IT IS IN THE BEST INTERESTS OF THE  
27 NONPROFIT CORPORATION THAT:

28 (1) AN ACTION BASED ON SOME OR ALL OF THE CLAIMS  
29 ASSERTED IN THE DEMAND NOT BE BROUGHT BY THE CORPORATION BUT  
30 THAT THE CORPORATION NOT OBJECT TO AN ACTION BEING BROUGHT BY

1 THE PARTY THAT MADE THE DEMAND;

2 (2) AN ACTION BASED ON SOME OR ALL OF THE CLAIMS  
3 ASSERTED IN THE DEMAND BE BROUGHT BY THE CORPORATION;

4 (3) SOME OR ALL OF THE CLAIMS ASSERTED IN THE DEMAND BE  
5 SETTLED ON TERMS APPROVED BY THE COMMITTEE;

6 (4) AN ACTION NOT BE BROUGHT BASED ON ANY OF THE CLAIMS  
7 ASSERTED IN THE DEMAND;

8 (5) AN ACTION ALREADY COMMENCED CONTINUE UNDER THE  
9 CONTROL OF:

10 (I) THE PLAINTIFF;

11 (II) THE CORPORATION; OR

12 (III) THE COMMITTEE;

13 (6) SOME OR ALL THE CLAIMS ASSERTED IN AN ACTION ALREADY  
14 COMMENCED BE SETTLED ON TERMS APPROVED BY THE COMMITTEE; OR

15 (7) AN ACTION ALREADY COMMENCED BE DISMISSED.

16 (F) COURT REVIEW AND ACTION.--IF A SPECIAL LITIGATION  
17 COMMITTEE IS APPOINTED AND A DERIVATIVE ACTION IS COMMENCED  
18 BEFORE OR AFTER A DETERMINATION IS MADE UNDER SUBSECTION (E) :

19 (1) THE NONPROFIT CORPORATION SHALL FILE WITH THE COURT  
20 AFTER A DETERMINATION IS MADE UNDER SUBSECTION (E) A  
21 STATEMENT OF THE DETERMINATION AND A REPORT SUPPORTING THE  
22 DETERMINATION. THE CORPORATION SHALL SERVE EACH PARTY WITH A  
23 COPY OF THE DETERMINATION AND REPORT. IF THE CORPORATION  
24 MOVES TO FILE THE REPORT UNDER SEAL, THE REPORT SHALL BE  
25 SERVED ON THE PARTIES SUBJECT TO AN APPROPRIATE STIPULATION  
26 AGREED TO BY THE PARTIES OR A PROTECTIVE ORDER ISSUED BY THE  
27 COURT.

28 (2) THE CORPORATION SHALL FILE WITH THE COURT A MOTION,  
29 PLEADING OR NOTICE CONSISTENT WITH THE DETERMINATION UNDER  
30 SUBSECTION (E).

1           (3) IF THE DETERMINATION IS ONE DESCRIBED IN SUBSECTION  
2 (E) (2), (3), (4), (5) (II), (6) OR (7), THE COURT SHALL  
3 DETERMINE WHETHER THE MEMBERS OF THE COMMITTEE MET THE  
4 QUALIFICATIONS REQUIRED UNDER SUBSECTION (C) (1) AND (2) AND  
5 WHETHER THE COMMITTEE CONDUCTED ITS INVESTIGATION AND MADE  
6 ITS RECOMMENDATION IN GOOD FAITH, INDEPENDENTLY AND WITH  
7 REASONABLE CARE. IF THE COURT FINDS THAT THE MEMBERS OF THE  
8 COMMITTEE MET THE QUALIFICATIONS REQUIRED UNDER SUBSECTION  
9 (C) (1) AND (2) AND THAT THE COMMITTEE ACTED IN GOOD FAITH,  
10 INDEPENDENTLY AND WITH REASONABLE CARE, THE COURT SHALL  
11 ENFORCE THE DETERMINATION OF THE COMMITTEE. OTHERWISE, THE  
12 COURT SHALL:

13           (I) DISSOLVE ANY STAY OF DISCOVERY ENTERED UNDER  
14 SUBSECTION (B);

15           (II) ALLOW THE ACTION TO CONTINUE UNDER THE CONTROL  
16 OF THE PLAINTIFF; AND

17           (III) PERMIT THE DEFENDANTS TO FILE PRELIMINARY  
18 OBJECTIONS, OTHER APPROPRIATE PLEADINGS AND MOTIONS.

19           (G) ATTORNEY GENERAL.--NOTHING IN THIS SECTION LIMITS THE  
20 RIGHTS, POWERS AND DUTIES OF THE ATTORNEY GENERAL UNDER OTHER  
21 APPLICABLE LAW WITH RESPECT TO A NONPROFIT CORPORATION.

22 § 5784. Proceeds and expenses.

23           (a) Proceeds.--Except as provided in subsection (b):

24           (1) any proceeds or other benefits of a derivative  
25 action, whether by judgment, compromise or settlement, belong  
26 to the nonprofit corporation and not to the plaintiff; and

27           (2) if the plaintiff OR ITS COUNSEL receives any <--  
28 proceeds, the plaintiff shall remit them immediately PROCEEDS <--  
29 SHALL BE REMITTED to the corporation.

30           (b) Expenses.--If a derivative action is successful in whole

1 or in part, the court may award the plaintiff reasonable  
2 expenses, including reasonable attorney fees and costs, from the  
3 recovery of the nonprofit corporation-, BUT IN NO EVENT SHALL <--  
4 THE ATTORNEY FEES AWARDED EXCEED A REASONABLE PROPORTION OF THE  
5 VALUE OF THE RELIEF, INCLUDING NONPECUNIARY RELIEF, OBTAINED BY  
6 THE PLAINTIFF FOR THE CORPORATION.

7 Section 12. Sections 6146, 8102 and 8105 of Title 15 are <--  
8 amended to read:

9 § 6146. PROVISIONS APPLICABLE TO ALL FOREIGN CORPORATIONS. <--

10 THE FOLLOWING PROVISIONS OF THIS SUBPART SHALL, EXCEPT AS  
11 OTHERWISE PROVIDED IN THIS SECTION, BE APPLICABLE TO EVERY  
12 FOREIGN CORPORATION NOT-FOR-PROFIT, WHETHER OR NOT REQUIRED TO  
13 [PROCURE A CERTIFICATE OF AUTHORITY UNDER THIS CHAPTER] REGISTER  
14 UNDER CHAPTER 4 (RELATING TO FOREIGN ASSOCIATIONS):

15 SECTION 5503 (RELATING TO DEFENSE OF ULTRA VIRES) AS TO  
16 CONTRACTS AND CONVEYANCES GOVERNED BY THE LAWS OF THIS  
17 COMMONWEALTH AND CONVEYANCES AFFECTING REAL PROPERTY SITUATED IN  
18 THIS COMMONWEALTH.

19 SECTION 5506 (RELATING TO FORM OF EXECUTION OF INSTRUMENTS)  
20 AS TO INSTRUMENTS OR OTHER DOCUMENTS GOVERNED BY THE LAWS OF  
21 THIS COMMONWEALTH OR AFFECTING REAL PROPERTY SITUATED IN THIS  
22 COMMONWEALTH.

23 SECTION 5510 (RELATING TO CERTAIN SPECIFICALLY AUTHORIZED  
24 DEBT TERMS) AS TO OBLIGATIONS (AS DEFINED IN THE SECTION)  
25 GOVERNED BY THE LAWS OF THIS COMMONWEALTH OR AFFECTING REAL  
26 PROPERTY SITUATED IN THIS COMMONWEALTH.

27 SECTION 5782 (RELATING TO [ACTIONS AGAINST DIRECTORS, MEMBERS  
28 OF AN OTHER BODY AND OFFICERS] ELIGIBLE MEMBER PLAINTIFFS AND  
29 SECURITY FOR COSTS) AS TO ANY DERIVATIVE ACTION [OR PROCEEDING]  
30 BROUGHT IN A COURT OF THIS COMMONWEALTH.

1 § 8102. Interchangeability of partnership, limited liability  
2 company and corporate forms of organization.

3 (a) General rule.--Subject to any restrictions on a specific  
4 line of business made applicable by section 103 (relating to  
5 subordination of title to regulatory laws):

6 (1) Any business that may be conducted in a corporate  
7 form may also be conducted as a partnership or a limited  
8 liability company.

9 (2) A domestic or foreign partnership or limited  
10 liability company may exercise any right, power, franchise or  
11 privilege that a domestic or foreign corporation engaged in  
12 the same line of business might exercise under the laws of  
13 this Commonwealth, including powers conferred by section 1511  
14 (relating to additional powers of certain public utility  
15 corporations) or other provisions of law granting the right  
16 to a duly authorized corporation to take or occupy property  
17 and make compensation therefor.

18 (b) Exceptions.--Subsection (a) shall not:

19 (1) Affect any law relating to the taxation of  
20 partnerships, limited liability companies or corporations.

21 (2) [Apply to a banking institution, credit union,  
22 insurance corporation or savings association,] Authorize the <--  
23 conduct of the business of banking or insurance ACTING AS A <--  
24 BANKING INSTITUTION, CREDIT UNION OR INSURER unless the laws  
25 relating thereto or this part expressly [contemplate] permit  
26 the conduct of [the regulated] ~~that~~ business in partnership <--  
27 or limited liability company form. See [section 8911  
28 (relating to purposes).] sections 8620(b) (relating to  
29 characteristics of limited partnership) and 8818(b) (relating  
30 to characteristics of limited liability company).

1 (3) Except as otherwise provided by law, permit a  
2 partnership to provide full limited liability for all of the  
3 investors therein or otherwise fail to preserve the intrinsic  
4 differences between the partnership and corporate forms.

5 § 8105. Ownership of certain professional partnerships AND <--  
6 LIMITED LIABILITY COMPANIES.

7 (a) General rule.--Except as otherwise provided by statute,  
8 rule or regulation applicable to a particular profession, all of  
9 the ultimate beneficial owners of the [partnership] interests in  
10 a [partnership that renders one or more restricted professional  
11 services shall] general partnership, limited partnership,  
12 electing partnership or limited liability company, and all of  
13 the governors of the entity, must be licensed persons[. As used  
14 in this section, the term "restricted professional services"  
15 shall have the meaning specified in section 8903 (relating to  
16 definitions and index of definitions).] in the profession the  
17 entity practices if the entity renders any of the following  
18 professional services:

- 19 (1) chiropractic;
- 20 (2) dentistry;
- 21 (3) law;
- 22 (4) medicine and surgery;
- 23 (5) optometry;
- 24 (6) osteopathic medicine and surgery;
- 25 (7) podiatric medicine;
- 26 (8) public accounting;
- 27 (9) psychology; or
- 28 (10) veterinary medicine.

29 (b) Transitional provision.--Subsection (a) shall not apply  
30 to a person that holds only a transferable interest that was

1 acquired before [the Legislative Reference Bureau shall insert  
2 here the effective date of this act].

3 Section 13. Title 15 is amended by adding a section to read:  
4 § 8106. Failure to observe formalities.

5 The failure of a limited liability partnership, limited  
6 partnership, limited liability limited partnership, electing  
7 partnership or limited liability company to observe formalities  
8 relating to the exercise of its powers or management of its  
9 activities and affairs is not a ground for imposing liability on  
10 a partner, member or manager of the entity for a debt,  
11 obligation or other liability of the entity.

12 Section 14. Chapter 82 heading of Title 15 is amended to  
13 read:

14 CHAPTER 82

15 [REGISTERED] LIMITED LIABILITY PARTNERSHIPS AND  
16 LIMITED LIABILITY LIMITED PARTNERSHIPS

17 Section 15. Chapter 82 Subchapter A heading of Title 15 is  
18 amended to read:

19 SUBCHAPTER A

20 DOMESTIC [REGISTERED]

21 LIMITED LIABILITY PARTNERSHIPS AND

22 LIMITED LIABILITY LIMITED PARTNERSHIPS

23 Section 16. Section 8201 of Title 15 is amended to read:

24 § 8201. Scope.

25 (a) Application of subchapter.--This subchapter applies to a  
26 general or limited partnership WHOSE INTERNAL AFFAIRS ARE <--  
27 GOVERNED BY OR THAT IS formed under the laws of this  
28 Commonwealth AND that registers under this section. Any <--  
29 partnership that desires to register under this subchapter or to  
30 amend or terminate its registration shall [file in] DELIVER TO <--

1 the Department of State FOR FILING a statement of registration, <--  
2 amendment or termination, as the case may be, which shall be  
3 signed by a general partner and shall set forth:

4 (1) The name of the partnership.

5 (2) Either:

6 (i) the address of the principal place of business  
7 of the partnership, in the case of a general partnership;  
8 or

9 (ii) subject to section 109 (relating to name of  
10 commercial registered office provider in lieu of  
11 registered address), the address, including street and  
12 number, if any, of the registered office of the  
13 partnership, in the case of a limited partnership.

14 (3) A statement that the partnership registers under  
15 this subchapter or that the registration of the partnership  
16 under this subchapter shall be amended or terminated, as the  
17 case may be. If the statement relates to an amendment, the  
18 amendment shall restate in full the statement of  
19 registration.

20 (4) A statement that:

21 (i) the registration, amendment or termination has  
22 been authorized by at least a majority in interest of the  
23 partners[.]; and

24 (ii) in the case of a termination, the termination  
25 has also been authorized by all of the general partners.

26 (b) Effect of filing.--Upon the filing of the statement of  
27 registration, amendment or termination in the department, the  
28 registration under this subchapter shall be effective, amended  
29 or terminated, as the case may be. The effectiveness, amendment  
30 or termination of the registration of a partnership under this

1 subchapter shall not be deemed to cause a dissolution of the  
2 partnership.

3 (c) Effect of registration.--As long as the registration  
4 under this subchapter is in effect, the partnership shall be  
5 governed by the provisions of this subchapter and, to the extent  
6 not inconsistent with this subchapter, Chapter [83] 84 (relating  
7 to general partnerships) [and, if a limited partnership, in  
8 addition, Chapter 85] or 86 (relating to limited partnerships).  
9 Without limiting the generality of the foregoing, a domestic or  
10 foreign [registered] limited liability partnership or limited  
11 liability limited partnership shall be treated the same as if it  
12 were not registered under this subchapter for purposes of:

13 (1) determining whether it is a permissible form of  
14 entity in which to conduct the practice of a profession; or

15 (2) the imposition by the Commonwealth or any political  
16 subdivision of any tax or license fee on or with respect to  
17 any income, property, privilege, transaction, subject or  
18 occupation.

19 (d) Continuation of registration.--If a [registered] limited  
20 liability partnership or limited liability limited partnership  
21 is dissolved and its business is continued without liquidation  
22 of the partnership affairs, the registration under this  
23 subchapter of the dissolved partnership shall continue to be  
24 applicable to the partnership continuing the business, and it  
25 shall not be necessary to make a new filing under this section  
26 until such time, if any, as the registration is to be amended or  
27 terminated.

28 (e) Prohibited termination.--A registration under this  
29 subchapter may not be terminated while the partnership is a  
30 [bankrupt as that term is defined in section 8903 (relating to

1 definitions and index of definitions)] debtor in bankruptcy. See  
2 section 8221(f) (relating to annual registration).

3 (f) Alternative procedure.--In lieu of filing a statement of  
4 registration as provided in subsection (a), a limited  
5 partnership may register as a [registered] limited liability  
6 limited partnership by including in its certificate of limited  
7 partnership, either originally or by amendment, the statements  
8 required by subsection (a)(3) and (4). To terminate its  
9 registration, a limited partnership that uses the procedure  
10 authorized by this subsection shall amend its certificate of  
11 limited partnership to delete the statements required by this  
12 subsection.

13 (g) Constructive notice.--[Filing] REGISTRATION under this <--  
14 section shall constitute constructive notice that the  
15 partnership is a [registered] limited liability partnership or  
16 limited liability limited partnership and that the partners are  
17 entitled to the protections from liability provided by this  
18 subchapter.

19 (h) Approval of termination.--In addition to any required  
20 approvals under the partnership agreement, the termination of a  
21 statement of registration must be approved by the affirmative  
22 vote or consent of all the general partners.

23 (i) Cross references.--See sections 134 (relating to  
24 docketing statement) and 135 (relating to requirements to be met  
25 by filed documents).

26 Section 17. The definitions of "foreign registered limited  
27 liability partnership," "partner" and "registered limited  
28 liability partnership" or "domestic registered limited liability  
29 partnership" in section 8202 are amended and the section is  
30 amended by adding a definition to read:

1 § 8202. Definitions.

2 The following words and phrases when used in this chapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Distribution." A transfer of money or other property from a  
6 limited liability partnership to a person on account of a  
7 transferable interest or in a person's capacity as a partner.

8 The term:

9 (1) includes:

10 (i) a redemption or other purchase by a partnership  
11 of a transferable interest; and

12 (ii) a transfer to a partner in return for the  
13 partner's relinquishment of any right to participate as a  
14 partner in the management or conduct of the partnership's  
15 business or to have access to records or other  
16 information concerning the partnership's business; and

17 (2) does not include:

18 (i) amounts constituting reasonable compensation for  
19 present or past service or payments made in the ordinary  
20 course of business under a bona fide retirement plan or  
21 other bona fide benefits program;

22 (ii) the making of, or payment or performance on, a  
23 guaranty or similar arrangement by a partnership for the  
24 benefit of any or all of its partners;

25 (iii) a direct or indirect allocation or transfer  
26 effected under Chapter 3 (relating to entity  
27 transactions) with the approval of the ~~members~~ PARTNERS; <--  
28 or

29 (iv) a direct or indirect transfer of:

30 (A) a governance or transferable interest; or

1                   (B) options, rights or warrants to acquire a  
2                   governance or transferable interest.

3       ["Foreign registered limited liability partnership." A  
4 partnership that has registered under a law of any jurisdiction  
5 other than this Commonwealth similar to this subchapter, whether  
6 or not the partnership is required to register under section  
7 8211 (relating to foreign registered limited liability  
8 partnerships).]

9       "Partner." Includes a person who is or was a partner in a  
10 [registered] limited liability partnership or A GENERAL PARTNER <--  
11 IN A limited liability limited partnership at any time while the  
12 registration of the partnership under this subchapter is or was  
13 in effect.

14       ["Registered limited liability partnership" or "domestic  
15 registered limited liability partnership." A partnership as to  
16 which a registration under section 8201(a) (relating to scope)  
17 is in effect.]

18       Section 18. Section 8204 of Title 15 is amended to read:

19       § 8204. Limitation on liability of partners.

20       (a) General rule.--Except as provided in subsection (b), a  
21 partner in a [registered] limited liability partnership or  
22 limited liability limited partnership shall not be  
23 [individually] liable directly or indirectly, whether by way of  
24 indemnification, contribution, assessment or otherwise, [for  
25 debts and obligations] under an order of court or in any other  
26 manner for any debts, obligations or other liabilities of, or  
27 chargeable to, the partnership, whether sounding in contract or  
28 tort or otherwise, that arise [from any negligent or wrongful  
29 acts or misconduct committed by another partner or other  
30 representative of the partnership] while the registration of the

1 partnership under this subchapter is in effect.

2 (b) Exceptions.--

3 (2) Subsection (a) shall not affect the liability of a  
4 partner:

5 (i) Individually for any negligent or wrongful acts  
6 or misconduct committed by [him or by any person under  
7 his direct supervision and control] the partner.

8 (ii) For any debts [or], obligations or other  
9 liabilities of the partnership:

10 [(A) arising from any cause other than those  
11 specified in subsection (a); or]

12 (B) as to which the partner has agreed in  
13 [writing] record form to be liable[.]; or

14 (C) that:

15 (I) arose before [the Legislative Reference  
16 Bureau shall insert here the effective date of  
17 this clause]; and

18 (II) did not arise from any negligent or  
19 wrongful acts or misconduct committed by a  
20 partner or other representative of the  
21 partnership.

22 (iii) To the extent expressly undertaken in the  
23 partnership agreement or the certificate of limited  
24 partnership.

25 (3) Subsection (a) shall not affect in any way:

26 (i) the liability of the partnership itself for all  
27 its debts [and obligations], obligations and other  
28 liabilities;

29 (ii) the availability of the entire assets of the  
30 partnership to satisfy its debts [and obligations],

1           obligations and other liabilities; or

2           (iii) any obligation undertaken by a partner in  
3           [writing] RECORD FORM to individually indemnify another <--  
4           partner of the partnership or to individually contribute  
5           toward a liability of another partner.

6           (c) Continuation of limited liability.--Neither the  
7           termination of the registration of a partnership under this  
8           subchapter nor the dissolution, winding up or termination of the  
9           partnership shall affect the limitation on the liability of a  
10          partner in the partnership under this section with respect to  
11          [negligent or wrongful acts or misconduct occurring] debts,  
12          obligations and other liabilities that arose while the  
13          registration under this subchapter was in effect.

14          (d) Proper parties.--A partner in a limited liability  
15          partnership or limited liability limited partnership is not a  
16          proper party to an action or proceeding by or against the  
17          partnership, the object of which is to recover damages or  
18          enforce debts, obligations or other liabilities for which the  
19          partner is not liable.

20          (e) Cross reference.--See section 103 (relating to  
21          subordination of title to regulatory laws).

22          Section 19. Section 8205 of Title 15 is repealed:

23          [§ 8205. Liability of withdrawing partner.

24          (a) General rule.--Except as provided in subsection (b), if  
25          the business of a registered limited liability partnership is  
26          continued without liquidation of the partnership affairs  
27          following the dissolution of the partnership as a result of the  
28          withdrawal for any reason of a partner, the withdrawing partner  
29          shall not be individually liable directly or indirectly, whether  
30          by way of indemnification, contribution or otherwise, for the

1 debts and obligations of either the dissolved partnership or any  
2 partnership continuing the business if a statement of withdrawal  
3 is filed as provided in this section.

4 (b) Exceptions.--Subsection (a) shall not affect the  
5 liability of a partner:

6 (1) Individually for any negligent or wrongful acts or  
7 misconduct committed by him or by any person under his direct  
8 supervision and control.

9 (2) For any debts or obligations of the partnership as  
10 to which the withdrawing partner has agreed in writing to be  
11 liable.

12 (3) To the partnership for damages if the partnership  
13 agreement prohibits the withdrawal of the partner or the  
14 withdrawal otherwise violates the partnership agreement.

15 (4) Under section 8334 (relating to partner accountable  
16 as fiduciary).

17 (5) To the extent a debt or obligation of the  
18 partnership has been expressly undertaken by the partner in  
19 the partnership agreement or the certificate of limited  
20 partnership.

21 (6) If the partnership subsequently dissolves within one  
22 year after the date of withdrawal of the partner and the  
23 business of the partnership is not continued following such  
24 subsequent dissolution. This paragraph shall not be  
25 applicable in the case of a withdrawal caused by:

26 (i) the death of the partner; or

27 (ii) the retirement of the partner pursuant to a  
28 retirement policy of the dissolved partnership that has  
29 been in effect prior to the retirement of the partner for  
30 the shorter of one year or the period that the

1 partnership has been in existence.

2 (7) For any obligation undertaken by a partner in  
3 writing to individually indemnify another partner of the  
4 partnership or to individually contribute toward a liability  
5 of another partner.

6 (c) Statement of withdrawal.--A statement of withdrawal  
7 shall be executed by the withdrawing partner or his personal  
8 representative and shall set forth:

9 (1) The name of the registered limited liability  
10 partnership.

11 (2) The name of the withdrawing partner.

12 (d) Filing and effectiveness.--The statement of withdrawal  
13 shall be filed in the Department of State and shall be effective  
14 upon filing. The withdrawing partner shall send a copy of the  
15 filed statement of withdrawal to the registered limited  
16 liability partnership.

17 (e) Permissive filing.--Filing under this section is  
18 permissive, and failure to make a filing under this section by a  
19 partner entitled to do so shall not affect the right of that  
20 partner to the limitation on liability provided by section 8204  
21 (relating to limitation on liability of partners).

22 (f) Constructive notice.--Filing under this section shall  
23 constitute constructive notice that the partner has withdrawn  
24 from the partnership and is entitled to the protection from  
25 liability provided by this section.

26 (g) Variation of section.--A written provision of the  
27 partnership agreement may restrict or condition the application  
28 of this section to some or all of the partners of the  
29 partnership.

30 (h) Application of section.--A partner in a foreign

1 registered limited liability partnership, regardless of whether  
2 or not it has registered to do business in this Commonwealth  
3 under section 8211 (relating to foreign registered limited  
4 liability partnerships), shall not be entitled to make a filing  
5 under this section with regard to that partnership.

6 (i) Cross references.--See sections 134 (relating to  
7 docketing statement) and 135 (relating to requirements to be met  
8 by filed documents).]

9 Section 20. Section 8207 of Title 15 is amended to read:

10 § 8207. Extraterritorial application of subchapter.

11 [(a) Legislative intent.--It is the intent of the General  
12 Assembly in enacting this subchapter that the legal existence of  
13 registered limited liability partnerships organized in this  
14 Commonwealth be recognized outside the boundaries of this  
15 Commonwealth and that, subject to any reasonable requirement of  
16 registration, a domestic registered limited liability  
17 partnership transacting business outside this Commonwealth be  
18 granted protection of full faith and credit under the  
19 Constitution of the United States.]

20 (b) Basis for determining liability of partners.--The  
21 liability of partners in a [registered] domestic limited  
22 liability partnership or domestic limited liability limited  
23 partnership shall at all times be determined under Chapters [83]  
24 84 (relating to general partnerships) and [85] 86 (relating to  
25 limited partnerships) as modified by the provisions of this  
26 subchapter.

27 (c) Conflict of laws.--The personal liability of a partner  
28 of a [registered] domestic limited liability partnership or  
29 domestic limited liability limited partnership to any person or  
30 in any action or proceeding for the debts, obligations or other

1 liabilities of the partnership or for the acts or omissions of  
2 other partners or representatives of the partnership shall be  
3 governed solely and exclusively by the laws of this  
4 Commonwealth. Whenever a conflict arises between the laws of  
5 this Commonwealth and the laws of any other state with regard to  
6 the liability of partners of a [registered] domestic limited  
7 liability partnership [registered under this subchapter] or  
8 domestic limited liability limited partnership for the debts,  
9 obligations and other liabilities of the partnership or for the  
10 acts or omissions of the other partners or representatives of  
11 the partnership, the laws of this Commonwealth shall govern in  
12 determining such liability.

13 Section 21. Subchapter B of Chapter 82 of Title 15 is  
14 repealed:

15 [SUBCHAPTER B  
16 FOREIGN REGISTERED  
17 LIMITED LIABILITY PARTNERSHIPS

18 § 8211. Foreign registered limited liability partnerships.

19 (a) Governing law.--Subject to the Constitution of  
20 Pennsylvania:

21 (1) The laws of the jurisdiction under which a foreign  
22 registered limited liability partnership is organized govern  
23 its organization and internal affairs and the liability of  
24 its partners except as provided in subsection (c).

25 (2) A foreign registered limited liability partnership  
26 may not be denied registration by reason of any difference  
27 between those laws and the laws of this Commonwealth.

28 (c) Exception.--The liability of the partners in a foreign  
29 registered limited liability partnership shall be governed by  
30 the laws of the jurisdiction under which it is organized, except

1 that the partners shall not be entitled to greater protection  
2 from liability than is available to the partners in a domestic  
3 registered limited liability partnership.]

4 Section 22. Section 8221 of Title 15 is amended to read:  
5 § 8221. Annual registration.

6 (a) General rule.--Every domestic [registered] limited  
7 liability partnership or limited liability limited partnership  
8 in existence on December 31 of any year and every foreign  
9 [registered] limited liability partnership or limited liability  
10 limited partnership that is registered to do business in this  
11 Commonwealth on December 31 of any year shall [file in] DELIVER <--  
12 TO the Department of State FOR FILING with respect to that year, <--  
13 and on or before April 15 of the following year, a certificate  
14 of annual registration on a form provided by the department,  
15 signed by a general partner and accompanied by the annual  
16 registration fee prescribed by subsection (b). The department  
17 shall not charge a fee other than the annual registration fee  
18 for filing the certificate of annual registration.

19 (b) Annual registration fee.--

20 (1) The annual registration fee to be paid when filing a  
21 certificate of annual registration shall be equal to a base  
22 fee of \$200 times the number of persons who were general  
23 partners of the partnership on December 31 of the year with  
24 respect to which the certificate of annual registration is  
25 being filed and who:

26 (i) in the case of a natural person, had his  
27 principal residence on that date in this Commonwealth; or

28 (ii) in the case of any other person, was  
29 incorporated or otherwise organized or existing on that  
30 date under the laws of this Commonwealth.

1           (2) The base fee of \$200 shall be increased on December  
2           31, 1997, and December 31 of every third year thereafter by  
3           the percentage increase in the Consumer Price Index for Urban  
4           Workers during the most recent three calendar years for which  
5           that index is available on the date of adjustment. Each  
6           adjustment under this paragraph shall be rounded up to the  
7           nearest \$10.

8           (c) Notice of annual registration.--Not later than February  
9           1 of each year, the department shall give notice to every  
10          partnership required to file a certificate of annual  
11          registration with respect to the preceding year of the  
12          requirement to file the certificate. The notice shall state the  
13          amount of the base fee payable under subsection (b)(1), as  
14          adjusted pursuant to subsection (b)(2), if applicable, and shall  
15          be accompanied by the form of certificate of annual registration  
16          to be filed. Failure by the department to give notice to any  
17          party, or failure by any party to receive notice, of the annual  
18          registration requirement shall not relieve the party of the  
19          obligation to file the certificate of annual registration.

20          (d) Credit to Corporation Bureau Restricted Account.--The  
21          annual registration fee shall not be deemed to be an amount  
22          received by the department under Subchapter C of Chapter 1 for  
23          purposes of section 155 (relating to disposition of funds),  
24          except that \$25 of the fee shall be credited to the Corporation  
25          Bureau Restricted Account.

26          (e) Failure to FILE OR pay annual fee.--

<--

27                 (1) Failure to file the certificate of annual  
28                 registration required by this section for five consecutive  
29                 years shall result in the automatic termination of:

30                         (i) the status of the [registered] limited liability

1 partnership [as such.] or limited liability limited  
2 partnership as such, if it is a domestic partnership; or  
3 (ii) the registration of the limited liability  
4 partnership or limited liability limited partnership, if  
5 it is a foreign partnership.

6 (1.1) [In addition, any] Any annual registration fee  
7 that is not paid when due shall be a lien in the manner  
8 provided in this subsection from the time the annual  
9 registration fee is due and payable. If a certificate of  
10 annual registration is not filed within 30 days after the  
11 date on which it is due, the department shall assess a  
12 penalty of \$500 against the partnership, which shall also be  
13 a lien in the manner provided in this subsection. The  
14 imposition of that penalty shall not be construed to relieve  
15 the partnership from liability for any other penalty or  
16 interest provided for under other applicable law.

17 (2) If the annual registration fee paid by a [registered  
18 limited liability] partnership is subsequently determined to  
19 be less than should have been paid because it was based on an  
20 incorrect number of general partners or was otherwise  
21 incorrectly computed, that fact shall not affect the  
22 existence [or status of the registered limited liability  
23 partnership as such], status or foreign registration of the  
24 partnership, but the amount of the additional annual  
25 registration fee that should have been paid shall be a lien  
26 in the manner provided in this subsection from the time the  
27 incorrect payment is discovered by the department.

28 (3) The annual registration fee shall bear simple  
29 interest from the date that it becomes due and payable until  
30 paid. The interest rate shall be that provided for in section

1 806 of the act of April 9, 1929 (P.L.343, No.176), known as  
2 The Fiscal Code, with respect to unpaid taxes. The penalty  
3 provided for in paragraph (1) shall not bear interest. The  
4 payment of interest shall not relieve the [registered limited  
5 liability] partnership from liability for any other penalty  
6 or interest provided for under other applicable law.

7 (4) The lien created by this subsection shall attach to  
8 all of the property and proceeds thereof of the [registered  
9 limited liability] partnership in which a security interest  
10 can be perfected in whole or in part by filing in the  
11 department under 13 Pa.C.S. Div. 9 (relating to secured  
12 transactions; sales of accounts, contract rights and chattel  
13 paper), whether the property and proceeds are owned by the  
14 partnership at the time the annual registration fee or any  
15 penalty or interest becomes due and payable or whether the  
16 property and proceeds are acquired thereafter. Except as  
17 otherwise provided by statute, the lien created by this  
18 subsection shall have priority over all other liens, security  
19 interests or other charges, except liens for taxes or other  
20 charges due the Commonwealth. The lien created by this  
21 subsection shall be entered on the records of the department  
22 and indexed in the same manner as a financing statement filed  
23 under 13 Pa.C.S. Div. 9. At the time an annual registration  
24 fee, penalty or interest that has resulted in the creation of  
25 a lien under this subsection is paid, the department shall  
26 terminate the lien with respect to that annual registration  
27 fee, penalty or interest without requiring a separate filing  
28 by the partnership for that purpose.

29 (5) If the annual registration fee paid by a [registered  
30 limited liability] partnership is subsequently determined to

1 be more than should have been paid for any reason, no refund  
2 of the additional fee shall be made.

3 (6) Termination of the status [of a registered limited  
4 liability partnership as such] or foreign registration of a  
5 partnership under this section, whether voluntarily or  
6 involuntarily, shall not release it from the obligation to  
7 pay any accrued fees, penalties and interest and shall not  
8 release the lien created by this subsection.

9 (f) Exception for bankrupt partnerships.--A partnership that  
10 would otherwise be required to pay the annual registration fee  
11 set forth in subsection (b) shall not be required to pay that  
12 fee with respect to any year during any part of which the  
13 partnership is a [bankrupt as defined in section 8903 (relating  
14 to definitions and index of definitions)] debtor in bankruptcy.  
15 The partnership shall, instead, indicate on its certificate of  
16 annual registration for that year that it is exempt from payment  
17 of the annual registration fee pursuant to this subsection. If  
18 the partnership fails to file timely a certificate of annual  
19 registration, a lien shall be entered on the records of the  
20 department pursuant to subsection (e) which shall not be removed  
21 until the partnership files a certificate of annual registration  
22 indicating its entitlement to an exemption from payment of the  
23 annual registration fee as provided in this subsection. See  
24 section 8201(e) (relating to scope).

25 Section 23. Chapter 82 of Title 15 is amended by adding  
26 subchapters to read:

27 SUBCHAPTER D

28 DISTRIBUTIONS

29 Sec.

30 8231. Limitations on distributions by limited liability

1 partnership.

2 8232. Liability for improper distributions by limited liability  
3 partnership.

4 § 8231. Limitations on distributions by limited liability  
5 partnership.

6 (a) General rule.--A domestic limited liability partnership  
7 may not make a distribution, including a distribution under  
8 section 8486 (relating to disposition of assets in winding up  
9 and required contributions), if after the distribution:

10 (1) the partnership would not be able to pay its debts  
11 as they become due in the ordinary course of the  
12 partnership's business; or

13 (2) the partnership's total assets would be less than  
14 the sum of its total liabilities plus the amount that would  
15 be needed, if the partnership were to be dissolved and wound  
16 up at the time of the distribution, to satisfy the  
17 preferential rights upon dissolution and winding up of  
18 partners and transferees whose preferential rights are  
19 superior to the rights of persons receiving the distribution.

20 (b) Valuation.--A domestic limited liability partnership may  
21 base a determination that a distribution is not prohibited under  
22 subsection (a) (2) on:

23 (1) the book values of the assets and liabilities of the  
24 partnership, as reflected on its books and records;

25 (2) a valuation that takes into consideration unrealized  
26 appreciation and depreciation or other changes in value of  
27 the assets and liabilities of the partnership;

28 (3) the current value of the assets and liabilities of  
29 the partnership, either valued separately or valued in  
30 segments or as an entirety as a going concern; or

1           (4) any other method that is reasonable in the  
2           circumstances.

3           (c) Excluded liabilities.--In determining whether a  
4           distribution is prohibited under subsection (a)(2), the  
5           partnership need not consider obligations and liabilities unless  
6           they are required to be reflected on a balance sheet, not  
7           including the notes to the balance sheet, prepared on the basis  
8           of generally accepted accounting principles, or other such  
9           accounting practices and principles as are used generally by the  
10           partnership in the maintenance of its books and records and as  
11           are reasonable in the circumstances.

12           (d) Measuring date of distribution.--Except as provided in  
13           subsection (e), the effect of a distribution under subsection  
14           (a) is measured:

15           (1) as of the date specified by the partnership when it  
16           authorizes the distribution if the distribution occurs within  
17           125 days of the earlier of the date so specified or the date  
18           of authorization; or

19           (2) as of the date of distribution in all other cases.

20           (e) Date of redemption.--In the case of a distribution as  
21           described in paragraph (1) of the definition of "distribution"  
22           in section ~~8412~~ 8202 (relating to definitions), the distribution <--  
23           is deemed to occur as of the earlier of the date money or other  
24           property is transferred or debt is incurred by the partnership,  
25           or the date the person entitled to the distribution ceases to  
26           own the interest or right being acquired by the partnership in  
27           return for the distribution.

28           (f) Status of distribution debt.--The indebtedness of a  
29           domestic limited liability partnership to a partner or  
30           transferee incurred by reason of a distribution made in

1 accordance with this section shall be at least on a parity with  
2 the partnership's indebtedness to its general, unsecured  
3 creditors, except to the extent subordinated by agreement.

4 (g) Certain subordinated debt.--The indebtedness of a  
5 domestic limited liability partnership, including indebtedness  
6 issued as a distribution, is not a liability for purposes of  
7 subsection (a) if the terms of the indebtedness provide that  
8 payment of principal and interest is made only if and to the  
9 extent that a payment of a distribution could then be made under  
10 this section. If the indebtedness is issued as a distribution,  
11 each payment of principal or interest is treated as a  
12 distribution, the effect of which is measured on the date the  
13 payment is made.

14 (h) Distributions in winding up.--In measuring the effect of  
15 a distribution under section 8486, the liabilities of a  
16 dissolved domestic limited liability partnership do not include  
17 any claim that has been barred under section 8241 (relating to  
18 known claims against dissolved limited liability partnership) or  
19 8242 (relating to other claims against dissolved limited  
20 liability partnership) or for which security has been provided  
21 under section 8243 (relating to court proceedings).

22 (i) Cross references.--See sections 8415(d)(1) (relating to  
23 contents of partnership agreement) and 8447 (relating to  
24 standards of conduct for partners).  
25 § 8232. Liability for improper distributions by limited  
26 liability partnership.

27 (a) General rule.--~~Except as provided in subsection (b), if~~ <--  
28 IF a partner of a limited liability partnership consents to a <--  
29 distribution made in violation of section 8231 (relating to  
30 limitations on distributions by limited liability partnership)

1 and in consenting to the distribution fails to comply with  
2 section 8447 (relating to standards of conduct for partners),  
3 the partner is personally liable to the partnership for the  
4 amount of the distribution which exceeds the amount that could  
5 have been distributed without the violation of section 8231.

6 ~~(b) Partners without authority. To the extent the~~ <--  
7 ~~partnership agreement of a limited liability partnership~~  
8 ~~expressly relieves a partner of the authority and responsibility~~  
9 ~~to consent to distributions and imposes that authority and~~  
10 ~~responsibility on one or more other partners, the liability in~~  
11 ~~subsection (a) applies to the other partners and not to the~~  
12 ~~partner that the partnership agreement relieves of the authority~~  
13 ~~and responsibility.~~

14 ~~(e) (B) Recipients.--A person that receives a distribution~~ <--  
15 knowing that the distribution violated section 8231 is  
16 personally liable to the limited liability partnership, but only  
17 to the extent that the distribution received by the person  
18 exceeded the amount that could have been properly paid under  
19 section 8231.

20 ~~(d) (C) Contribution.--A person against which an action is~~ <--  
21 commenced because the person is liable under subsection (a) may:

22 (1) join any other person that is liable under  
23 subsection (a) and seek to enforce a right of contribution  
24 from the person; and

25 (2) join any person that received a distribution in  
26 violation of subsection ~~(e)~~ (B) and seek to enforce a right <--  
27 of contribution from the person in the amount the person  
28 received in violation of subsection ~~(e)~~ (B). <--

29 ~~(e) (D) Statute of repose.--An action under this section is~~ <--  
30 barred unless commenced within two years after the distribution.

1 SUBCHAPTER E

2 DISSOLUTION

3 Sec.

4 8241. Known claims against dissolved limited liability  
5 partnership.

6 8242. Other claims against dissolved limited liability  
7 partnership.

8 8243. Court proceedings.

9 8244. Liability of partner when claim against partnership  
10 barred.

11 § 8241. Known claims against dissolved limited liability  
12 partnership.

13 (a) General rule.--Except as provided in subsection (d), a  
14 dissolved limited liability partnership may give notice of a  
15 known claim under subsection (b), which has the effect provided  
16 in subsection (c).

17 (b) ~~Required notice~~ NOTICE.--A dissolved limited liability <--  
18 partnership may notify in record form its known claimants of the  
19 dissolution. The notice must:

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

22 (2) state that a claim must be in writing and provide a  
23 mailing address to which the claim is to be sent;

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

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

29 (5) unless the partnership has been throughout its  
30 existence a limited liability partnership, state that the

1 barring of a claim against the partnership will also bar any  
2 corresponding claim against any partner or person dissociated  
3 as a partner which is based on section 8436 (relating to  
4 partner's liability).

5 (c) Claims barred.--A claim against a dissolved limited  
6 liability partnership is barred if the requirements of  
7 subsection (b) are met and:

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

9 or

10 (2) if the claim is timely received but rejected by the  
11 partnership:

12 (i) the partnership causes the claimant to receive a  
13 notice in record form stating that the claim is rejected  
14 and will be barred unless the claimant commences an  
15 action against the partnership to enforce the claim  
16 within 90 days after the claimant receives the notice;  
17 and

18 (ii) the claimant does not commence the required  
19 action within 90 days after the claimant receives the  
20 notice.

21 (d) Later arising claims.--This section shall not apply to a  
22 claim based on an event occurring after the date of dissolution  
23 or a liability that on that date is contingent.

24 § 8242. Other claims against dissolved limited liability  
25 partnership.

26 (a) Permissive notice.--A dissolved limited liability  
27 partnership may publish notice of its dissolution and request  
28 persons having claims against the partnership to present them in  
29 accordance with the notice.

30 (b) Notice procedure.--A notice under subsection (a) must:

1           (1) be officially published one time;

2           (2) describe the information required to be contained in  
3 a claim, state that the claim must be in writing and provide  
4 a mailing address to which the claim is to be sent;

5           (3) state that a claim against the partnership is barred  
6 unless an action to enforce the claim is commenced within two  
7 years after publication of the notice; and

8           (4) unless the partnership has been throughout its  
9 existence a limited liability partnership, state that the  
10 barring of a claim against the partnership will also bar any  
11 corresponding claim against any partner or person dissociated  
12 as a partner which is based on section 8436 (relating to  
13 partner's liability).

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

20           (1) a claimant that did not receive notice in record  
21 form under section 8241 (relating to known claims against  
22 dissolved limited liability partnership);

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

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

27       (d) Claims not barred.--A claim not barred under this  
28 section or section 8241 may be enforced:

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

1       (2) except as provided in section 8243 (relating to  
2 court proceedings), if assets of the partnership have been  
3 distributed after dissolution, against a partner or  
4 transferee to the extent of that person's proportionate share  
5 of the claim or of the partnership's assets distributed to  
6 the partner or transferee after dissolution, whichever is  
7 less, except that a person's total liability for all claims  
8 under this paragraph may not exceed the total amount of  
9 assets distributed to the person after dissolution; and

10       (3) against any person liable on the claim under  
11 sections 8436, 8473 (relating to liability of person  
12 dissociated as partner to other persons) and 8485 (relating  
13 to liability after dissolution).

14 § 8243. Court proceedings.

15       (a) Determination of security.--A dissolved limited  
16 liability partnership that has published a notice under section  
17 8242 (relating to other claims against dissolved limited  
18 liability partnership) may file an application with the court of  
19 common pleas embracing the county where the partnership's  
20 principal office is located or, if the principal office is not  
21 located in this Commonwealth, where its registered office is or  
22 was last located, for a determination of the amount and form of  
23 security to be provided for payment of claims that are  
24 reasonably expected to arise after the date of dissolution based  
25 on facts known to the partnership and:

26       (1) at the time of the application:

27               (i) are contingent; or

28               (ii) have not been made known to the partnership; or

29       (2) are based on an event occurring after the date of  
30 dissolution.

1 (b) When security not required.--Security is not required  
2 for any claim that is or is reasonably anticipated to be barred  
3 under section 8241 (relating to known claims against dissolved  
4 limited liability partnership).

5 (c) Notice.--Within 10 days after the filing of an  
6 application under subsection (a), the dissolved limited  
7 liability partnership shall give notice of the proceeding to  
8 each claimant holding a contingent claim known to the  
9 partnership.

10 (d) Guardian ad litem.--In any proceeding under this  
11 section, the court may appoint a guardian ad litem to represent  
12 all claimants whose identities are unknown. The reasonable fees  
13 and expenses of the guardian, including all reasonable expert  
14 witness fees, must be paid by the dissolved limited liability  
15 partnership.

16 (e) Effect on contingent claims.--A dissolved limited  
17 liability partnership that provides security in the amount and  
18 form ordered by the court under subsection (a) satisfies the  
19 partnership's obligations with respect to claims that are  
20 contingent, have not been made known to the partnership or are  
21 based on an event occurring after the date of dissolution. The  
22 claims may not be enforced against a partner or transferee on  
23 account of assets received in liquidation.

24 § 8244. Liability of partner when claim against partnership  
25 barred.

26 If a claim against a dissolved LIMITED LIABILITY partnership <--  
27 is barred under this subchapter, any corresponding claim under  
28 sections 8436 (relating to partner's liability), 8473 (relating  
29 to liability of person dissociated as partner to other person)  
30 and 8485 (relating to liability after dissolution) is also

1 barred.

2 Section 24. Repeals are as follows:

3 (1) The General Assembly finds and declares as follows:

4 (i) Over the last 25 years, there have been  
5 significant changes in the business model for  
6 partnerships; and statutory law must be updated to deal  
7 with the new business model.

8 (ii) Statutory law on general partnerships has not  
9 been addressed by the General Assembly since 1988.

10 (iii) Section 18 of this act adds a new chapter on  
11 general partnerships. The new chapter extensively revises  
12 existing statutory law to the degree that identification  
13 of individual changes or reproduction of voluminous text  
14 to be eliminated would inhibit rather than enhance  
15 serious legal analysis.

16 (iv) The repeal under paragraph (2) is necessary to  
17 carry out this paragraph.

18 (2) Chapter 83 of Title 15 is repealed.

19 Section 25. Title 15 is amended by adding a chapter to read:

20 CHAPTER 84

21 GENERAL PARTNERSHIPS

22 Subchapter

23 A. General Provisions

24 B. Nature of Partnership

25 C. Relations of Partners to Persons Dealing with Partnership

26 D. Relations of Partners to Each Other and to Partnership

27 E. Transferable Interests and Rights of Transferees and  
28 Creditors

29 F. Dissociation

30 G. Dissociation as Partner if Business Not Wound Up

1 H. Dissolution and Winding Up

2 SUBCHAPTER A

3 GENERAL PROVISIONS

4 Sec.

5 8411. Short title and application of chapter.

6 8412. Definitions.

7 8413. Knowledge and notice.

8 8414. Governing law.

9 8415. Contents of partnership agreement.

10 8416. Application of partnership agreement.

11 8417. Amendment and effect of partnership agreement.

12 8418. Signing of filed documents.

13 8419. Liability of general partner or other person for false or  
14 missing information in filed document.

15 § 8411. Short title and application of chapter.

16 (a) Short title.--This chapter shall be known and may be  
17 cited as the Pennsylvania Uniform Partnership Act of 2015.

18 (b) Initial application.--Before July 1, 2016, this chapter  
19 governs only:

20 (1) a partnership formed on or after [the Legislative  
21 Reference Bureau shall insert here the effective date of this  
22 chapter]; and

23 (2) except as provided in subsection (d), a partnership  
24 formed before [the Legislative Reference Bureau shall insert  
25 here the effective date of this chapter] which elects, in the  
26 manner provided in its partnership agreement or by law for  
27 amending the partnership agreement, to be subject to this  
28 chapter.

29 (c) Full effective date.--Except as provided under  
30 subsection (d), on and after July 1, 2016, this chapter governs

1 all partnerships.

2 (d) Liabilities to third parties.--With respect to a  
3 partnership that elects under subsection (b) (2) to be subject to  
4 this chapter, after the election takes effect the provisions of  
5 this chapter relating to the liability of the partnership's  
6 partners to third parties apply:

7 (1) before July 1, 2016, to:

8 (i) a third party that had not done business with  
9 the partnership in the year before the election took  
10 effect; and

11 (ii) a third party that had done business with the  
12 partnership in the year before the election took effect  
13 only if the third party knows or has been notified of the  
14 election; and

15 (2) on and after July 1, 2016, to all third parties,  
16 except that those provisions remain inapplicable to any  
17 obligation incurred while those provisions were inapplicable  
18 under paragraph (1) (ii).

19 (e) Cross reference.--See section 8415(c) (5) (relating to  
20 contents of partnership agreement).

21 § 8412. Definitions.

22 (a) General definitions.--The following words and phrases  
23 when used in this chapter shall have the meanings given to them  
24 in this subsection unless the context clearly indicates  
25 otherwise:

26 "Business." Includes every trade, occupation and profession.

27 "Contribution." Property or a benefit described in section  
28 8443 (relating to form of contribution) which is provided by a  
29 person to a partnership to become a partner or in the person's  
30 capacity as a partner.

1 "Distribution." A transfer of money or other property from a  
2 partnership to a person on account of a transferable interest or  
3 in a person's capacity as a partner. The term:

4 (1) includes:

5 (i) a redemption or other purchase by a partnership  
6 of a transferable interest; and

7 (ii) a transfer to a partner in return for the  
8 partner's relinquishment of any right to participate as a  
9 partner in the management or conduct of the partnership's  
10 business or have access to records or other information  
11 concerning the partnership's business; and

12 (2) does not include:

13 (i) amounts constituting reasonable compensation for  
14 present or past service or payments made in the ordinary  
15 course of business under a bona fide retirement plan or  
16 other bona fide benefits program;

17 (ii) the making of, or payment or performance on, a  
18 guaranty or similar arrangement by a partnership for the  
19 benefit of any or all of its partners;

20 (iii) a direct or indirect allocation or transfer  
21 effected under Chapter 3 (relating to entity  
22 transactions) with the approval of the ~~members~~ PARTNERS; <--

23 or

24 (iv) a direct or indirect transfer of:

25 (A) a governance or transferable interest; or

26 (B) options, rights or warrants to acquire a  
27 governance or transferable interest.

28 "Partner." A person that:

29 (1) has become a partner in a partnership under section  
30 8442 (relating to becoming partner) or was a partner in a

1 partnership when the partnership became subject to this  
2 chapter under section 8411 (relating to short title and  
3 application of chapter); and

4 (2) has not dissociated as a partner under section 8461  
5 (relating to events causing dissociation).

6 "Partnership." An association of two or more persons to  
7 carry on as co-owners a business for profit formed under this  
8 chapter or that becomes subject to this chapter under Chapter 3  
9 (relating to entity transactions) or section 8411. The term  
10 includes a limited liability partnership or an electing  
11 partnership that is not also a limited partnership.

12 "Partnership agreement." The agreement, whether or not  
13 referred to as a partnership agreement and whether oral,  
14 implied, in record form or in any combination thereof, of all  
15 the partners of a partnership concerning the matters described  
16 in section 8415(a) (relating to contents of partnership  
17 agreement). The term includes the agreement as amended or  
18 restated.

19 "Partnership at will." A partnership in which the partners  
20 have not agreed to remain partners until the expiration of a  
21 definite term or the completion of a particular undertaking.

22 "Transferable interest." The right, as initially owned by a  
23 person in the person's capacity as a partner, to receive  
24 distributions from a partnership, whether or not the person  
25 remains a partner or continues to own any part of the right. The  
26 term applies to any fraction of the interest, by whomever owned.

27 "Transferee." A person to which all or part of a  
28 transferable interest has been transferred, whether or not the  
29 transferor is a partner.

30 (b) Index of definitions.--The following is a nonexclusive

1 list of definitions in section 102 (relating to definitions)

2 that apply to this chapter:

3 "Act" or "action."

4 "Court."

5 "Debtor in bankruptcy."

6 "Department."

7 "Jurisdiction."

8 "Jurisdiction of formation."

9 "Obligation."

10 "Principal office."

11 "Professional services."

12 "Property."

13 "Record form."

14 "Sign."

15 "Transfer."

16 § 8413. Knowledge and notice.

17 (a) Knowledge.--A person knows a fact if the person:

18 (1) has actual knowledge of it; or

19 (2) is deemed to know it under subsection (d)(1) or law

20 other than this chapter.

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

22 (1) has reason to know the fact from all the facts known

23 to the person at the time in question; or

24 (2) is deemed to have notice of the fact under

25 subsection (d)(2).

26 (c) Notification.--Except as provided under section 113(b)

27 (relating to delivery of document), a person notifies another

28 person of a fact by taking steps reasonably required to inform

29 the other person in ordinary course, whether or not those steps

30 cause the other person to know the fact.

1 (d) Constructive KNOWLEDGE OR notice.--A person not a  
2 partner is deemed:

3 (1) to know of a limitation on authority to transfer  
4 real property as provided in section 8433(g) (relating to  
5 certificate of partnership authority); and

6 (2) to have notice of:

7 (i) a person's dissociation as a partner 90 days  
8 after a certificate of dissociation under section 8474  
9 (relating to certificate of dissociation) becomes  
10 effective;

11 (ii) the dissolution of the partnership 90 days  
12 after a certificate of dissolution under section 8482(b)

13 (2)(i) (relating to winding up and filing of optional  
14 certificates) is effective;

15 (iii) the termination of the partnership 90 days  
16 after a certificate of termination under section 8482(b)

17 (2)(vi) is effective; and

18 (iv) participation in a merger, interest exchange,  
19 conversion, division or domestication, 90 days after a  
20 statement of merger, interest exchange, conversion,  
21 division or domestication under Chapter 3 (relating to  
22 entity transactions) is effective.

23 (e) Effect of partner's knowledge or notice.--A partner's  
24 knowledge or notice of a fact relating to the partnership is  
25 effective immediately as knowledge of or notice to the  
26 partnership, except in the case of a fraud on the partnership  
27 committed by or with the consent of that partner.

28 § 8414. Governing law.

29 (a) General rule.--The internal affairs of a partnership and  
30 the liability of a partner as a partner for the debts,

1 obligations or other liabilities of the partnership are governed  
2 by:

3 (1) in the case of a limited liability partnership, the  
4 laws of this Commonwealth; and

5 (2) in the case of a partnership that is not a limited  
6 liability partnership, the laws of:

7 (i) the jurisdiction chosen by a provision of the  
8 partnership agreement in record form; or

9 (ii) the jurisdiction in which the partnership has  
10 its principal office if there is no choice of law under  
11 subparagraph (i).

12 (b) Enforceability of chosen law.--A choice of law under  
13 subsection (a) (2) (i) is enforceable even though:

14 (1) The chosen jurisdiction has no substantial  
15 relationship to the partners or the partnership and there is  
16 no other reasonable basis for the parties' choice.

17 (2) Application of the chosen law would be contrary to a  
18 fundamental policy of a jurisdiction that has a materially  
19 greater interest in the determination of the particular issue  
20 than does the jurisdiction whose law has been chosen.

21 (c) Cross reference.--See section 8415(c) (6) (relating to  
22 contents of partnership agreement).

23 § 8415. Contents of partnership agreement.

24 (a) Scope of partnership agreement.--Except as provided in  
25 subsections (c) and (d), the partnership agreement governs:

26 (1) relations among the partners as partners and between  
27 the partners and the partnership;

28 (2) the rights and duties under this title of a person  
29 in the capacity of a partner;

30 (3) the business of the partnership and the conduct of

1 that business;

2 (4) the means and conditions for amending the  
3 partnership agreement; and

4 (5) the means and conditions for approving a transaction  
5 under Chapter 3 (relating to entity transactions).

6 (b) Title applies generally.--To the extent the partnership  
7 agreement does not provide for a matter described in subsection  
8 (a), this title governs the matter.

9 (c) Limitations.--A partnership agreement may not do any of  
10 the following:

11 (1) Vary a provision of Chapter 1 (relating to general  
12 provisions) or Subchapter A of Chapter 2 (relating to names).

13 (2) Vary the right of a partner to approve a merger,  
14 interest exchange, conversion, division or domestication  
15 under section 333(a)(2) (relating to approval of merger),  
16 343(a)(2) (relating to approval of interest exchange), 353(a) <--  
17 ~~(2)~~ 353(A)(3) (relating to approval of conversion), 363(a)(2) <--  
18 (relating to approval of division) or 373(a)(2) (relating to  
19 approval of domestication).

20 (3) Vary the required contents of a plan of merger under  
21 section 332(a) (relating to plan of merger), plan of interest  
22 exchange under section 342(a) (relating to plan of interest  
23 exchange), plan of conversion under section 352(a) (relating  
24 to plan of conversion), plan of division under section 362(a)  
25 (relating to plan of division) or plan of domestication under  
26 section 372(a) (relating to plan of domestication).

27 (4) Vary a provision of Chapter 81 (relating to general  
28 provisions) or 82 (relating to limited liability partnerships  
29 and limited liability limited partnerships), EXCEPT AS <--  
30 PROVIDED IN SUBSECTION (D).

1       (5) Vary the provisions of section 8411(b), (c) and (d)  
2 (relating to short title and application of chapter).

3       (6) Vary the law applicable under section ~~8414~~ 8414(A) <--  
4 (1) (relating to governing law).

5       (7) Vary any requirement, procedure or other provision  
6 of this title pertaining to:

7           (i) registered offices; or

8           (ii) the department, including provisions pertaining  
9 to documents authorized or required to be delivered to  
10 the department for filing under this title.

11       (8) Vary the provisions of section 8437 (relating to  
12 actions by and against partnership and partners).

13       (9) Unreasonably restrict the duties and rights under  
14 section 8446 (relating to rights to information), except as  
15 provided in subsection (d).

16       (10) Eliminate the duty of loyalty provided for under  
17 section 8447(b)(1)(i) or (ii) or (2) (relating to standards  
18 of conduct for partners) or the duty of care, except as  
19 provided in subsection (d).

20       (11) Vary the contractual obligation of good faith and  
21 fair dealing under section 8447(d), except as provided under  
22 subsection (d).

23       (12) Unreasonably restrict the right of a person to  
24 maintain an action under section 8448(b) (relating to actions  
25 by partnership and partners).

26       (13) Provide indemnification against, or relieve or <--  
27 exonerate a person from, liability for an action that has  
28 been determined by a court to constitute recklessness,  
29 willful misconduct or a knowing violation of law. OR <--

30 EXONERATION IN VIOLATION OF THE LIMITATIONS IN SECTIONS

1 8441(M) (RELATING TO PARTNER'S RIGHTS AND DUTIES) AND  
2 8447(I).

3 (14) Vary the power of a person to dissociate as a  
4 partner under section 8462(a) (relating to power to  
5 dissociate as partner and wrongful dissociation), except to  
6 require that the notice under section 8461(1) (relating to  
7 events causing dissociation) be in record form.

8 (15) Vary the causes of dissolution specified in section  
9 ~~8481(4)~~ 8481(A) (4) or (5) (relating to events causing <--  
10 dissolution).

11 (16) Vary the requirement to wind up the partnership's  
12 business as specified in section 8482(a), (b) (1) and (d)  
13 (relating to winding up and filing of optional certificates).

14 (17) Except as provided in section 8417(b) (relating to  
15 amendment and effect of partnership agreement), restrict the  
16 rights under this title of a person other than a partner.

17 (d) Permitted terms.--Subject to subsection (c) (13), the  
18 following rules apply:

19 (1) The partnership agreement may:

20 (i) specify the method by which a specific act or  
21 transaction that would otherwise violate the duty of  
22 loyalty may be authorized or ratified by one or more  
23 disinterested and independent persons after full  
24 disclosure of all material facts;

25 (ii) alter the prohibition in section 8231(a) (2)  
26 (relating to limitations on distributions by limited  
27 liability partnership) so that the prohibition requires  
28 only that the partnership's total assets not be less than  
29 the sum of its total liabilities; and

30 (iii) impose reasonable restrictions on the

1 availability and use of information obtained under  
2 section 8446 and may define appropriate remedies,  
3 including liquidated damages, for a breach of any  
4 reasonable restriction on use.

5 (2) To the extent the partnership agreement expressly  
6 relieves a partner of a responsibility that the partner would  
7 otherwise have under this title and imposes the  
8 responsibility on one or more other partners, the agreement  
9 also may eliminate or limit any fiduciary duty of the partner  
10 relieved of the responsibility which would have pertained to  
11 the responsibility.

12 (3) If not manifestly unreasonable, the partnership  
13 agreement may:

14 (i) alter the aspects of the duty of loyalty stated  
15 in section 8447(b)(1)(i) or (ii) or (2);

16 (ii) prescribe the standards by which the  
17 performance of the contractual obligation of good faith  
18 and fair dealing under section 8447(d) is to be measured;

19 (iii) identify specific types or categories of  
20 activities that do not violate the duty of loyalty;

21 (iv) alter the duty of care; and

22 (v) alter or eliminate any other fiduciary duty.

23 (e) Determination of manifest unreasonableness.--The court  
24 shall decide as a matter of law whether a term of a partnership  
25 agreement is manifestly unreasonable under subsection (d)(3).

26 The court:

27 (1) shall make its determination as of the time the  
28 challenged term became part of the partnership agreement and  
29 by considering only circumstances existing at that time; and

30 (2) may invalidate the term only if, in light of the

1 purposes and business of the partnership, it is readily  
2 apparent that:

3 (i) the objective of the term is unreasonable; or

4 (ii) the term is an unreasonable means to achieve  
5 the term's objective.

6 § 8416. Application of partnership agreement.

7 (a) Partnership bound.--A partnership is bound by and may  
8 enforce the partnership agreement, whether or not the  
9 partnership has itself manifested assent to the agreement.

10 (b) Deemed assent.--A person that becomes a partner is  
11 deemed to assent to the partnership agreement.

12 (c) Preformation agreement.--Two or more persons intending  
13 to become the initial partners of a partnership may make an  
14 agreement providing that upon the formation of the partnership  
15 the agreement will become the partnership agreement.

16 (d) Cross reference.--See section 8422(a) (relating to  
17 formation of partnership).

18 § 8417. Amendment and effect of partnership agreement.

19 (a) Approval of amendments.--A partnership agreement may  
20 specify that its amendment requires the approval of a person  
21 that is not a party to the agreement or the satisfaction of a  
22 condition. An amendment is ineffective if its adoption does not  
23 include the required approval or satisfy the specified  
24 condition. See section 8441(j) (relating to partner's rights and  
25 duties).

26 (b) Obligations to nonpartners.--The obligations of a  
27 partnership and its partners to a person in the person's  
28 capacity as a transferee or person dissociated as a partner are  
29 governed by the partnership agreement. Except as provided in  
30 section 8445(d) (relating to sharing of and right to

1 distribution before dissolution) or in a court order issued  
2 under section 8454(b) (2) (relating to charging order) to  
3 effectuate a charging order, an amendment to the partnership  
4 agreement made after a person becomes a transferee or is  
5 dissociated as a partner:

6 (1) is effective with regard to any debt, obligation or  
7 other liability of the partnership or its partners to the  
8 person in the person's capacity as a transferee or person  
9 dissociated as a partner; and

10 (2) is not effective to the extent the amendment:

11 (i) imposes a new debt, obligation or other  
12 liability on the transferee or person dissociated as a  
13 partner; or

14 (ii) prejudices the rights under section 8471  
15 (relating to purchase of interest of person dissociated  
16 as partner) of a person that dissociated as a partner  
17 before the amendment was made.

18 (c) Provisions in filed documents.--If a document delivered  
19 by a partnership to the department for filing becomes effective  
20 and contains a provision that would be ineffective under section  
21 8415(c) or (d) (3) (relating to contents of partnership  
22 agreement) if contained in the partnership agreement, the  
23 provision is ineffective in the document.

24 (d) Conflicts with partnership agreement.--Subject to  
25 subsection (c), if a document delivered by a partnership to the  
26 department for filing becomes effective and conflicts with a  
27 provision of the partnership agreement:

28 (1) the agreement prevails as to partners, persons  
29 dissociated as partners and transferees; and

30 (2) the document prevails as to other persons to the

1 extent they reasonably rely on the document.

2 (e) Prohibition of oral amendments.--If a provision of a  
3 partnership agreement in record form provides that the  
4 partnership agreement cannot be amended, modified or rescinded  
5 except in record form, an oral agreement, amendment,  
6 modification or rescission shall not be enforceable.

7 § 8418. Signing of filed documents.

8 (a) Required signatures.--~~A~~ EXCEPT AS PROVIDED IN THIS <--  
9 TITLE, A document delivered to the department for filing under  
10 this title relating to a partnership must be signed as follows:

11 (1) Except as provided under paragraphs (2) and (3), a  
12 document signed on behalf of a partnership must be signed by  
13 a person authorized by the partnership.

14 (2) A document filed on behalf of a dissolved  
15 partnership that has no partner must be signed by the person  
16 winding up the partnership's business under section 8482(c)  
17 (relating to winding up and filing of optional certificates)  
18 or a person appointed under section 8482(d) to wind up the  
19 business.

20 (3) A certificate of denial by a person under section  
21 8434 (relating to certificate of denial) must be signed by  
22 that person.

23 (4) Any other document delivered on behalf of a person  
24 to the department for filing must be signed by that person.

25 (b) Cross reference.--See section 142 (relating to effect of  
26 signing filings).

27 § 8419. Liability of general partner or other person for false  
28 or missing information in filed document.

29 (a) General rule.--If a document delivered to the department  
30 for filing under this title and filed by the department contains

1 a materially false statement or fails to state a material fact  
2 required to be stated, a person that suffers loss by reasonable  
3 reliance on the statement or failure to state a material fact  
4 may recover damages for the loss from:

5 (1) a person that signed the document or caused another  
6 to sign it on the person's behalf and knew there was false or  
7 missing information in the document at the time it was  
8 signed; and

9 (2) subject to subsection (b), a partner if:

10 (i) the document was delivered for filing on behalf  
11 of the partnership; and

12 (ii) the partner knew or had notice there was false  
13 or missing information for a reasonably sufficient time  
14 before the document was relied upon so that, before the  
15 reliance, the partner reasonably could have:

16 (A) filed a petition under section 144 (relating  
17 to signing and filing pursuant to judicial order); or

18 (B) delivered to the department for filing a  
19 statement of correction under section 138 (relating  
20 to statement of correction) or a statement of  
21 abandonment under section 141 (relating to  
22 abandonment of filing before effectiveness).

23 (b) Partner relieved of responsibility.--To the extent the  
24 partnership agreement expressly relieves a partner of  
25 responsibility for maintaining the accuracy of information  
26 contained in records delivered on behalf of the partnership to  
27 the department for filing under this title and imposes that  
28 responsibility on one or more other partners, the liability  
29 stated in subsection (a) (2) applies to those other partners and  
30 not to the partner that the partnership agreement relieves of

1 the responsibility.

2 (c) Cross reference.--See section 143 (relating to liability  
3 for inaccurate information in filing).

4 SUBCHAPTER B

5 NATURE OF PARTNERSHIP

6 Sec.

7 8421. Partnership as entity.

8 8422. Formation of partnership.

9 8423. Partnership property.

10 8424. When property is partnership property.

11 § 8421. Partnership as entity.

12 (a) General rule.--A partnership is an entity distinct from  
13 its partners.

14 (b) Limited liability partnership.--A partnership is the  
15 same entity regardless of whether the partnership has a  
16 statement of registration in effect under section 8201 (relating  
17 to scope).

18 § 8422. Formation of partnership.

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

23 (b) Excluded associations.--An association formed under a  
24 statute other than this chapter, a predecessor statute or a  
25 comparable statute of another jurisdiction is not a partnership  
26 under this chapter.

27 (c) Rules for determining formation of partnership.--In  
28 determining whether a partnership is formed, the following rules  
29 apply:

30 (1) Joint tenancy, tenancy in common, tenancy by the

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

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

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

11 (i) of a debt by installments or otherwise;

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

14 (iii) of rent;

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

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

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

27 (d) Cross reference.--See section 8416(c) (relating to  
28 application of partnership agreement).

29 § 8423. Partnership property.

30 Property acquired by a partnership is property of the

1 partnership and not of the partners individually.

2 § 8424. When property is partnership property.

3 (a) General rule.--Property is partnership property if  
4 acquired in the name of:

5 (1) the partnership; or

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

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

12 (1) the partnership in its name; or

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

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

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

29 SUBCHAPTER C

30 RELATIONS OF PARTNERS TO PERSONS

1 DEALING WITH PARTNERSHIP

2 Sec.

3 8431. Partner agent of partnership.

4 8432. Transfer of partnership property.

5 8433. Certificate of partnership authority.

6 8434. Certificate of denial.

7 8435. Partnership liable for partner's actionable conduct.

8 8436. Partner's liability.

9 8437. Actions by and against partnership and partners.

10 8438. Liability of purported partner.

11 § 8431. Partner agent of partnership.

12 Subject to the effect of a certificate of partnership  
13 authority under section 8433 (relating to certificate of  
14 partnership authority), the following rules apply:

15 (1) Each partner is an agent of the partnership for the  
16 purpose of its business. An act of a partner, including the  
17 signing of an instrument in the partnership name, for  
18 apparently carrying on in the ordinary course the partnership  
19 business or business of the kind carried on by the  
20 partnership binds the partnership, unless the partner did not  
21 have authority to act for the partnership in the particular  
22 matter and the person with which the partner was dealing knew  
23 or had notice that the partner lacked authority.

24 (2) An act of a partner which is not apparently for  
25 carrying on in the ordinary course the partnership's business  
26 or business of the kind carried on by the partnership binds  
27 the partnership only if the partner had actual authority to  
28 take the action.

29 § 8432. Transfer of partnership property.

30 (a) General rule.--Partnership property may be transferred

1 as follows:

2 (1) Subject to the effect of a certificate of  
3 partnership authority under section 8433 (relating to  
4 certificate of partnership authority), partnership property  
5 held in the name of the partnership may be transferred by an  
6 instrument of transfer signed by a partner in the partnership  
7 name.

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

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

21 (b) Recovery of property by partnership.--A partnership may  
22 recover partnership property from a transferee only if it proves  
23 that the signing of the instrument of initial transfer did not  
24 bind the partnership under section 8431 (relating to partner  
25 agent of partnership) and:

26 (1) as to a subsequent transferee who gave value for  
27 property transferred under subsection (a) (1) ~~and~~ OR (2), <--  
28 proves that the subsequent transferee knew or had ~~been~~ <--  
29 ~~notified~~ NOTICE that the person who signed the instrument of <--  
30 initial transfer lacked authority to bind the partnership; or

1           (2) as to a transferee who gave value for property  
2           transferred under subsection (a) (3), proves that the  
3           transferee knew or had ~~been notified~~ NOTICE that the property <--  
4           was partnership property and that the person who signed the  
5           instrument of initial transfer lacked authority to bind the  
6           partnership.

7           (c) Subsequent transferees.--A partnership may not recover  
8           partnership property from a subsequent transferee if the  
9           partnership would not have been entitled to recover the property  
10           under subsection (b) from any earlier transferee of the  
11           property.

12           (d) Sole partner.--If one person holds all the interests in  
13           a partnership, all the partnership property vests in that  
14           person. The person may sign a document in the name of the  
15           partnership to evidence vesting of the property in that person  
16           and may file or record the document.  
17           § 8433. Certificate of partnership authority.

18           (a) General rule.--A partnership may deliver to the  
19           department for filing a certificate of partnership authority.  
20           The certificate:

- 21           (1) must include the name of the partnership and:  
22           (i) if the partnership is not a registered foreign  
23           limited liability partnership, the street and mailing  
24           addresses of its principal office; or  
25           (ii) if the partnership is a registered foreign  
26           limited liability partnership, subject to section 109  
27           (relating to name of commercial registered office  
28           provider in lieu of registered address), the address,  
29           including street and number, if any, of its registered  
30           office;

1           (2) with respect to any position that exists in or with  
2 respect to the partnership, may state the authority, or  
3 limitations on the authority, of all persons holding the  
4 position to:

5           (i) sign an instrument transferring real property  
6 held in the name of the partnership; or

7           (ii) enter into other transactions on behalf of, or  
8 otherwise act for or bind, the partnership; and

9           (3) may state the authority, or limitations on the  
10 authority, of a specific person to:

11           (i) sign an instrument transferring real property  
12 held in the name of the partnership; or

13           (ii) enter into other transactions on behalf of, or  
14 otherwise act for or bind, the partnership.

15       (b) Amendment or cancellation.--To amend or cancel a  
16 certificate of authority filed by the department, a partnership  
17 must deliver to the department for filing an amendment or  
18 cancellation stating:

19           (1) the name of the partnership;

20           (2) if the partnership is not a registered foreign  
21 limited liability partnership, the street and mailing  
22 addresses of the partnership's principal office;

23           (3) if the partnership is a registered foreign limited  
24 liability partnership, subject to section 109, the address,  
25 including street and number, if any, of its registered  
26 office;

27           (4) the date the certificate being affected became  
28 effective; and

29           (5) the contents of the amendment or a statement that  
30 the certificate is canceled.

1 (c) Effect of certificate.--A certificate of authority:

2 (1) affects only the power of a person to bind a  
3 partnership to persons that are not partners; and

4 (2) is not binding on the department for purposes of the  
5 administration of this title or any other provision of law.

6 (d) Effect of limitation on authority.--Subject to  
7 subsection (c) and section 8413(d) (1) (relating to knowledge and  
8 notice), and except as provided in subsections (f), (g) and (h),  
9 a limitation on the authority of a person or a position  
10 contained in an effective certificate of authority is not by  
11 itself evidence of any person's knowledge or notice of the  
12 limitation.

13 (e) Authority not relating to real property.--A grant of  
14 authority not pertaining to transfers of real property and  
15 contained in an effective certificate of authority is conclusive  
16 in favor of a person that gives value in reliance on the grant,  
17 ~~except to the extent that if~~ UNLESS WHEN the person gives value: <--

18 (1) the person has knowledge to the contrary;

19 (2) the certificate has been canceled or restrictively  
20 amended under subsection (b); or

21 (3) a limitation on the grant is contained in another  
22 certificate of authority that became effective after the  
23 certificate containing the grant became effective.

24 (f) Authority relating to real property.--An effective  
25 certificate of authority that grants authority to transfer real  
26 property held in the name of the partnership, a certified copy  
27 of which certificate is recorded in the office of the recorder  
28 of deeds for the county in which the real property is located,  
29 is conclusive in favor of a person that gives value in reliance  
30 on the grant without knowledge to the contrary, except to the

1 extent that when the person gives value:

2 (1) the certificate has been canceled or restrictively  
3 amended under subsection (b), and a certified copy of the  
4 cancellation or restrictive amendment has been recorded in  
5 the office of the recorder of deeds for the county in which  
6 the real property is located; or

7 (2) a limitation on the grant is contained in another  
8 certificate of authority that became effective after the  
9 certificate containing the grant became effective and a  
10 certified copy of the later-effective certificate is recorded  
11 in the office of the recorder of deeds for the county in  
12 which the real property is located.

13 (g) Constructive ~~notice~~ KNOWLEDGE of limitation.--Subject to <--  
14 subsection (c), if a certified copy of an effective certificate  
15 containing a limitation on the authority to transfer real  
16 property held in the name of a partnership is recorded in the  
17 office of the recorder of deeds for the county in which real  
18 property is located, all persons are deemed to know of the  
19 limitation.

20 (h) Effect of certificate of dissolution.--Subject to  
21 subsection (i), an effective certificate of dissolution is a  
22 cancellation of any filed certificate of authority for the  
23 purposes of subsection (f) and is a limitation on authority for  
24 purposes of subsection (g).

25 (i) Post-dissolution certificate of authority.--After a  
26 certificate of dissolution becomes effective, a partnership may  
27 deliver to the department for filing and, if appropriate, may  
28 record a certificate of authority that is designated as a post-  
29 dissolution certificate of authority. The certificate operates  
30 as provided in subsections (f) and (g).

1 (j) Cancellation by operation of law.--Unless canceled  
2 earlier, an effective certificate of authority is canceled by  
3 operation of law five years after the date on which the  
4 certificate, or its most recent amendment, becomes effective.  
5 The cancellation is effective without recording under subsection  
6 (f) or (g).

7 (k) Effect of certificate of denial.--An effective  
8 certificate of denial under section 8434 (relating to  
9 certificate of denial):

10 (1) operates as a restrictive amendment under this  
11 section and a certified copy may be recorded as provided in  
12 subsection (f) (1) by the partnership or the person that  
13 delivered the certificate of denial to the department for  
14 filing; and

15 (2) affects only the authority of a person to bind a  
16 partnership with respect to persons that are not partners.

17 (l) Foreign partnerships.--A foreign partnership, regardless  
18 of whether it is registered to do business in this Commonwealth,  
19 may deliver a certificate of authority to the department for  
20 filing and may record a copy as provided in this section in the  
21 same manner and with the same effect is if it were a domestic  
22 partnership.

23 (m) Cross references.--See:

24 Section 134 (relating to docketing statement).

25 Section 135 (relating to requirements to be met by filed  
26 documents).

27 Section 136(c) (relating to processing of documents by  
28 Department of State).

29 Section 8418 (relating to signing of filed documents).

30 Section 8482 (relating to winding up and filing of

1 optional certificates).

2 § 8434. Certificate of denial.

3 (a) General rule.--A person named in a filed certificate of  
4 authority granting that person authority may deliver to the  
5 department for filing a certificate of denial that:

6 (1) provides the name of the partnership and:

7 (i) if the partnership is not a registered foreign  
8 limited liability partnership, the street and mailing  
9 addresses of its principal office; or

10 (ii) if the partnership is a registered foreign  
11 limited liability partnership, subject to section 109  
12 (relating to name of commercial registered office  
13 provider in lieu of registered address), the address,  
14 including street and number, if any, of its registered  
15 office;

16 (2) states the caption of the certificate of authority  
17 to which the certificate of denial pertains; and

18 (3) denies the grant of authority.

19 (b) Cross references.--See:

20 Section 134 (relating to docketing statement).

21 Section 135 (relating to requirements to be met by filed  
22 documents).

23 Section 136(c) (relating to processing of documents by  
24 Department of State).

25 Section 8418 (relating to signing of filed documents).

26 § 8435. Partnership liable for partner's actionable conduct.

27 (a) General rule.--A partnership is liable for loss or  
28 injury caused to a person, or for a penalty incurred, as a  
29 result of a wrongful act or other actionable conduct, of a  
30 partner acting in the ordinary course of business of the

1 partnership or with the actual or apparent authority of the  
2 partnership.

3 (b) Misapplication of property.--If, in the course of the  
4 partnership's business or while acting with actual or apparent  
5 authority of the partnership, a partner receives or causes the  
6 partnership to receive money or property of a person not a  
7 partner and the money or property is misapplied by a partner,  
8 the partnership is liable for the loss.

9 § 8436. Partner's liability.

10 (a) General rule.--Except as provided in subsection (b) or  
11 section 8204 (relating to limitation on liability of partners),  
12 all partners are jointly and severally liable for all debts,  
13 obligations and other liabilities of the partnership unless  
14 otherwise agreed by the claimant or provided by law.

15 (b) Preexisting liabilities.--A person that becomes a  
16 partner is not personally liable for a debt, obligation or other  
17 liability of the partnership incurred before the person became a  
18 partner.

19 § 8437. Actions by and against partnership and partners.

20 (a) Partnership as party.--A partnership may sue and be sued  
21 in the name of the partnership.

22 (b) Partner as party.--To the extent not inconsistent with  
23 section 8436 (relating to partner's liability), a partner may be  
24 joined in an action against the partnership or named in a  
25 separate action.

26 (c) Judgment against partnership only.--A judgment against a  
27 partnership:

28 (1) is not by itself a judgment against a partner; and

29 (2) except as provided in subsection (d), may not be  
30 satisfied from a partner's assets.

1 (d) Judgment against partnership and partner.--If there is a  
2 judgment against a partnership and a partner on the same claim,  
3 the judgment creditor may levy execution against the assets of  
4 the partner if both of the following apply:

5 (1) The partner is personally liable for the claim under  
6 section 8436.

7 (2) One of the following subparagraphs applies:

8 (i) A writ of execution on the judgment against the  
9 partnership has been returned unsatisfied in whole or in  
10 part.

11 (ii) The partnership is a debtor in bankruptcy.

12 (iii) The partner has agreed that the creditor need  
13 not exhaust partnership assets.

14 (iv) A court grants permission to levy execution  
15 based on a finding that:

16 (A) partnership assets subject to execution are  
17 clearly insufficient to satisfy the judgment;

18 (B) exhaustion of partnership assets is  
19 excessively burdensome; or

20 (C) the grant of permission is an appropriate  
21 exercise of the court's equitable powers.

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

24 (e) Liability for representations.--This section also  
25 applies to any debt, liability or other obligation of a  
26 partnership which results from a representation by a partner or  
27 purported partner under section 8438 (relating to liability of  
28 purported partner).

29 (f) Cross reference.--See section 8415(c)(8) (relating to  
30 contents of partnership agreement).

1 § 8438. Liability of purported partner.

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

19 (b) Authority of purported partner.--If a person is  
20 represented in the manner described in subsection (a) to be a  
21 partner in an existing partnership, or with one or more persons  
22 not partners, the purported partner is an agent of persons  
23 consenting to the representation to bind them to the same extent  
24 and in the same manner as if the purported partner were a  
25 partner with respect to persons who enter into transactions in  
26 reliance upon the representation. If all the partners of the  
27 existing partnership consent to the representation, a  
28 partnership act or obligation results. If fewer than all the  
29 partners of the existing partnership consent to the  
30 representation, the person acting and the partners consenting to

1 the representation are jointly and severally liable.

2 (c) Effect of certificate of partnership authority.--A  
3 person is not liable as a partner merely because the person is  
4 named by another as a partner in a certificate of partnership  
5 authority.

6 (d) No effect of failure to disclaim authority.--A person  
7 does not continue to be liable as a partner merely because of a  
8 failure to file a certificate of dissociation or to amend a  
9 certificate of partnership authority to indicate the person's  
10 dissociation as a partner.

11 (e) Nonliability of persons not partners.--Except as  
12 provided in subsections (a) and (b), persons who are not  
13 partners as to each other are not liable as partners to other  
14 persons.

15 SUBCHAPTER D

16 RELATIONS OF PARTNERS TO EACH OTHER

17 AND TO PARTNERSHIP

18 Sec.

19 8441. Partner's rights and duties.

20 8442. Becoming a partner.

21 8443. Form of contribution.

22 8444. Liability for contribution.

23 8445. Sharing of and right to distribution before dissolution.

24 8446. Rights to information.

25 8447. Standards of conduct for partners.

26 8448. Actions by partnership and partners.

27 8449. Continuation of partnership beyond definite term or  
28 particular undertaking.

29 § 8441. Partner's rights and duties.

30 (a) Distributions and losses.--Each partner is entitled to

1 ~~an equal share of distributions and, except in the case of a~~ <--  
2 ~~limited liability partnership, is chargeable with a share of the~~  
3 ~~partnership losses in proportion to the partner's share of~~  
4 ~~distributions.~~ SHARE IN DISTRIBUTIONS AS PROVIDED IN SECTION <--  
5 8445 (RELATING TO SHARING OF AND RIGHT TO DISTRIBUTION BEFORE  
6 DISSOLUTION).

7 (b) Reimbursement.--A partnership shall reimburse a partner  
8 for:

9 (1) Any payment made by the partner in the course of  
10 the partner's activities on behalf of the partnership, if the  
11 partner complied with this section and section 8447 (relating  
12 to standards of conduct for partners) in making the payment.

13 (2) An advance to the partnership beyond the amount of  
14 capital the partner agreed to contribute.

15 (c) Indemnification.--A partnership shall indemnify and hold  
16 harmless a person with respect to any claim or demand against  
17 the person and any debt, obligation or other liability incurred  
18 by the person by reason of the person's former or present  
19 capacity as partner, if the claim, demand, debt, obligation or  
20 other liability does not arise from the person's breach of this  
21 section or section 8232 (relating to liability for improper  
22 distributions by limited liability partnership) or 8447.

23 (d) Advances.--In the ordinary course of its business, a  
24 partnership may advance reasonable expenses, including attorney  
25 fees and costs, incurred by a person in connection with a claim  
26 or demand against the person by reason of the person's former or  
27 present capacity as a partner, if the person promises to repay  
28 the partnership if the person ultimately is determined not to be  
29 entitled to be indemnified under subsection (c).

30 (e) Insurance.--A partnership may purchase and maintain

1 insurance on behalf of a partner against liability asserted  
2 against or incurred by the partner in that capacity or arising  
3 from that status even if, under section 8415(c)(13) (relating to <--  
4 contents of partnership agreement) SUBSECTION (M), the <--  
5 partnership agreement could not eliminate or limit the person's  
6 liability to the partnership for the conduct giving rise to the  
7 liability.

8 (f) Loan to partnership.--A payment or advance made by a  
9 partner which gives rise to a partnership obligation under  
10 subsection (b) constitutes a loan to the partnership which  
11 accrues interest from the date of the payment or advance.

12 (g) Management rights.--Each partner has equal rights in the  
13 management and conduct of the partnership's business.

14 (h) Rights to property.--A partner may use or possess  
15 partnership property only on behalf of the partnership.

16 (i) Compensation for services.--A partner is not entitled to  
17 remuneration for services performed for the partnership, except  
18 for reasonable compensation for services rendered in winding up  
19 the business of the partnership.

20 (j) Required approvals by partners.--A difference arising as  
21 to a matter in the ordinary course of business of a partnership  
22 may be decided by a majority of the partners. An act outside the  
23 ordinary course of business of a partnership and an amendment to  
24 the partnership agreement may be undertaken only with the  
25 affirmative vote or consent of all the partners.

26 (k) Nonexclusivity.--The rights provided by subsections (b),  
27 (c), (d) and (e) shall not be deemed exclusive of any other  
28 rights to which a person seeking reimbursement, indemnification  
29 advancement of expenses or insurance may be entitled under the  
30 partnership agreement, vote of partners, contract or otherwise,

1 both as to action in his official capacity and as to action in  
2 another capacity while holding that position. Section 8447(f)  
3 shall be applicable to a vote, contract or other action under  
4 this subsection. A partnership may create a fund of any nature,  
5 which may, but need not be, under the control of a trustee, or  
6 otherwise secure or insure in any manner its indemnification  
7 obligations, whether arising under this section or otherwise.

8 (l) Grounds.--Indemnification under subsection (k) may be  
9 granted for any action taken and may be made whether or not the  
10 partnership would have the power to indemnify the person under  
11 any other provision of law except as provided in section 8415(e) <--  
12 ~~(13)~~ THIS SECTION and whether or not the indemnified liability <--  
13 arises or arose from any threatened, pending or completed action  
14 by or in the right of the partnership. Indemnification under  
15 subsection (k) is declared to be consistent with the public  
16 policy of this Commonwealth.

17 (M) LIMITATION.--INDEMNIFICATION UNDER THIS SECTION SHALL <--  
18 NOT BE MADE IN ANY CASE WHERE THE ACT GIVING RISE TO THE CLAIM  
19 FOR INDEMNIFICATION IS DETERMINED BY A COURT TO CONSTITUTE  
20 RECKLESSNESS, WILLFUL MISCONDUCT OR A KNOWING VIOLATION OF LAW.  
21 § 8442. Becoming a partner.

22 (a) Upon formation.--Upon formation of a partnership, a  
23 person becomes a partner under section 8422(a) (relating to  
24 formation of partnership).

25 (b) After formation.--After formation of a partnership, a  
26 person becomes a partner:

27 (1) as provided in the partnership agreement;

28 (2) as a result of a transaction effective under Chapter  
29 3 (relating to entity transactions); or

30 (3) with the affirmative vote or consent of all the

1 partners.

2 (c) Noneconomic partners.--A person may become a partner  
3 without:

4 (1) acquiring a transferable interest; or

5 (2) making or being obligated to make a contribution to  
6 the partnership.

7 (d) Nature of interest.--The interest of a partner in a  
8 partnership is personal property.

9 § 8443. Form of contribution.

10 A contribution may consist of:

11 (1) property transferred to, services performed for or  
12 another benefit provided to the partnership;

13 (2) an agreement to transfer property to, perform  
14 services for or provide another benefit to the partnership;  
15 or

16 (3) any combination of items listed in paragraphs (1)  
17 and (2).

18 § 8444. Liability for contribution.

19 (a) Obligation not excused.--A person's obligation to make a  
20 contribution to a partnership is not excused by the person's  
21 death, disability, termination or other inability to perform  
22 personally.

23 (b) Substitute payment.--If a person does not fulfill an  
24 obligation to make a contribution other than money, the person  
25 is obligated, at the option of the partnership, to contribute  
26 money equal to the value, as stated in the records of the  
27 partnership, of the part of the contribution which has not been  
28 made.

29 (c) Compromise of obligation.--The obligation of a person to  
30 make a contribution may be compromised only by the affirmative

1 vote or consent of all the partners. If a creditor of a limited  
2 liability partnership extends credit or otherwise acts in  
3 reliance on an obligation described under subsection (a) without  
4 knowledge or notice of a compromise under this subsection, the  
5 creditor may enforce the obligation.

6 § 8445. Sharing of and right to distribution before  
7 dissolution.

8 (a) Distributions before dissolution.--Any distribution made  
9 by a partnership before its dissolution and winding up shall be  
10 in equal shares among partners and persons dissociated as  
11 partners whose interests in the partnership have not been  
12 purchased under section 8471 (relating to purchase of interest  
13 of person dissociated as partner), except to the extent <--  
14 necessary to comply with a transfer effective under AS PROVIDED <--  
15 IN section ~~8453~~ 8453(B) (relating to transfer of transferable <--  
16 interest) or TO THE EXTENT NECESSARY TO COMPLY WITH A charging <--  
17 order in effect under section 8454 (relating to charging order).

18 (b) No right to distribution.--Subject to section 8471, a  
19 person has a right to a distribution before the dissolution and  
20 winding up of a partnership only if the partnership decides to  
21 make an interim distribution.

22 (c) Form of distribution.--A person does not have a right to  
23 demand or receive a distribution from a partnership in any form  
24 other than money. Except as provided in section 8486 (relating  
25 to disposition of assets in winding up and required  
26 contributions), a partnership may distribute an asset in kind  
27 only if each part of the asset is fungible with each other part  
28 and each person receives a percentage of the asset equal in  
29 value to the person's share of distributions.

30 (d) Status as creditor.--If a partner or transferee becomes

1 entitled to receive a distribution, the partner or transferee  
2 has the status of, and is entitled to all remedies available to,  
3 a creditor of the partnership with respect to the distribution.  
4 The partnership's obligation to make a distribution is subject  
5 to offset for any amount owed to the partnership by the partner  
6 or a person dissociated as partner on whose account the  
7 distribution is made.

8 § 8446. Rights to information.

9 (a) Location of records.--A partnership shall keep its books  
10 and records, if any, at its principal office.

11 (b) Right to inspection.--On reasonable notice, a partner  
12 may inspect and copy during regular business hours, at a  
13 reasonable location specified by the partnership, any record  
14 maintained by the partnership regarding the partnership's  
15 business, financial condition and other circumstances, to the <--  
16 extent the information is material to the partner's rights and  
17 duties under the partnership agreement or this title.

18 (c) ~~Required~~ MATERIAL information.--The partnership shall <--  
19 furnish to each partner: <--

20 ~~(1)~~, without demand, any information concerning the <--  
21 partnership's business, financial condition and other  
22 circumstances which the partnership knows and is material to  
23 the proper exercise of the partner's rights and duties under  
24 the partnership agreement or this title, except to the extent  
25 the partnership can establish that it reasonably believes the  
26 member already knows the information. <--

27 ~~(2)~~ on demand, any other information concerning the  
28 partnership's business, financial condition and other  
29 circumstances, except to the extent the demand or the  
30 information demanded is unreasonable or otherwise improper

1 ~~under the circumstances.~~

2 (d) Duty of partners.--The duty to furnish information under  
3 subsection (c) also applies to each partner to the extent the  
4 partner knows any of the information described in subsection  
5 (c).

6 (e) Rights after dissociation.--Subject to subsection (j),  
7 within 10 days after receipt by a partnership of a demand made  
8 in record form, a person dissociated as a partner may have  
9 access to information to which the person was entitled while a  
10 partner if:

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

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

14 ~~(3) the person satisfies the requirements imposed on a~~ <--  
15 ~~partner by subsection (b).~~ THE INFORMATION IS MATERIAL TO THE <--  
16 ~~PERSON'S RIGHTS AND DUTIES UNDER THE PARTNERSHIP AGREEMENT OR~~  
17 ~~THIS TITLE.~~

18 (f) Partnership response to demand.--Within 10 days after  
19 receiving a demand under subsection (e), the partnership shall,  
20 in record form, inform the person that made the demand of:

21 (1) the information that the partnership will provide in  
22 response to the demand and when and where the partnership  
23 will provide the information; and

24 (2) the partnership's reasons for declining, if the  
25 partnership declines to provide any demanded information.

26 (g) Costs of copying.--A partnership may charge a person  
27 that makes a demand under this section the reasonable costs of  
28 copying, limited to the costs of labor and material. <--

29 (h) Exercise of rights.--A partner or person dissociated as  
30 a partner may exercise the rights under this section through an

1 agent or, in the case of an incapacitated person, a guardian.  
2 Any restriction or condition imposed by the partnership  
3 agreement or under subsection (j) applies both to the agent or  
4 guardian and to the partner or person dissociated as a partner.

5 (i) No rights of transferee.--Subject to section 8455  
6 (relating to power of personal representative of deceased  
7 partner), the rights under this section do not extend to a  
8 person as transferee.

9 (j) Reasonable restrictions permitted.--In addition to any  
10 restriction or condition stated in its partnership agreement, a  
11 partnership, as a matter within the ordinary course of its  
12 business, may impose reasonable restrictions and conditions on  
13 access to and use of information to be furnished under this  
14 section, including designating information confidential and  
15 imposing nondisclosure and safeguarding obligations on the  
16 recipient. In a dispute concerning the reasonableness of a  
17 restriction under this subsection, the partnership has the  
18 burden of proving reasonableness.

19 (k) Cross reference.--See section 8415 (relating to contents  
20 of partnership agreement).

21 § 8447. Standards of conduct for partners.

22 (a) General rule.--A partner owes to the partnership and the  
23 other partners the duties of loyalty and care stated in  
24 subsections (b) and (c).

25 (b) Duty of loyalty.--The fiduciary duty of loyalty of a  
26 partner includes the duties:

27 (1) to account to the partnership and hold as trustee  
28 for it any property, profit or benefit derived by the  
29 partner:

30 (i) in the conduct or winding up of the

1 partnership's business;

2 (ii) from a use by the partner of the partnership's  
3 property; or

4 (iii) from the appropriation of a partnership  
5 opportunity;

6 (2) to refrain from dealing with the partnership in the  
7 conduct or winding up of the partnership business as or on  
8 behalf of a person having an interest adverse to the  
9 partnership; and

10 (3) to refrain from competing with the partnership in  
11 the conduct of the partnership's business before the  
12 dissolution of the partnership.

13 (c) Duty of care.--The duty of care of a partner in the  
14 conduct or winding up of the partnership business is to refrain  
15 from engaging in gross negligence, recklessness, willful  
16 misconduct or a knowing violation of law.

17 (d) Good faith and fair dealing.--A partner shall discharge  
18 the duties and obligations under this title or under the  
19 partnership agreement and exercise any rights consistent with  
20 the contractual obligation of good faith and fair dealing.

21 (e) Self-serving conduct.--A partner does not violate a duty  
22 or obligation under this title or under the partnership  
23 agreement solely because the partner's conduct furthers the  
24 partner's own interest.

25 (f) Authorization or ratification.--All the partners may  
26 authorize or ratify, after disclosure of all material facts, a  
27 specific act or transaction that otherwise would violate the  
28 duty of loyalty of a partner.

29 (g) Fairness as a defense.--It is a defense to a claim under  
30 subsection (b) (2) and any comparable claim in equity or at

1 common law that the transaction was fair to the partnership at  
2 the time it was authorized or ratified under subsection (f).

3 (h) Rights and obligations in approved transaction.--If a  
4 partner enters into a transaction with the partnership which  
5 otherwise would be prohibited under subsection (b) (2), but the  
6 transaction is authorized or ratified as provided under  
7 subsection (f) or the partnership agreement, the partner's  
8 rights and obligations arising from the transaction are the same  
9 as those of a person that is not a partner.

10 (I) EXONERATION.--THE PARTNERSHIP AGREEMENT MAY PROVIDE THAT <--  
11 A PARTNER SHALL NOT BE PERSONALLY LIABLE FOR MONETARY DAMAGES TO  
12 THE PARTNERSHIP OR THE OTHER PARTNERS FOR A BREACH OF SUBSECTION  
13 (C), EXCEPT THAT A PARTNER MAY NOT BE EXONERATED FOR AN ACT THAT  
14 CONSTITUTES RECKLESSNESS, WILLFUL MISCONDUCT OR A KNOWING  
15 VIOLATION OF LAW.

16 ~~(i)~~ (J) Cross reference.--See section 8415 (relating to <--  
17 contents of partnership agreement).  
18 § 8448. Actions by partnership and partners.

19 (a) Action by partnership.--A partnership may maintain an  
20 action against a partner for either of the following that causes  
21 or threatens harm to the partnership:

- 22 (1) a breach of the partnership agreement; or  
23 (2) the violation of a duty to the partnership.

24 (b) Action by partner.--A partner may maintain an action  
25 against the partnership or another partner, with or without an  
26 accounting as to partnership business, to enforce the partner's  
27 rights and protect the partner's interests, including rights and  
28 interests under the partnership agreement or this title or  
29 arising independently of the partnership relationship.

30 (c) Claims not revived.--A right to an accounting on

1 dissolution and winding up does not revive a claim barred by  
2 law.

3 (d) Cross reference.--See section 8415(c)(12) (relating to  
4 contents of partnership agreement).

5 § 8449. Continuation of partnership beyond definite term or  
6 particular undertaking.

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

13 (b) Presumed agreement to continue partnership.--If the  
14 partners, or those partners who habitually acted in the business  
15 during the term or undertaking, continue the business without  
16 any settlement or liquidation of the partnership, they are  
17 presumed to have agreed that the partnership will continue.

18 SUBCHAPTER E

19 TRANSFERABLE INTERESTS AND RIGHTS

20 OF TRANSFEREES AND CREDITORS

21 Sec.

22 8451. Partner not co-owner of partnership property.

23 8452. Nature of transferable interest.

24 8453. Transfer of transferable interest.

25 8454. Charging order.

26 8455. Power of personal representative of deceased partner.

27 § 8451. Partner not co-owner of partnership property.

28 A partner is not a co-owner of partnership property and has  
29 no interest in partnership property which can be transferred,  
30 either voluntarily or involuntarily.

1 § 8452. Nature of transferable interest.

2 (a) Personal property.--A transferable interest is personal  
3 property.

4 (b) Only right that may be transferred.--A person may not  
5 transfer to a person not a partner any rights in a partnership  
6 other than a transferable interest.

7 § 8453. Transfer of transferable interest.

8 (a) General rule.--A transfer, in whole or in part, of a  
9 transferable interest:

10 (1) is permissible;

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

14 (3) subject to section 8455 (relating to power of  
15 personal representative of deceased partner), does not  
16 entitle the transferee to:

17 (i) participate in the management or conduct of the  
18 partnership's business; or

19 (ii) except as provided in subsection (c), have  
20 access to records or other information concerning the  
21 partnership's business.

22 (b) Rights of transferee.--A transferee has the right to:

23 (1) receive, in accordance with the terms of the  
24 transfer:

25 (i) distributions to which the transferor would  
26 otherwise be entitled; and

27 (ii) allocations of income, gain, loss, deduction or  
28 credit or similar item which would otherwise be made to  
29 the transferor; and

30 (2) seek under section 8481 (a) (5) (relating to events

1 causing dissolution) a judicial determination that it is  
2 equitable to wind up the partnership business.

3 (c) Right to account on dissolution.--In a dissolution and  
4 winding up of a partnership, a transferee is entitled to an  
5 account of the partnership's transactions only from the date of  
6 dissolution.

7 (d) Recognition of transferee's rights.--A partnership need  
8 not give effect to a transferee's rights under this section  
9 until the partnership knows or has notice of the transfer.

10 (e) Transfer restrictions.--A transfer of a transferable  
11 interest in violation of a restriction on transfer contained in  
12 the partnership agreement is ineffective if the intended  
13 transferee has knowledge or notice of the restriction at the  
14 time of transfer.

15 (f) Rights retained by transferor.--Except as provided in  
16 section 8461(4)(ii) (relating to events causing dissociation),  
17 if a partner transfers a transferable interest, the transferor  
18 retains the rights of a partner other than the transferable  
19 interest transferred and retains all the duties and obligations  
20 of a partner.

21 § 8454. Charging order.

22 (a) General rule.--On application by a judgment creditor of  
23 a partner or transferee, a court may enter a charging order  
24 against the transferable interest of the judgment debtor for the  
25 unsatisfied amount of the judgment. A charging order constitutes  
26 a lien on a judgment debtor's transferable interest and requires  
27 the partnership to pay over to the person to which the charging  
28 order was issued any distribution that otherwise would be paid  
29 to the judgment debtor.

30 (b) Available relief.--To the extent necessary to effectuate

1 the collection of distributions pursuant to a charging order in  
2 effect under subsection (a), the court may:

3 (1) appoint a receiver of the distributions subject to  
4 the charging order, with the power to make all inquiries the  
5 judgment debtor might have made; and

6 (2) make all other orders necessary to give effect to  
7 the charging order.

8 (c) Foreclosure.--Upon a showing that distributions under a  
9 charging order will not pay the judgment debt within a  
10 reasonable time, the court may foreclose the lien and order the  
11 sale of the transferable interest. The purchaser at the  
12 foreclosure sale obtains only the transferable interest, does  
13 not thereby become a partner and is subject to section 8453  
14 (relating to transfer of transferable interest).

15 (d) Satisfaction of judgment.--At any time before  
16 foreclosure under subsection (c), the partner or transferee  
17 whose transferable interest is subject to a charging order under  
18 subsection (a) may extinguish the charging order by satisfying  
19 the judgment and filing a certified copy of the satisfaction  
20 with the court that issued the charging order.

21 (e) Purchase of rights.--At any time before foreclosure  
22 under subsection (c), a partnership or one or more partners  
23 whose transferable interests are not subject to the charging  
24 order may pay to the judgment creditor the full amount due under  
25 the judgment and thereby succeed to the rights of the judgment  
26 creditor, including the charging order.

27 (f) Exemption laws preserved.--This chapter shall not  
28 deprive any partner or transferee of the benefit of any  
29 exemption law applicable to the transferable interest of the  
30 partner or transferee.

1 (g) Exclusive remedy.--This section provides the exclusive  
2 remedy by which a person seeking, in the capacity of a judgment  
3 creditor, to enforce a judgment against a partner or transferee  
4 may satisfy the judgment from the judgment debtor's transferable  
5 interest.

6 § 8455. Power of personal representative of deceased partner.

7 If a partner dies, the deceased partner's personal  
8 representative may exercise:

9 (1) the rights of a transferee provided in section  
10 8453(c) (relating to transfer of transferable interest); and

11 (2) for purposes of settling the estate, the rights the  
12 deceased partner had under section 8446 (relating to rights  
13 to information).

14 SUBCHAPTER F

15 DISSOCIATION

16 Sec.

17 8461. Events causing dissociation.

18 8462. Power to dissociate as partner and wrongful dissociation.

19 8463. Effects of dissociation.

20 § 8461. Events causing dissociation.

21 A person is dissociated as a partner when any of the  
22 following occurs:

23 (1) The partnership knows or has notice of the person's  
24 express will to withdraw as a partner, except that, if the  
25 person has specified a withdrawal date later than the date  
26 the partnership knew or had notice, on that later date.

27 (2) An event stated in the partnership agreement as  
28 causing the person's dissociation occurs.

29 (3) The person is expelled as a partner pursuant to the  
30 partnership agreement.

1           (4) The person is expelled as a partner by the  
2 affirmative vote or consent of all the other partners if:

3           (i) it is unlawful to carry on the partnership  
4 business with the person as a partner;

5           (ii) there has been a transfer of all of the  
6 person's transferable interest in the partnership, other  
7 than:

8                   (A) a transfer for security purposes; or

9                   (B) a charging order in effect under section  
10 8454 (relating to charging order) which has not been  
11 foreclosed;

12 (iii) the person is an ~~entity~~ ASSOCIATION and:           <--

13                   (A) the partnership notifies the person that the  
14 person will be expelled as a partner because:

15                           (I) the person has filed a certificate of  
16 dissolution or the equivalent;

17                           (II) the person has been administratively  
18 dissolved;

19                           (III) the person's charter or the equivalent  
20 has been revoked; or

21                           (IV) the person's right to conduct business  
22 has been suspended by the person's jurisdiction  
23 of formation; and

24 (B) within 90 days after the notification:

25                           (I) the certificate of dissolution or the  
26 equivalent has not been withdrawn, rescinded or  
27 revoked;

28                           (II) the person has not been reinstated;

29                           (III) the person's charter or the equivalent  
30 has not been reinstated; or

1                   (IV) the person's right to conduct business  
2                   has not been reinstated; or  
3                   (iv) the person is an unincorporated entity <--  
4                   ASSOCIATION that has been dissolved and whose activities <--  
5                   and affairs are being wound up.

6                   (5) On application by the partnership or another  
7                   partner, the person is expelled as a partner by judicial  
8                   order because the person:

9                   (i) has engaged or is engaging in wrongful conduct  
10                   that has affected adversely and materially, or will  
11                   affect adversely and materially, the partnership's  
12                   business;

13                   (ii) has committed willfully or persistently, or is  
14                   committing willfully or persistently, a material breach  
15                   of the partnership agreement or a duty or obligation  
16                   under section 8447 (relating to standards of conduct for  
17                   partners); or

18                   (iii) has engaged or is engaging in conduct relating  
19                   to the partnership's business which makes it not  
20                   reasonably practicable to carry on the business with the  
21                   person as a partner.

22                   (6) The person:

23                   (i) becomes a debtor in bankruptcy;

24                   (ii) makes an assignment for the benefit of  
25                   creditors; or

26                   (iii) seeks, consents to or acquiesces in the  
27                   appointment of a trustee, receiver or liquidator of the  
28                   person or of all or substantially all the person's  
29                   property.

30                   (7) In the case of an individual:

1           (i) the individual dies;  
2           (ii) a guardian for the individual is appointed; or  
3           (iii) a court orders that the individual has  
4           otherwise become incapable of performing the individual's  
5           duties as a partner under this title or the partnership  
6           agreement.

7           (8) In the case of a person that is a testamentary or  
8           inter vivos trust or is acting as a partner by virtue of  
9           being a trustee of such a trust, the trust's entire  
10           transferable interest in the partnership is distributed.

11           (9) In the case of a person that is an estate or is  
12           acting as a partner by virtue of being a personal  
13           representative of an estate, the estate's entire transferable  
14           interest in the partnership is distributed.

15           (10) In the case of a person that is not an individual,  
16           the existence of the person terminates.

17           (11) The partnership participates in a merger under  
18           Chapter 3 (relating to entity transactions) and:

19           (i) the partnership is not the surviving entity; or  
20           (ii) otherwise as a result of the merger, the person  
21           ceases to be a partner.

22           (12) The partnership participates in an interest  
23           exchange under Chapter 3 and, as a result of the interest  
24           exchange, the person ceases to be a partner.

25           (13) The partnership participates in a conversion under  
26           Chapter 3.

27           (14) The partnership participates in a division under  
28           Chapter 3 and:

29           (i) the partnership is not a resulting association;  
30           or

1           (ii) as a result of the division, the person ceases  
2           to be a partner.

3           (15) The partnership participates in a domestication  
4           under Chapter 3 and, as a result of the domestication, the  
5           person ceases to be a partner.

6           (16) The partnership dissolves and completes winding up.  
7           § 8462. Power to dissociate as partner and wrongful  
8           dissociation.

9           (a) Power to dissociate.--A person has the power to  
10          dissociate as a partner at any time, rightfully or wrongfully,  
11          by withdrawing as a partner by express will under section  
12          8461(1) (relating to events causing dissociation).

13          (b) Wrongful dissociation.--A person's dissociation as a  
14          partner is wrongful only if the dissociation:

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

17               (2) in the case of a partnership for a definite term or  
18               particular undertaking, occurs before the expiration of the  
19               term or the completion of the undertaking and:

20                       (i) the person withdraws as a partner by express  
21                       will, unless the withdrawal follows within 90 days after  
22                       another person's dissociation by death or otherwise under  
23                       section 8461(6), (7), (8), (9) or (10) or wrongful  
24                       dissociation under this subsection;

25                       (ii) the person is expelled as a partner by judicial  
26                       order under section 8461(5);

27                       (iii) the person is dissociated under section  
28                       8461(6); or

29                       (iv) in the case of a person that is not a trust  
30                       other than a business or statutory trust, an estate or an

1 individual, the person is expelled or otherwise  
2 dissociated because it willfully dissolved or terminated.

3 (c) Damages for wrongful dissociation.--A person that  
4 wrongfully dissociates as a partner is liable to the partnership  
5 and to the other partners for damages caused by the  
6 dissociation. The liability is in addition to any debt,  
7 obligation or other liability of the partner to the partnership  
8 or the other partners.

9 (d) Cross reference.--See section 8415(c)(14) (relating to  
10 contents of partnership agreement).  
11 § 8463. Effects of dissociation.

12 (a) Effects on partnership.--If a person's dissociation  
13 results in a dissolution and winding up of the partnership  
14 business, Subchapter H (relating to dissolution and winding up)  
15 applies; otherwise, Subchapter G (relating to dissociation as  
16 partner if business not wound up) applies.

17 (b) Effects on person dissociated as partner.--If a person  
18 is dissociated as a partner:

19 (1) The person's right to participate in the management  
20 and conduct of the partnership's business terminates, except  
21 as provided under section 8482(c) (relating to winding up and  
22 filing of optional certificates).

23 (2) The person's duties and obligations under section  
24 8447 (relating to standards of conduct for partners) end with  
25 regard to matters arising and events occurring after the  
26 person's dissociation, except to the extent the partner  
27 participates in winding up the partnership's business under  
28 section 8482.

29 (3) Any transferable interest owned by the person in the  
30 person's capacity as a general partner immediately before

1 dissociation that is not subsequently purchased from the  
2 person or canceled or exchanged in a transaction under  
3 Chapter 3 (relating to entity transactions) is owned by the  
4 person solely as a transferee.

5 (c) Existing obligations not discharged.--A person's  
6 dissociation does not of itself discharge the person from any  
7 debt, obligation or other liability to the partnership or the  
8 other partners which the person incurred while a partner.

9 SUBCHAPTER G

10 DISSOCIATION AS PARTNER

11 IF BUSINESS NOT WOUND UP

12 Sec.

13 8471. Purchase of interest of person dissociated as partner.

14 8472. Power to bind and liability of person dissociated as  
15 partner.

16 8473. Liability of person dissociated as partner to other  
17 persons.

18 8474. Certificate of dissociation.

19 8475. Continued use of partnership name.

20 § 8471. Purchase of interest of person dissociated as partner.

21 (a) Right to buyout.--If a person is dissociated as a  
22 partner without the dissociation resulting in a dissolution and  
23 winding up of the partnership business under section 8481  
24 (relating to events causing dissolution), the partnership shall  
25 cause the person's interest in the partnership to be purchased  
26 for a buyout price determined under subsection (b).

27 (b) Buyout price.--The buyout price of the interest of a  
28 person dissociated as a partner is the amount that would have  
29 been distributable to the person under section 8486(b) (relating  
30 to disposition of assets in winding up and required

1 contributions) if, on the date of dissociation, the assets of  
2 the partnership were sold and the partnership were wound up,  
3 with the sale price equal to the greater of:

4 (1) the liquidation value; or

5 (2) the value based on a sale of the entire business as  
6 a going concern without the person.

7 (c) Interest and offsets.--Interest accrues on the buyout  
8 price from the date of dissociation to the date of payment,  
9 except that damages for wrongful dissociation under section  
10 8462(b) (relating to power to dissociate as partner and wrongful  
11 dissociation) and all other amounts owing, whether or not  
12 presently due, from the person dissociated as a partner to the  
13 partnership must be offset against the buyout price.

14 (d) Indemnification.--A partnership shall defend, indemnify  
15 and hold harmless a person dissociated as a partner whose  
16 interest is being purchased against all partnership liabilities,  
17 whether incurred before or after the dissociation, except  
18 liabilities incurred by an act of the person under section 8472  
19 (relating to power to bind and liability of person dissociated  
20 as partner).

21 (e) Payment of partnership's estimate.--If an agreement for  
22 the purchase of the interest of a person dissociated as a  
23 partner is not reached within 120 days after a demand in record  
24 form for payment, the partnership shall pay, or cause to be  
25 paid, in money to the person the amount the partnership  
26 estimates to be the buyout price and accrued interest, reduced  
27 by any offsets and accrued interest under subsection (c).

28 (f) Buyout of deferred payment.--If a deferred payment is  
29 authorized under subsection (h), the partnership may tender an  
30 offer in record form to pay the amount it estimates to be the

1 buyout price and accrued interest, reduced by any offsets under  
2 subsection (c), stating the time of payment, the amount and type  
3 of security for payment and the other terms and conditions of  
4 the obligation.

5 (g) Information accompanying payment.--The payment or tender  
6 required by subsection (e) or (f) must be accompanied by the  
7 following:

8 (1) a statement of partnership assets and liabilities as  
9 of the date of dissociation;

10 (2) the latest available partnership balance sheet and  
11 income statement, if any;

12 (3) an explanation of how the estimated amount of the  
13 payment was calculated; and

14 (4) notice in record form that the payment is in full  
15 satisfaction of the obligation to purchase unless, within 120  
16 days after the notice, the person dissociated as a partner  
17 commences an action to determine the buyout price, any  
18 offsets under subsection (c) or other terms of the obligation  
19 to purchase.

20 (h) Deferred payment on wrongful dissociation.--A person  
21 that wrongfully dissociates as a partner before the expiration  
22 of a definite term or the completion of a particular undertaking  
23 is not entitled to payment of any part of the buyout price until  
24 the expiration of the term or completion of the undertaking,  
25 unless the person establishes to the satisfaction of the court  
26 that earlier payment will not cause undue hardship to the  
27 business of the partnership. A deferred payment must be  
28 adequately secured and bear interest.

29 (i) Right to bring action.--A person dissociated as a  
30 partner may maintain an action against the partnership, under

1 section 8448(b) (relating to actions by partnership and  
2 partners), to determine the buyout price of that person's  
3 interest, any offsets under subsection (c) or other terms of the  
4 obligation to purchase. The action must be commenced within 120  
5 days after the partnership has tendered payment or an offer to  
6 pay or within one year after demand in record form for payment  
7 if no payment or offer to pay is tendered. The court shall  
8 determine the buyout price of the person's interest, any offset  
9 due under subsection (c), and accrued interest, and enter  
10 judgment for any additional payment or refund. If deferred  
11 payment is authorized under subsection (h), the court shall also  
12 determine the security for payment and other terms of the  
13 obligation to purchase. The court may assess reasonable attorney  
14 fees and the fees and expenses of appraisers or other experts  
15 for a party to the action, in amounts the court finds equitable,  
16 against a party that the court finds acted arbitrarily,  
17 vexatiously or not in good faith. The finding may be based on  
18 the partnership's failure to tender payment or an offer to pay  
19 or to comply with subsection (g).

20 § 8472. Power to bind and liability of person dissociated as  
21 partner.

22 (a) When partnership bound.--After a person is dissociated  
23 as a partner without the dissociation resulting in a dissolution  
24 and winding up of the partnership business and before the  
25 partnership is merged or divided out of existence, converted or  
26 domesticated under Chapter 3 (relating to entity transaction),  
27 or dissolved, the partnership is bound by an act of the person  
28 only if:

29 (1) the act would have bound the partnership under  
30 section 8431 (relating to partner agent of partnership)

1 before dissociation; and

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

4 (i) less than two years have passed since the  
5 dissociation; and

6 (ii) the other party does not know or have notice of  
7 the dissociation and reasonably believes that the person  
8 is a partner.

9 (b) Liability of person dissociated as partner.--If a  
10 partnership is bound under subsection (a), the person  
11 dissociated as a partner which caused the partnership to be  
12 bound is liable:

13 (1) to the partnership for any damage caused to the  
14 partnership arising from the obligation incurred under  
15 subsection (a); and

16 (2) if a partner or another person dissociated as a  
17 partner is liable for the obligation, to the partner or other  
18 person for any damage caused to the partner or other person  
19 arising from the liability.

20 § 8473. Liability of person dissociated as partner to other  
21 persons.

22 (a) General rule.--Except as provided in subsection (b), a  
23 person dissociated as a partner is not liable for a partnership  
24 obligation incurred after dissociation.

25 (b) Exception.--A person that is dissociated as a partner is  
26 liable on a transaction entered into by the partnership after  
27 the dissociation only if:

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

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

1           (i) less than two years have passed since the  
2           dissociation; and

3           (ii) the other party does not have knowledge or  
4           notice of the dissociation and reasonably believes that  
5           the person is a partner.

6           (c) Constructive release by creditor.--A person dissociated  
7           as a partner is released from liability for a debt, obligation  
8           or other liability of the partnership if the partnership's  
9           creditor, with knowledge or notice of the person's dissociation  
10          but without the person's consent, agrees to a material  
11          alteration in the nature or time of payment of the debt,  
12          obligation or other liability. The release from liability under  
13          this subsection applies whether the liability arises directly or  
14          indirectly, by way of contribution or otherwise, but only if the  
15          liability arises solely by reason of having been a partner.  
16          § 8474. Certificate of dissociation.

17          (a) Right to file certificate.--A person dissociated as a  
18          partner or the partnership may deliver to the department for  
19          filing a certificate of dissociation stating:

20                  (1) the name of the partnership;

21                  (2) if the partnership is a limited liability  
22          partnership, subject to section 109 (relating to name of  
23          commercial registered office provider in lieu of registered  
24          address), the address, including street and number, if any,  
25          of its registered office; and

26                  (3) the name of the person and that the person has  
27          dissociated from the partnership.

28          (b) Effect of certificate.--A certificate of dissociation is  
29          a limitation on the authority of a person dissociated as a  
30          partner for the purposes of section ~~8433(d) and (e)~~ 8433

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1 (relating to certificate of partnership authority).

2 (c) Cross references.--See:

3 Section 134 (relating to docketing statement).

4 Section 135 (relating to requirements to be met by filed  
5 documents).

6 Section 136(c) (relating to processing of documents by  
7 Department of State).

8 Section 8413(d)(2) (relating to knowledge and notice).

9 Section 8418 (relating to signing of filed documents).

10 § 8475. Continued use of partnership name.

11 Continued use of a partnership name, or the name of a person  
12 dissociated as a partner as part of the partnership name, by  
13 partners continuing the business does not of itself make the  
14 person dissociated as a partner liable for an obligation of the  
15 partners or the partnership continuing the business.

16 SUBCHAPTER H

17 DISSOLUTION AND WINDING UP

18 Sec.

19 8481. Events causing dissolution.

20 8482. Winding up and filing of optional certificates.

21 8483. Rescinding dissolution (RESERVED).

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22 8484. Power to bind partnership after dissolution.

23 8485. Liability after dissolution.

24 8486. Disposition of assets in winding up and required  
25 contributions.

26 § 8481. Events causing dissolution.

27 (a) General rule.--A partnership is dissolved, and its  
28 business shall be wound up, upon the occurrence of any of the  
29 following:

30 (1) In a partnership at will, the partnership knows or

1 has notice of a person's express will to withdraw as a  
2 partner, other than a partner that has dissociated under  
3 section 8461(2), (3), (4), (5), (6), (7), (8), (9) or (10)  
4 (relating to events causing dissociation), except that, if  
5 the person has specified a withdrawal date later than the  
6 date the partnership knew or had notice, on the later date.

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

9 (i) within 90 days after a person's dissociation by  
10 death or otherwise under section 8461(6), (7), (8), (9)  
11 or (10) or wrongful dissociation under section 8462(b)  
12 (relating to power to dissociate as partner and wrongful  
13 dissociation), the affirmative vote or consent of at  
14 least half of the remaining partners to wind up the  
15 partnership business, for which purpose a person's  
16 rightful dissociation under section 8462(b)(2)(i)  
17 constitutes the expression of that partner's expression <--  
18 of consent to wind up the partnership business;

19 (ii) the affirmative vote or consent of all the  
20 partners to wind up the partnership business; or

21 (iii) the expiration of the term or the completion  
22 of the undertaking.

23 (3) An event or circumstance that the partnership  
24 agreement states causes dissolution.

25 (4) On application by a partner, the entry by the court  
26 of an order dissolving the partnership on the grounds that:

27 (i) the conduct of all or substantially all the  
28 partnership's business is unlawful;

29 (ii) the economic purpose of the partnership is  
30 likely to be unreasonably frustrated;

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

5           (iv) it is otherwise not reasonably practicable to  
6 carry on the partnership business in conformity with the  
7 partnership agreement.

8           (5) On application by a transferee, the entry by the  
9 court of an order dissolving the partnership on the grounds  
10 that it is equitable to wind up the partnership business:

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

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

19           (6) The passage of 90 consecutive days during which the  
20 partnership does not have at least two partners.

21           (b) Cross reference.--See section ~~8415(e)(16)~~ 8415(C)(15) <--  
22 (relating to contents of partnership agreement).

23 § 8482. Winding up and filing of optional certificates.

24           (a) General rule.--A dissolved partnership shall wind up its  
25 business and, ~~except as provided in section 8483 (relating to~~ <--  
26 ~~rescinding dissolution),~~ the partnership continues after  
27 dissolution only for the purpose of winding up.

28           (b) Conduct of winding up.--In winding up its business, the  
29 partnership:

30           (1) shall discharge the partnership's debts, obligations

1 and other liabilities, settle and close the partnership's  
2 business, and marshal and distribute the assets of the  
3 partnership; and

4 (2) may:

5 (i) deliver to the department for filing a  
6 certificate of dissolution stating:

7 (A) the name of the partnership;

8 (B) if the partnership is a limited liability  
9 partnership, subject to section 109 (relating to name  
10 of commercial registered office provider in lieu of  
11 registered address), the address, including street  
12 and number, if any, of its registered office; and

13 (C) that the partnership is dissolved;

14 (ii) preserve the partnership business and property  
15 as a going concern for a reasonable time;

16 (iii) prosecute and defend actions and proceedings,  
17 whether civil, criminal or administrative;

18 (iv) transfer the partnership's property;

19 (v) settle disputes by mediation or arbitration;

20 (vi) deliver to the department for filing the  
21 certificates, if any, required by section 139 (relating  
22 to tax clearance of certain fundamental transactions) and  
23 a certificate of termination stating:

24 (A) the name of the partnership;

25 (B) if the partnership is a limited liability  
26 partnership, subject to section 109, the address,  
27 including street and number, if any, of its  
28 registered office; and

29 (C) that the partnership is terminated; and

30 (vii) perform other acts necessary or appropriate to

1           the winding up.

2           (c) Participation after dissociation.--A person whose  
3 dissociation as a partner resulted in dissolution may  
4 participate in winding up as if still a partner, unless the  
5 dissociation was wrongful.

6           (d) Conduct of winding up when no partner.--If a dissolved  
7 partnership does not have a partner and no person has the right  
8 to participate in winding up under subsection (c), the personal  
9 representative or guardian of the last person to have been a  
10 partner may wind up the partnership's business. If the personal  
11 representative or guardian does not exercise that right, a  
12 person to wind up the partnership's business may be appointed by  
13 the affirmative vote or consent of transferees owning a majority  
14 of the rights to receive distributions at the time the consent  
15 is to be effective. A person appointed under this subsection has  
16 the powers of a partner under section 8484 (relating to power to  
17 bind partnership after dissolution) but is not liable for the  
18 debts, obligations and other liabilities of the partnership  
19 solely by reason of having or exercising those powers or  
20 otherwise acting to wind up the partnership's business.

21           (e) Judicial supervision.--On the application of any partner  
22 or person entitled under subsection (c) to participate in  
23 winding up, a court may order judicial supervision of the  
24 winding up of a dissolved partnership, including the appointment  
25 of a person to wind up the partnership's business, if:

26           (1) the partnership does not have a partner and within a  
27 reasonable time following the dissolution no person has been  
28 appointed under subsection (d); or

29           (2) the applicant establishes other good cause.

30           (f) Cross references.--See:

1           Section 134 (relating to docketing statement).

2           Section 135 (relating to requirements to be met by filed  
3 documents).

4           Section 136(c) (relating to processing of documents by  
5 Department of State).

6           Section ~~8415(e)(17)~~ 8415(C)(16) (relating to contents of <--  
7 partnership agreement).

8           Section 8418 (relating to signing of filed documents).

9 § 8483. Rescinding dissolution. <--

10 ~~(a) General rule. A partnership may rescind its~~  
11 ~~dissolution, unless a certificate of termination applicable to~~  
12 ~~the partnership is effective or the court has entered an order~~  
13 ~~under section 8481(a)(4) or (5) (relating to events causing~~  
14 ~~dissolution) dissolving the partnership.~~

15 ~~(b) Procedure. Rescinding dissolution under this section~~  
16 ~~requires:~~

17 ~~(1) the affirmative vote or consent of each partner; and~~

18 ~~(2) if the partnership has delivered to the department~~  
19 ~~for filing a certificate of dissolution and:~~

20 ~~(i) the certificate of dissolution has not become~~  
21 ~~effective, delivery to the department for filing of a~~  
22 ~~statement of abandonment under section 141 (relating to~~  
23 ~~abandonment of filing before effectiveness) applicable to~~  
24 ~~the certificate of dissolution; or~~

25 ~~(ii) the certificate of dissolution has become~~  
26 ~~effective, the delivery to the department for filing of a~~  
27 ~~certificate of rescission stating:~~

28 ~~(A) the name of the partnership;~~

29 ~~(B) if the partnership was a limited liability~~  
30 ~~partnership immediately before the filing of the~~

1 ~~certificate of dissolution, subject to section 109-~~  
2 ~~(relating to name of commercial registered office-~~  
3 ~~provider in lieu of registered address), the address,~~  
4 ~~including street and number, if any, of its-~~  
5 ~~registered office; and~~

6 ~~(C) that dissolution has been rescinded under-~~  
7 ~~this section.~~

8 ~~(c) Effects of rescission. If a partnership rescinds its-~~  
9 ~~dissolution:~~

10 ~~(1) the partnership resumes carrying on its business as-~~  
11 ~~if dissolution had never occurred;~~

12 ~~(2) subject to paragraph (3), any liability incurred by-~~  
13 ~~the partnership after the dissolution and before the-~~  
14 ~~rescission is effective is determined as if dissolution had-~~  
15 ~~never occurred; and~~

16 ~~(3) the rights of a third party arising out of conduct-~~  
17 ~~in reliance on the dissolution before the third party knew or-~~  
18 ~~had notice of the rescission may not be adversely affected.~~

19 ~~(d) Cross references. See:~~

20 ~~Section 134 (relating to docketing statement).~~

21 ~~Section 135 (relating to requirements to be met by filed-~~  
22 ~~documents).~~

23 ~~Section 136(c) (relating to processing of documents by-~~  
24 ~~Department of State).~~

25 ~~Section 8418 (relating to signing of filed documents).~~

26 ~~(RESERVED).~~

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27 § 8484. Power to bind partnership after dissolution.

28 (a) Power of partner.--A partnership is bound by a partner's  
29 act after dissolution which:

30 (1) is appropriate for winding up the partnership

1 business; or

2 (2) would have bound the partnership under section 8431  
3 (relating to partner agent of partnership) before dissolution  
4 if, at the time the other party enters into the transaction,  
5 the other party does not know or have notice of the  
6 dissolution.

7 (b) Power of person dissociated as partner.--A person  
8 dissociated as a partner binds a partnership through an act  
9 occurring after dissolution if:

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

12 (i) less than two years have passed since the  
13 dissociation; and

14 (ii) the other party does not know or have notice of  
15 the dissociation and reasonably believes that the person  
16 is a partner; and

17 (2) the act:

18 (i) is appropriate for winding up the partnership's  
19 business; or

20 (ii) would have bound the partnership under section  
21 8431 before dissolution and the other party does not know  
22 or have notice of the dissolution at the time the other  
23 party enters into the transaction.

24 § 8485. Liability after dissolution.

25 (a) Liability of partner.--If a partner having knowledge of  
26 the dissolution causes a partnership to incur an obligation  
27 under section 8484(a)(2) (relating to power to bind partnership  
28 after dissolution) by an act that is not appropriate for winding  
29 up the partnership business, the partner is liable:

30 (1) to the partnership for any damage caused to the

1 partnership arising from the obligation; and

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

6 (b) Liability of person dissociated as partner.--Except as  
7 provided under subsection (c), if a person dissociated as a  
8 partner causes a partnership to incur an obligation under  
9 section 8484(b), the person is liable:

10 (1) to the partnership for any damage caused to the  
11 partnership arising from the obligation; and

12 (2) if a partner or another person dissociated as a  
13 partner is liable for the obligation, to the partner or other  
14 person for any damage caused to the partner or other person  
15 arising from the obligation.

16 (c) Exception in winding up.--A person dissociated as a  
17 partner is not liable under subsection (b) if:

18 (1) section 8482(c) (relating to winding up and filing  
19 of optional certificates) permits the person to participate  
20 in winding up; and

21 (2) the act that causes the partnership to be bound  
22 under section 8484(b) is appropriate for winding up the  
23 partnership's business.

24 § 8486. Disposition of assets in winding up and required  
25 contributions.

26 (a) Creditors.--In winding up its business, a partnership  
27 shall apply its assets, including the contributions required by  
28 this section, to discharge the partnership's obligations to  
29 creditors, including partners that are creditors.

30 (b) Surplus.--After a partnership complies with subsection

1 (a), any surplus shall be distributed in the following order,  
2 subject to any charging order in effect under section 8454  
3 (relating to charging order):

4 (1) to each owner of a transferable interest that  
5 reflects contributions made and not previously returned, an  
6 amount equal to the value of the unreturned contributions;  
7 and

8 (2) among owners of transferable interests in proportion  
9 to their respective rights to share in distributions  
10 immediately before the dissolution of the partnership.

11 (c) Insufficient assets.--If a partnership's assets are  
12 insufficient to satisfy all its obligations under subsection  
13 (a), with respect to each unsatisfied obligation incurred when  
14 the partnership was not a limited liability partnership, the  
15 following rules apply:

16 (1) Each person that was a partner when the obligation  
17 was incurred and that has not been released from the  
18 obligation under section 8473(c) ~~and (d)~~ (relating to <--  
19 liability of person dissociated as partner to other persons)  
20 shall contribute to the partnership for the purpose of  
21 enabling the partnership to satisfy the obligation. The  
22 contribution due from each of those persons is in proportion  
23 to the right to receive distributions when the obligation was  
24 incurred.

25 (2) If a person does not contribute the full amount  
26 required under paragraph (1) with respect to an unsatisfied  
27 obligation of the partnership, the other persons required to  
28 contribute under paragraph (1) on account of the obligation  
29 shall contribute the additional amount necessary to discharge  
30 the obligation. The additional contribution due from each of

1 those other persons is in proportion to the right to receive  
2 distributions when the obligation was incurred.

3 (3) If a person does not make the additional  
4 contribution required under paragraph (2), further additional  
5 contributions are determined and due in the same manner as  
6 provided in that paragraph.

7 (d) Recovery of additional contributions.--A person that  
8 makes an additional contribution under subsection (c)(2) or (3)  
9 may recover from any person whose failure to contribute under  
10 subsection (c)(1) or (2) necessitated the additional  
11 contribution. A person may not recover under this subsection  
12 more than the amount additionally contributed. A person's  
13 liability under this subsection shall not exceed the amount the  
14 person failed to contribute.

15 (e) Distributions when surplus insufficient.--If a  
16 partnership does not have sufficient surplus to comply with  
17 subsection (b)(1), the following shall apply:

18 (1) If the partnership has been a limited liability  
19 partnership at any time during its existence, any surplus  
20 must be distributed among the owners of transferable  
21 interests in proportion to the value of the respective  
22 unreturned contributions.

23 (2) If the partnership has never been a limited  
24 liability partnership, the partners and any person whose  
25 dissociation resulted in dissolution shall contribute to the  
26 partnership funds sufficient to cause the insufficiency under  
27 subsection (b)(1) to be allocated consistently with section  
28 8441(a) (relating to partner's rights and duties).

29 (f) Form of payment.--All distributions made under  
30 subsections (b) and (c) must be paid in money.

1 Section 26. Repeals are as follows:

2 (1) The General Assembly finds and declares as follows:

3 (i) Over the last 25 years, there have been  
4 significant changes in the business model for  
5 partnerships; and statutory law must be updated to deal  
6 with the new business model.

7 (ii) Existing statutory law on limited partnerships  
8 was enacted in 1988. Discrete amendments were enacted in  
9 1990, 1992, 1994, 1996 and 2001. A more comprehensive  
10 legislative approach was taken in sections 48 through 53  
11 of the act of October 22, 2014 (P.L.2640, No.172), known  
12 as the Associations Transactions Act.

13 (iii) Section 20 of this act adds a new chapter on  
14 limited partnerships. The new chapter, continuing the  
15 approach under the Associations Transactions Act,  
16 extensively revises existing statutory law to the degree  
17 that identification of individual changes or reproduction  
18 of voluminous text to be eliminated would inhibit rather  
19 than enhance serious legal analysis.

20 (iv) The repeal under paragraph (2) is necessary to  
21 carry out this paragraph.

22 (2) Chapter 85 of Title 15 is repealed.

23 Section 27. Title 15 is amended by adding a chapter to read:

24 CHAPTER 86

25 LIMITED PARTNERSHIPS

26 Subchapter

27 A. General Provisions

28 B. Formation and Filings

29 C. Limited Partners

30 D. General Partners

- 1 E. Contributions and Distributions
- 2 F. Dissociation
- 3 G. Transferable Interests and Rights of Transferees and
- 4 Creditors
- 5 H. Dissolution and Winding Up
- 6 I. Actions by Partners

7 SUBCHAPTER A

8 GENERAL PROVISIONS

9 Sec.

10 8611. Short title and application of chapter.

11 8612. Definitions.

12 8613. Knowledge and notice.

13 8614. Governing law.

14 8615. Contents of partnership agreement.

15 8616. Application of partnership agreement.

16 8617. Amendment and effect of partnership agreement.

17 8618. Required information.

18 8619. Dual capacity.

19 8620. Characteristics of limited partnership.

20 § 8611. Short title and application of chapter.

21 (a) Short title.--This chapter may be cited as the  
22 Pennsylvania Uniform Limited Partnership Act of 2015.

23 (b) Initial application.--Before July 1, 2016, this chapter  
24 governs only:

25 (1) a limited partnership formed on or after [the  
26 Legislative Reference Bureau shall insert here the effective  
27 date of this chapter]; and

28 (2) except as provided under subsections (c) and (d), a  
29 limited partnership formed before [the Legislative Reference  
30 Bureau shall insert here the effective date of this chapter]

1 which elects, in the manner provided in its partnership  
2 agreement or by law for amending the partnership agreement,  
3 to be subject to this chapter.

4 (c) Full effective date.--Except as provided in subsections  
5 (d) and (e), on and after July 1, 2016, this chapter governs all  
6 limited partnerships.

7 (d) Transitional provisions.--With respect to a limited  
8 partnership formed before [the Legislative Reference Bureau  
9 shall insert here the effective date of this chapter], the  
10 following rules apply except as the partners otherwise elect in  
11 the manner provided in the partnership agreement or by law for  
12 amending the partnership agreement:

13 (1) Section 8620(c) (relating to characteristics of  
14 limited partnership) does not apply and the limited  
15 partnership has whatever duration it had under the law  
16 applicable immediately before [the Legislative Reference  
17 Bureau shall insert here the effective date of this chapter].

18 (2) Sections 8661 (relating to dissociation as limited  
19 partner) and 8662 (relating to effects of dissociation as  
20 limited partner) do not apply and a limited partner has the  
21 same right and power to dissociate from the limited  
22 partnership, with the same consequences, as existed  
23 immediately before [the Legislative Reference Bureau shall  
24 insert here the effective date of this chapter].

25 (3) Section ~~8663(4)~~ 8663(A) (4) (relating to dissociation <--  
26 as general partner) shall not apply.

27 (4) Section ~~8663(5)~~ 8663(A) (5) shall not apply and the <--  
28 court has the same power to expel a general partner as the  
29 court had immediately before [the Legislative Reference  
30 Bureau shall insert here the effective date of this chapter].

1           (5) Section 8681(a)(3) (relating to events causing  
2 dissolution) shall not apply and the connection between a  
3 person's dissociation as a general partner and the  
4 dissolution of the limited partnership is the same as existed  
5 immediately before [the Legislative Reference Bureau shall  
6 insert here the effective date of this chapter].

7           (e) Liabilities to third parties.--With respect to a limited  
8 partnership that elects under subsection (b)(2) to be subject to  
9 this chapter, after the election takes effect, the provisions of  
10 this chapter relating to the liability of the limited  
11 partnership's general partners to third parties apply:

12           (1) before July 1, 2016, to:

13           (i) a third party that had not done business with  
14 the limited partnership in the year before the election  
15 took effect; and

16           (ii) a third party that had done business with the  
17 limited partnership in the year before the election took  
18 effect only if the third party knows or has been notified  
19 of the election; and

20           (2) on and after July 1, 2016, to all third parties,  
21 except that those provisions remain inapplicable to any  
22 obligation incurred while those provisions were inapplicable  
23 under paragraph (1)(ii).

24           (f) Cross reference.--See section 8615 (relating to contents  
25 of partnership agreement).

26 § 8612. Definitions.

27           (a) General definitions.--The following words and phrases  
28 when used in this chapter shall have the meanings given to them  
29 in this section unless the context clearly indicates otherwise:

30           "Certificate of limited partnership." The certificate

1 required by section 8621 (relating to formation of limited  
2 partnership and certificate of limited partnership). The term  
3 includes the certificate as amended or restated.

4 "Contribution." Property or a benefit described in section  
5 8651 (relating to form of contribution) which is provided by a  
6 person to a limited partnership to become a partner or in the  
7 person's capacity as a partner.

8 "Distribution." A transfer of money or other property from a  
9 limited partnership to a person on account of a transferable  
10 interest or in the person's capacity as a partner. The term:

11 (1) Includes:

12 (i) a redemption or other purchase by a limited  
13 partnership of a transferable interest; and

14 (ii) a transfer to a partner in return for the  
15 partner's relinquishment of any right to participate as a  
16 partner in the management or conduct of the partnership's  
17 activities and affairs or to have access to records or  
18 other information concerning the partnership's activities  
19 and affairs.

20 (2) Does not include:

21 (i) amounts constituting reasonable compensation for  
22 present or past service or payments made in the ordinary  
23 course of business under a bona fide retirement plan or  
24 other bona fide benefits program;

25 (ii) the making of, or payment or performance on, a  
26 guaranty or similar arrangement by a partnership for the  
27 benefit of any or all of its partners;

28 (iii) a direct or indirect allocation or transfer  
29 effected under Chapter 3 (relating to entity  
30 transactions) with the approval of the members; or

1 (iv) a direct or indirect transfer of:

2 (A) a governance or transferable interest; or

3 (B) options, rights or warrants to acquire a  
4 governance or transferable interest.

5 "General partner." A person that:

6 (1) has become a general partner under section 8641  
7 (relating to becoming a general partner) or was a general  
8 partner in a partnership when the partnership became subject  
9 to this chapter under section 8611 (relating to short title  
10 and application of chapter); and

11 (2) has not dissociated as a general partner under  
12 section 8663 (relating to dissociation as general partner).

13 "Limited partner." A person that:

14 (1) has become a limited partner under section 8631  
15 (relating to becoming a limited partner) or was a limited  
16 partner in a limited partnership when the partnership became  
17 subject to this chapter under section 8611; and

18 (2) has not dissociated as a limited partner under  
19 section 8661 (relating to dissociation as limited partner).

20 "Limited partnership." An association formed under this  
21 chapter or which becomes subject to this chapter under Chapter 3  
22 (relating to entity transactions) or section 8611. The term <--  
23 includes a limited liability limited partnership or an electing  
24 partnership that is also a limited partnership.

25 "Partner." A limited partner or general partner.

26 "Partnership agreement." The agreement, whether or not  
27 referred to as a partnership agreement and whether oral,  
28 implied, in record form or in any combination thereof, of all  
29 the partners of a limited partnership concerning the matters  
30 described under section 8615(a) (relating to contents of

1 partnership agreement). The term includes the agreement as  
2 amended or restated.

3 "Required information." The information that a limited  
4 partnership is required to maintain under section 8618 (relating  
5 to required information).

6 "Transferable interest." The right, as initially owned by a  
7 person in the person's capacity as a partner, to receive  
8 distributions from a limited partnership, whether or not the  
9 person remains a partner or continues to own any part of the  
10 right. The term applies to any fraction of the interest, by  
11 whomever owned.

12 "Transferee." A person to which all or part of a  
13 transferable interest has been transferred, whether or not the  
14 transferor is a partner. The term includes a person that owns a  
15 transferable interest under section 8662(a)(3) (relating to  
16 effects of dissociation as limited partner) or 8665(a)(4)  
17 (relating to effects of dissociation as general partner).

18 (b) Index of definitions.--Following is a nonexclusive list  
19 of definitions in section 102 (relating to definitions) that  
20 apply to this chapter:

21 "Act" or "action."

22 "Court."

23 "Debtor in bankruptcy."

24 "Department."

25 "Jurisdiction."

26 "Jurisdiction of formation."

27 "Obligation."

28 "Professional services."

29 "Property."

30 "Record form."

1 "Sign."

2 "Transfer."

3 § 8613. Knowledge and notice.

4 (a) Knowledge.--A person knows a fact if the person:

5 (1) has actual knowledge of it; or

6 (2) is deemed to know it under law other than this  
7 chapter.

8 (b) Notice.--A person has notice of a fact if the person:

9 (1) has reason to know the fact from all the facts known  
10 to the person at the time in question; or

11 (2) is deemed to have notice of the fact under  
12 subsection (c) or (d).

13 (c) Effect of certificate.--A certificate of limited  
14 partnership on file in the department is notice that the  
15 partnership is a limited partnership and the persons designated  
16 in the certificate as general partners are general partners.

17 Except as provided under subsection (d) AND SECTION 8201(G) <--  
18 (RELATING TO SCOPE), the certificate is not notice of any other  
19 fact.

20 (d) Constructive notice.--A person not a partner is deemed  
21 to have notice of:

22 (1) another person's dissociation as a general partner  
23 90 days after an amendment to the certificate of limited  
24 partnership which states that the other person has  
25 dissociated becomes effective or 90 days after a certificate  
26 of dissociation pertaining to the other person becomes  
27 effective, whichever occurs first;

28 (2) a limited partnership's:

29 (i) dissolution 90 days after an amendment to the  
30 certificate of limited partnership stating that the

1 limited partnership is dissolved is effective;

2 (ii) termination 90 days after a certificate of  
3 termination under section 8682(b)(2)(vi) (relating to  
4 winding up and filing of optional certificates) is  
5 effective; and

6 (iii) participation in a merger, interest exchange,  
7 conversion, division or domestication, 90 days after a  
8 statement of merger, interest exchange, conversion,  
9 division or domestication under Chapter 3 (relating to  
10 entity transactions) is effective.

11 (e) Notification.--Except as provided in section 113(b)  
12 (relating to delivery of document), a person notifies another  
13 person of a fact by taking steps reasonably required to inform  
14 the other person in ordinary course, whether or not those steps  
15 cause the other person to know the fact.

16 (f) Effect of partner's knowledge or notice.--A general  
17 partner's knowledge or notice of a fact relating to the limited  
18 partnership is effective immediately as knowledge of or notice  
19 to the partnership, except in the case of a fraud on the  
20 partnership committed by or with the consent of the general  
21 partner. A limited partner's knowledge or notice of a fact  
22 relating to the partnership is not effective as knowledge of or  
23 notice to the partnership.

24 § 8614. Governing law.

25 (a) General rule.--The laws of this Commonwealth govern:

26 (1) the internal affairs of a limited partnership; and

27 (2) the liability of a partner as partner for the debts,  
28 obligations or other liabilities of a limited partnership.

29 (b) Cross reference.--See section 8615(c)(6) (relating to  
30 contents of partnership agreement).

1 § 8615. Contents of partnership agreement.

2 (a) Scope of partnership agreement.--Except as provided  
3 under subsections (c) and (d), the partnership agreement  
4 governs:

5 (1) relations among the partners as partners and between  
6 the partners and the limited partnership;

7 (2) the rights and duties under this title of a person  
8 in the capacity of a partner;

9 (3) the activities and affairs of the partnership and  
10 the conduct of those activities and affairs;

11 (4) the means and conditions for amending the  
12 partnership agreement; and

13 (5) the means and conditions for approving a transaction  
14 under Chapter 3 (relating to entity transactions).

15 (b) Title applies generally.--To the extent the partnership  
16 agreement does not provide for a matter described in subsection  
17 (a), this title governs the matter.

18 (c) Limitations.--A partnership agreement may not do any of  
19 the following:

20 (1) Vary a provision of Chapter 1 (relating to general  
21 provisions) or Subchapter A of Chapter 2 (relating to names).

22 (2) Vary the right of a partner to approve a merger,  
23 interest exchange, conversion, division or domestication  
24 under section 333(a)(2) (relating to approval of merger),  
25 343(a)(2) (relating to approval of interest exchange), ~~353(a)~~ <--  
26 ~~(2)~~ 353(A)(3) (relating to approval of conversion), 363(a)(2) <--  
27 (relating to approval of division) or 373(a)(2) (relating to  
28 approval of domestication).

29 (3) Vary the required contents of a plan of merger under  
30 section 332(a) (relating to plan of merger), plan of interest

1 exchange under section 342(a) (relating to plan of interest  
2 exchange), plan of conversion under section 352(a) (relating  
3 to plan of conversion), plan of division under section 362(a)  
4 (relating to plan of division) or plan of domestication under  
5 section 372(a) (relating to plan of domestication).

6 (4) Vary a provision of Chapter 81 (relating to general  
7 provisions) or 82 (relating to limited liability partnerships  
8 and limited liability limited partnerships).

9 (5) Vary the provisions of section 8611(b), (c), (d) and  
10 (e) (relating to short title and application of chapter).

11 (6) Vary the law applicable under section 8614 (relating  
12 to governing law).

13 (7) Vary any requirement, procedure or other provision  
14 of this title pertaining to:

15 (i) registered offices; or

16 (ii) the department, including provisions pertaining  
17 to ~~records~~ DOCUMENTS authorized or required to be <--  
18 delivered to the department for filing under this title.

19 (8) Vary a limited partnership's capacity under section  
20 8620(d) (relating to characteristics of limited partnership)  
21 to sue and be sued in its own name.

22 (9) Vary a provision of section 8620(e).

23 (10) Eliminate the duty of loyalty provided for in  
24 section 8649(b)(1)(i) or (ii) or (2) (relating to standards  
25 of conduct for general partners) or the duty of care, except  
26 as provided in subsection (d).

27 (11) Vary the contractual obligation of good faith and  
28 fair dealing under sections 8635(a) (relating to limited  
29 duties of limited partners) and 8649(d), except as provided  
30 in subsection (d).

1        (12) Provide indemnification against, or relieve or <--  
2 exonerate OR EXONERATION IN VIOLATION OF THE LIMITATIONS IN <--  
3 SECTIONS 8648(G) (RELATING TO REIMBURSEMENT, INDEMNIFICATION,  
4 ADVANCEMENT AND INSURANCE) AND 8649(I) TO a person from, <--  
5 liability for an action that has been determined by a court  
6 to constitute recklessness, willful misconduct or a knowing  
7 violation of law.

8        (13) Vary the information required under section 8618  
9 (relating to required information) or unreasonably restrict  
10 the duties and rights under section 8634 (relating to limited  
11 partner rights to information) or 8647 (relating to general  
12 partner rights to information), except as provided under  
13 subsection (d).

14        (14) Vary the power of a person to dissociate as a  
15 general partner under section 8664(a) (relating to power to  
16 dissociate as general partner and wrongful dissociation),  
17 except to require that the notice under section ~~8663(1)~~ <--  
18 8663(A) (1) (relating to dissociation as general partner) be <--  
19 in record form.

20        (15) Vary the causes of dissolution specified in section  
21 8681(a) (6) (relating to events causing dissolution).

22        (16) Vary the requirement to wind up the partnership's  
23 activities and affairs as specified in section 8682(a), (b)  
24 (1) and (d) (relating to winding up and filing of optional  
25 certificates).

26        (17) Unreasonably restrict the right of a partner to  
27 maintain an action under Subchapter I (relating to actions by  
28 partners).

29        (18) Vary the provisions of section ~~8695~~ 8694 (relating <--  
30 to special litigation committee), except that the partnership

1 agreement may provide that the partnership may not have a  
2 special litigation committee.

3 (19) Except as provided in section 8617(b) (relating to  
4 amendment and effect of partnership agreement), restrict the  
5 rights under this title of a person other than a partner.

6 (d) Rules.--Subject to subsection (c)(12), the following  
7 rules apply:

8 (1) The partnership agreement may:

9 (i) specify the method by which a specific act or  
10 transaction that would otherwise violate the duty of  
11 loyalty may be authorized or ratified by one or more  
12 disinterested and independent persons after full  
13 disclosure of all material facts;

14 (ii) alter the prohibition in section 8654(a)(2)  
15 (relating to limitations on distributions) so that the  
16 prohibition requires only that the partnership's total  
17 assets not be less than the sum of its total liabilities;  
18 and

19 (iii) impose reasonable restrictions on the  
20 availability and use of information obtained under  
21 section 8618, 8634 or 8647 and may define appropriate  
22 remedies, including liquidated damages, for a breach of  
23 any reasonable restriction on use.

24 (2) To the extent the partnership agreement expressly  
25 relieves a partner of a responsibility that the partner would  
26 otherwise have under this title and imposes the  
27 responsibility on one or more other partners, the agreement  
28 also may eliminate or limit any fiduciary duty of the partner  
29 relieved of the responsibility which would have pertained to  
30 the responsibility.

1       (3) If not manifestly unreasonable, the partnership  
2 agreement may:

3       (i) alter the aspects of the duty of loyalty stated  
4 in section 8649(b)(1)(i) or (ii) or (2);

5       (ii) identify specific types or categories of  
6 activities that do not violate the duty of loyalty;

7       (iii) alter the duty of care; and

<--

8       (iv) alter or eliminate any other fiduciary duty-;

<--

9       AND

10       (V) PRESCRIBE THE STANDARDS BY WHICH THE PERFORMANCE  
11 OF THE CONTRACTUAL OBLIGATION OF GOOD FAITH AND FAIR  
12 DEALING IS TO BE MEASURED.

13       (e) Determination of manifest unreasonableness.--A court  
14 shall decide as a matter of law whether a term of a partnership  
15 agreement is manifestly unreasonable under subsection (d)(3).

16 The court:

17       (1) shall make its determination as of the time the  
18 challenged term became part of the partnership agreement and  
19 by considering only circumstances existing at that time; and

20       (2) may invalidate the term only if, in light of the  
21 purposes, activities and affairs of the limited partnership,  
22 it is readily apparent that:

23       (i) the objective of the term is unreasonable; or

24       (ii) the term is an unreasonable means to achieve  
25 the term's objective.

26 § 8616. Application of partnership agreement.

27       (a) Partnership bound.--A limited partnership is bound by  
28 and may enforce the partnership agreement, whether or not the  
29 partnership has itself manifested assent to the agreement.

30       (b) Deemed assent.--A person that becomes a partner is

1 deemed to assent to the partnership agreement.

2 (c) Preformation agreement.--Two or more persons intending  
3 to become the initial partners of a limited partnership may make  
4 an agreement providing that upon the formation of the  
5 partnership the agreement will become the partnership agreement.

6 (d) Cross reference.--See section 8621 (relating to  
7 formation of limited partnership and certificate of limited  
8 partnership).

9 § 8617. Amendment and effect of partnership agreement.

10 (a) Approval of amendments.--A partnership agreement may  
11 specify that its amendment requires the approval of a person  
12 that is not a party to the agreement or the satisfaction of a  
13 condition. An amendment is ineffective if its adoption does not  
14 include the required approval or satisfy the specified  
15 condition.

16 (b) Obligations to nonpartners.--The obligations of a  
17 limited partnership and its partners to a person in the person's  
18 capacity as a transferee or person dissociated as a partner are  
19 governed by the partnership agreement. Except as provided in  
20 section 8653(d) (relating to sharing of and right to  
21 distributions before dissolution) or in a court order issued  
22 under section 8673(b) (2) (relating to charging order) to  
23 effectuate a charging order, an amendment to the partnership  
24 agreement made after a person becomes a transferee or is  
25 dissociated as a partner:

26 (1) is effective with regard to any debt, obligation or  
27 other liability of the partnership or its partners to the  
28 person in the person's capacity as a transferee or person  
29 dissociated as a partner; and

30 (2) is not effective to the extent the amendment imposes

1 a new debt, obligation or other liability on the transferee  
2 or person dissociated as a partner.

3 (c) Provisions in filed documents.--If a document delivered  
4 by a limited partnership to the department for filing becomes  
5 effective and contains a provision that would be ineffective  
6 under section 8615(c) or (d)(3) (relating to contents of  
7 partnership agreement) if contained in the partnership  
8 agreement, the provision is ineffective in the document.

9 (d) Conflicts with partnership agreement.--Subject to  
10 subsection (c):

11 (1) If a provision of the certificate of limited  
12 partnership conflicts with a provision of the partnership  
13 agreement, the provision of the certificate prevails.

14 (2) If a document other than its certificate of limited  
15 partnership that has been delivered by a limited partnership  
16 to the department for filing becomes effective and conflicts  
17 with a provision of the partnership agreement:

18 (i) the agreement prevails as to partners, persons  
19 dissociated as partners and transferees; and

20 (ii) the document prevails as to other persons to  
21 the extent they reasonably rely on the document.

22 (e) Prohibition of oral amendments.--If a provision of a  
23 partnership agreement in record form provides that the  
24 partnership agreement cannot be amended, modified or rescinded  
25 except in record form, an oral agreement, amendment,  
26 modification or rescission shall not be enforceable.

27 (F) VOTING REQUIREMENTS.--A PARTNERSHIP AGREEMENT MAY  
28 PROVIDE IN WRITING THAT, WHENEVER A PROVISION OF THIS TITLE  
29 REQUIRES THE VOTE OR CONSENT OF A SPECIFIED NUMBER OR PERCENTAGE  
30 OF PARTNERS OR OF A CLASS OF PARTNERS FOR THE TAKING OF ANY

<--

1 ACTION, A HIGHER NUMBER OR PERCENTAGE OF VOTES OR CONSENTS SHALL  
2 BE REQUIRED FOR THE ACTION. EXCEPT AS OTHERWISE PROVIDED IN THE  
3 PARTNERSHIP AGREEMENT, WHENEVER THE PARTNERSHIP AGREEMENT  
4 REQUIRES FOR THE TAKING OF ANY ACTION BY THE PARTNERS OR A CLASS  
5 OF PARTNERS A SPECIFIC NUMBER OR PERCENTAGE OF VOTES OR  
6 CONSENTS, THE PROVISION OF THE PARTNERSHIP AGREEMENT SETTING  
7 FORTH THAT REQUIREMENT SHALL NOT BE AMENDED OR REPEALED BY ANY  
8 LESSER NUMBER OR PERCENTAGE OF VOTES OR CONSENTS OF THE PARTNERS  
9 OR THE CLASS OF PARTNERS.

10 § 8618. Required information.

11 (a) General rule.--A limited partnership shall maintain at  
12 its principal office the following information:

13 (1) A current list showing the full name and last known  
14 street and mailing address of each partner, separately  
15 identifying the general partners, in alphabetical order, and  
16 the limited partners, in alphabetical order.

17 (2) A copy of the initial certificate of limited  
18 partnership and all amendments to and restatements of the  
19 certificate, together with signed copies of any powers of  
20 attorney under which any certificate, amendment or  
21 restatement has been signed.

22 (3) A copy of any filed certificate or statement of  
23 merger, interest exchange, conversion, division or  
24 domestication.

25 (4) A copy of the partnership's Federal, State and local  
26 income tax returns and reports, if any, for the three most  
27 recent years.

28 (5) A copy of any provisions of the partnership  
29 agreement in record form and any amendment made in record  
30 form to any partnership agreement.

1           (6) A copy of any financial statement of the partnership  
2 for the three most recent years.

3           (7) A copy of any record made by the partnership during  
4 the past three years of any consent given by or vote taken of  
5 any partner under this title or the partnership agreement.

6           (8) Unless contained in a provision of the partnership  
7 agreement in record form, a record stating:

8               (i) a description and statement of the agreed value  
9 of contributions other than money made and agreed to be  
10 made by each partner;

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

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

18               (iv) any events upon the happening of which the  
19 partnership is to be dissolved and its activities and  
20 affairs wound up.

21           (b) Cross reference.--See section 8615 (relating to contents  
22 of partnership agreement).

23 § 8619. Dual capacity.

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

1 partners. When the person acts as a limited partner, the person  
2 is subject to the obligations, duties and restrictions under  
3 this title and the partnership agreement for limited partners.  
4 § 8620. Characteristics of limited partnership.

5 (a) Separate entity.--A limited partnership is an entity  
6 distinct from its partners. A limited partnership is the same  
7 entity regardless of whether:

8 (1) its certificate of limited partnership states that  
9 the limited partnership is a limited liability limited  
10 partnership; or

11 (2) it has a statement of registration in effect under  
12 section 8201 (relating to scope).

13 (b) Purpose.--A limited partnership may have any lawful  
14 purpose, OTHER THAN ACTING AS A BANKING INSTITUTION, CREDIT <--  
15 UNION OR INSURER, regardless of whether the purpose is for  
16 profit. See section 8102 (relating to interchangeability of  
17 partnership, limited liability company and corporate forms of  
18 organization).

19 (c) Duration.--A limited partnership has perpetual duration.

20 (d) Powers.--A limited partnership has the capacity to sue  
21 and be sued in its own name and the power to do all things  
22 necessary or convenient to carry on its activities and affairs.

23 (e) Restrictions on nonprofit limited partnerships.--If a  
24 limited partnership has a purpose that is not for profit:

25 (1) Its purpose must be stated in the certificate of  
26 limited partnership.

27 (2) The partnership shall not distribute any part of its  
28 income or profits to its partners, but it may pay  
29 compensation in a reasonable amount to those persons for  
30 services rendered.

1       (3) The partnership may confer benefits on partners or  
2 nonpartners in conformity with its purposes, may repay  
3 capital contributions and may redeem evidences of  
4 indebtedness, except when the partnership is currently  
5 insolvent or would thereby be made insolvent or rendered  
6 unable to carry on its purposes, or when the fair value of  
7 the assets of the partnership remaining after the conferring  
8 of benefits, payment or redemption would be insufficient to  
9 meet its liabilities. The partnership may make distributions  
10 of money or property to partners upon dissolution or final  
11 liquidation as permitted by this chapter.

12       (4) If the partnership is organized for a charitable  
13 purpose, it may take, receive and hold real and personal  
14 property as may be given, devised to, or otherwise vested in  
15 the partnership, in trust, for the purpose or purposes set  
16 forth in its certificate of limited partnership. The general  
17 partners shall, as trustees of the property, be held to the  
18 same degree of responsibility and accountability as other  
19 trustees, unless:

20           (i) a lesser degree or a particular degree of  
21 responsibility and accountability is prescribed in the  
22 trust instrument; or

23           (ii) the general partners are under the control of  
24 the limited partners or third persons who retain the  
25 right to direct, and do direct, the actions of the  
26 general partners as to the use of the trust property from  
27 time to time.

28       (5) Property of the partnership committed to charitable  
29 purposes shall not, by any proceeding under Chapter 3  
30 (relating to entity transactions) or otherwise, be diverted

1 from the objects to which it was donated, granted or devised,  
2 unless and until the partnership obtains from the court an  
3 order under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying  
4 the disposition of the property.

5 (f) Cross references.--See sections 8611(d) (relating to  
6 short title and application of chapter) and 8615 (relating to  
7 contents of partnership agreement).

8 SUBCHAPTER B

9 FORMATION AND FILINGS

10 Sec.

11 8621. Formation of limited partnership and certificate of  
12 limited partnership.

13 8622. Amendment or restatement of certificate of limited  
14 partnership.

15 8623. Signing of filed documents.

16 8624. Liability of general partner for false or missing  
17 information in filed document.

18 8625. Registered office.

19 § 8621. Formation of limited partnership and certificate of  
20 limited partnership.

21 (a) Formation.--To form a limited partnership, a person must  
22 deliver a certificate of limited partnership to the department  
23 for filing.

24 (b) Required contents of certificate.--A certificate of  
25 limited partnership must state:

26 (1) the name of the limited partnership, which must  
27 comply with Subchapter A of Chapter 2 (relating to names);

28 (2) subject to section 109 (relating to name of  
29 commercial registered office provider in lieu of registered  
30 address), the address, including street and number, if any,

1 of the partnership's registered office; and

2 (3) the name and address of each general partner.

3 (c) Optional contents of certificate.--A certificate of  
4 limited partnership may contain statements as to matters other  
5 than those required under subsection (b), but may not vary or  
6 otherwise affect the provisions specified in section 8615(c) and  
7 (d) (relating to contents of partnership agreement) in a manner  
8 inconsistent with that section.

9 (d) Time of formation.--A limited partnership is formed  
10 when:

11 (1) the certificate of limited partnership becomes  
12 effective;

13 (2) at least two persons have become partners;

14 (3) at least one person has become a general partner;

15 and

16 (4) at least one person has become a limited partner.

17 (e) Cross references.--See:

18 Section 134 (relating to docketing statement).

19 Section 135 (relating to requirements to be met by filed  
20 documents).

21 Section 136(c) (relating to processing of documents by  
22 Department of State).

23 Section 8620 (relating to characteristics of limited  
24 partnership).

25 Section 8623 (relating to signing of filed documents).

26 § 8622. Amendment or restatement of certificate of limited  
27 partnership.

28 (a) General rule.--A certificate of limited partnership may  
29 be amended or restated at any time.

30 (b) Required contents of certificate of amendment.--To amend

1 its certificate of limited partnership, a limited partnership  
2 must deliver to the department for filing a certificate of  
3 amendment that states:

- 4 (1) the name of the partnership;  
5 (2) the date of filing of its initial certificate;  
6 (3) subject to section 109 (relating to name of  
7 commercial registered office provider in lieu of registered  
8 address), the address, including street and number, if any,  
9 of its registered office; and  
10 (4) the amendment.

11 (c) Restatement.--To restate its certificate of limited  
12 partnership, a limited partnership must deliver to the  
13 department for filing a certificate of amendment that:

- 14 (1) is designated as a restatement; and  
15 (2) includes a statement that the restated certificate  
16 supersedes the original certificate and all amendments.

17 (d) Required amendments.--A limited partnership shall  
18 promptly deliver to the department for filing an amendment to  
19 its certificate of limited partnership to reflect:

- 20 (1) the admission of a new general partner;  
21 (2) the dissociation of a person as a general partner;

22 or

- 23 (3) the appointment of a person to wind up the  
24 partnership's activities and affairs under section 8682(c) or  
25 (d) (relating to winding up and filing of optional  
26 certificates).

27 (e) Obligation to correct.--If a general partner knows that  
28 any information in a filed certificate of limited partnership is  
29 inaccurate, the general partner shall promptly:

- 30 (1) cause the certificate to be amended; or

1       (2) if appropriate, deliver to the department for  
2 filing:

3           (i) a certificate of change of registered office  
4 under section 8625 (relating to registered office);

5           (ii) a statement of correction under section 138  
6 (relating to statement of correction); or

7           (iii) a statement of abandonment under section 141  
8 (relating to abandonment of filing before effectiveness).

9       (F) AMENDMENT OF VOTING PROVISIONS.--EXCEPT AS PROVIDED IN <--  
10 THE CERTIFICATE OF LIMITED PARTNERSHIP, WHENEVER THE CERTIFICATE  
11 REQUIRES FOR THE TAKING OF ANY ACTION BY THE PARTNERS OR A CLASS  
12 OF PARTNERS A SPECIFIC NUMBER OR PERCENTAGE OF VOTES OR  
13 CONSENTS, THE PROVISION OF THE CERTIFICATE SETTING FORTH THAT  
14 REQUIREMENT SHALL NOT BE AMENDED OR REPEALED BY ANY LESSER  
15 NUMBER OR PERCENTAGE OF VOTES OR CONSENTS OF THE PARTNERS OR OF  
16 THE CLASS OF PARTNERS.

17       ~~(f)~~ (G) Cross references.--See: <--

18           Section 134 (relating to docketing statement).

19           Section 135 (relating to requirements to be met by filed  
20 documents).

21           Section 136(c) (relating to processing of documents by  
22 Department of State).

23           Section 8623 (relating to signing of filed documents).

24 § 8623. Signing of filed documents.

25       (a) Required signatures.--A EXCEPT AS PROVIDED IN THIS <--  
26 TITLE, A document delivered to the department for filing under  
27 this title relating to a limited partnership must be signed as  
28 follows:

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

1           (2) An amendment to the certificate of limited  
2 partnership deleting a statement that the limited partnership  
3 is a limited liability limited partnership must be signed by  
4 all general partners listed in the certificate.

5           (3) An amendment to the certificate of limited  
6 partnership designating as general partner a person admitted  
7 under section 8681(a)(3)(ii) (relating to events causing  
8 dissolution) following the dissociation of a limited  
9 partnership's last general partner must be signed by that  
10 person.

11           (4) An amendment to the certificate of limited  
12 partnership required by section 8682(c) (relating to winding  
13 up and filing of optional certificates) following the  
14 appointment of a person to wind up the dissolved limited  
15 partnership's activities and affairs must be signed by that  
16 person.

17           (5) Any other amendment to the certificate of limited  
18 partnership must be signed by:

19           (i) at least one general partner listed in the  
20 certificate;

21           (ii) each person designated in the amendment as a  
22 new general partner; and

23           (iii) each person that the amendment indicates has  
24 dissociated as a general partner, unless:

25           (A) the person is deceased or a guardian has  
26 been appointed for the person and the amendment so  
27 states; or

28           (B) the person has previously delivered to the  
29 department for filing a certificate of dissociation.

30           (6) A restated certificate of limited partnership must

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

6 (7) A certificate of termination must be signed by all  
7 general partners listed in the certificate of limited  
8 partnership or, if the certificate of a dissolved limited  
9 partnership lists no general partners, by the person  
10 appointed under section 8682(c) or (d) to wind up the  
11 dissolved limited partnership's activities and affairs.

12 (8) Any other document delivered by a limited  
13 partnership to the department for filing must be signed by at  
14 least one general partner listed in the certificate of  
15 limited partnership.

16 (9) A statement by a person under section 8665(a)(3)  
17 (relating to effects of dissociation as general partner)  
18 stating that the person has dissociated as a general partner  
19 must be signed by that person.

20 (10) A certificate of negation by a person under section  
21 8636 (relating to person erroneously believing self to be  
22 limited partner) must be signed by that person.

23 (11) Any other document delivered on behalf of a person  
24 to the department for filing must be signed by that person.

25 (b) Cross reference.--See section 142 (relating to effect of  
26 signing filings).

27 § 8624. Liability of general partner for false or missing  
28 information in filed document.

29 (a) General rule.--If a document delivered to the department  
30 for filing under this title and filed by the department contains

1 a materially false statement or fails to state a material fact  
2 required to be stated, a person that suffers loss by reasonable  
3 reliance on the statement or failure to state a material fact  
4 may recover damages for the loss from a general partner if:

5 (1) the document was delivered for filing on behalf of  
6 the limited partnership; and

7 (2) the general partner knew or had notice there was  
8 false or missing information in the document for a reasonably  
9 sufficient time before the document was relied upon so that,  
10 before the reliance, the general partner reasonably could  
11 have:

12 (i) effected an amendment under section 8622  
13 (relating to amendment or restatement of certificate of  
14 limited partnership);

15 (ii) filed a petition under section 144 (relating to  
16 signing and filing pursuant to judicial order); or

17 (iii) delivered to the department for filing:

18 (A) a certificate of change of registered office  
19 under section 8625 (relating to registered office);

20 (B) a statement of correction under section 138  
21 (relating to statement of correction); or

22 (C) a statement of abandonment under section 141  
23 (relating to abandonment of filing before  
24 effectiveness).

25 (b) Cross references.--See sections 142 (relating to effect  
26 of signing filings) and 143 (relating to liability for  
27 inaccurate information in filing).

28 § 8625. Registered office.

29 (a) General rule.--Every limited partnership shall have and  
30 continuously maintain in this Commonwealth a registered office

1 which may, but need not, be the same as its place of business.

2 (b) Change of registered office.--After formation, a change  
3 in the location of the registered office may be effected at any  
4 time by the limited partnership. Before the change becomes  
5 effective, the limited partnership shall amend its certificate  
6 of limited partnership under the provisions of this chapter to  
7 reflect the change in location, or shall deliver to the  
8 department for filing a certificate of change of registered  
9 office setting forth:

10 (1) The name of the limited partnership.

11 (2) The address, including street and number, if any, of  
12 its then registered office.

13 (3) The address, including street and number, if any, to  
14 which the registered office is to be changed.

15 (c) Alternative procedure.--A limited partnership may  
16 satisfy the requirements of this chapter concerning the  
17 maintenance of a registered office in this Commonwealth by  
18 setting forth in any document filed by the department under any  
19 provision of this title that permits or requires the statement  
20 of the address of its then registered office, in lieu of that  
21 address, the statement authorized by section 109(a) (relating to  
22 name of commercial registered office provider in lieu of  
23 registered address).

24 (d) Cross references.--See:

25 Section 108 (relating to change in location or status of  
26 registered office provided by agent).

27 Section 134 (relating to docketing statement).

28 Section 135 (relating to requirements to be met by filed  
29 documents).

30 Section 136(c) (relating to processing of documents by

1 Department of State).

2 Section 8615(c)(6) (relating to contents of partnership  
3 agreement).

4 Section 8623 (relating to signing of filed documents).

5 SUBCHAPTER C

6 LIMITED PARTNERS

7 Sec.

8 8631. Becoming a limited partner.

9 8632. No agency power of limited partner as limited partner.

10 8633. No liability as limited partner for limited partnership  
11 obligations.

12 8634. Limited partner rights to information.

13 8635. Limited duties of limited partners.

14 8636. Person erroneously believing self to be limited partner.

15 § 8631. Becoming a limited partner.

16 (a) Upon formation.--Upon formation of a limited  
17 partnership, a person becomes a limited partner as agreed among  
18 the persons that are to be the initial partners.

19 (b) After formation.--After formation, a person becomes a  
20 limited partner:

21 (1) as provided in the partnership agreement;

22 (2) as the result of a transaction effective under

23 Chapter 3 (relating to entity transactions);

24 (3) with the affirmative vote or consent of all the  
25 partners; or

26 (4) as provided in section 8681(a)(4) or (5) (relating  
27 to events causing dissolution).

28 (c) Noneconomic limited partners.--A person may become a  
29 limited partner without:

30 (1) acquiring a transferable interest; or

1           (2) making or being obligated to make a contribution to  
2           the limited partnership.

3           (d) Nature of interest.--The interest of a limited partner  
4           in a limited partnership is personal property.

5           § 8632. No agency power of limited partner as limited partner.

6           (a) General rule.--A limited partner is not an agent of a  
7           limited partnership solely by reason of being a limited partner.

8           (b) Creation of partnership liability.--A person's status as  
9           a limited partner does not prevent or restrict law other than  
10           this chapter from imposing liability on a limited partnership  
11           because of the person's conduct.

12           § 8633. No liability as limited partner for limited partnership  
13           obligations.

14           A debt, obligation or other liability of a limited  
15           partnership is not the debt, obligation or other liability of a  
16           limited partner. A limited partner is not personally liable,  
17           directly or indirectly, by way of contribution or otherwise, for  
18           a debt, obligation or other liability of the partnership solely  
19           by reason of being or acting as a limited partner, even if the  
20           limited partner participates in the management and control of  
21           the partnership. This subsection applies regardless of the  
22           dissolution, winding up or termination of the partnership.

23           § 8634. Limited partner rights to information.

24           (a) Right to required information.--Within 10 days after  
25           receipt by a limited partnership of a demand made in record  
26           form, a limited partner may inspect and copy required  
27           information during regular business hours in the partnership's  
28           principal office. The limited partner need not have any  
29           particular purpose for seeking the information.

30           (b) Right to other information.--During regular business

1 hours and at a reasonable location specified by the limited  
2 partnership, a limited partner may inspect and copy information,  
3 other than the required information, regarding the activities,  
4 affairs, financial condition and other circumstances of the  
5 partnership if:

6 (1) the limited partner seeks the information for a  
7 purpose reasonably related to the partner's interest as a  
8 limited partner;

9 (2) the limited partner makes a demand in record form  
10 received by the partnership, describing with reasonable  
11 particularity the information sought and the purpose for  
12 seeking the information; and

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

15 (c) Rights of person dissociated as limited partner.--

16 Subject to subsection (h), on demand made in record form  
17 received by a limited partnership, a person dissociated as a  
18 limited partner may have access to information to which the  
19 person was entitled while a limited partner if:

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

22 (2) in seeking the information the person complies with  
23 section 8635(a) (relating to limited duties of limited  
24 partners) as if still a limited partner; and

25 (3) the person satisfies the requirements imposed on a  
26 limited partner by subsection (b).

27 (d) Required response to demand.--Within 10 days after  
28 receiving a demand under subsection (b) or (c), the limited  
29 partnership shall inform in record form the person that made the  
30 demand of:

1       (1) what information the partnership will provide in  
2 response to the demand and when and where the partnership  
3 will provide the information; and

4       (2) the partnership's reasons for declining, if the  
5 partnership declines to provide any demanded information.

6       (e) Copying costs.--A limited partnership may charge a  
7 person that makes a demand under this section the reasonable  
8 costs of copying, limited to the costs of labor and materials.

9       (f) Rights of agent or guardian.--A limited partner or  
10 person dissociated as a limited partner may exercise the rights  
11 under this section through an agent or, in the case of an  
12 individual under legal disability, a guardian. Any restriction  
13 or condition imposed by the partnership agreement or under  
14 subsection (h) applies both to the agent or guardian and to the  
15 limited partner or person dissociated as a limited partner.

16       (g) No rights of transferee.--Subject to section 8674  
17 (relating to power of personal representative of deceased  
18 partner), the rights under this section do not extend to a  
19 person as transferee.

20       (h) Limitations on access.--In addition to any restriction  
21 or condition stated in its partnership agreement, a limited  
22 partnership, as a matter within the ordinary course of its  
23 activities and affairs, may impose reasonable restrictions and  
24 conditions on access to and use of information to be furnished  
25 under this section, including designating information  
26 confidential and imposing nondisclosure and safeguarding  
27 obligations on the recipient. In a dispute concerning the  
28 reasonableness of a restriction under this subsection, the  
29 partnership has the burden of proving reasonableness.

30       (i) Cross reference.--See section 8615 (relating to contents

1 of partnership agreement).

2 § 8635. Limited duties of limited partners.

3 (a) Good faith and fair dealing.--A limited partner shall  
4 discharge any duties to the limited partnership and the other  
5 partners under the partnership agreement and exercise any rights  
6 under this title or the partnership agreement consistently with  
7 the contractual obligation of good faith and fair dealing.

8 (b) No other duties.--Except as provided under subsection  
9 (a), a limited partner does not have any duty to the limited  
10 partnership or to any other partner solely by reason of acting  
11 as a limited partner.

12 (c) Transactions with limited partnership.--If a limited  
13 partner enters into a transaction with a limited partnership,  
14 the limited partner's rights and obligations arising from the  
15 transaction are the same as those of a person that is not a  
16 partner.

17 (d) Cross reference.--See section 8615(c)(11) (relating to  
18 contents of partnership agreement).

19 § 8636. Person erroneously believing self to be limited  
20 partner.

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

29 (1) causes an appropriate certificate of limited  
30 partnership, amendment or statement of correction to be

1 signed and delivered to the department for filing;

2 (2) if a certificate of limited partnership is on file  
3 in the department, withdraws from future participation as an  
4 owner in the enterprise by delivering to the department for  
5 filing a certificate of negation under this section stating:

6 (i) the name of the limited partnership;

7 (ii) subject to section 109 (relating to name of  
8 commercial registered office provider in lieu of  
9 registered address), the address, including street and  
10 number, if any, of the partnership's registered office;

11 (iii) the name of the person delivering the  
12 certificate to the department for filing; and

13 (iv) that the person is not a general partner; or

14 (3) files a certificate of denial under section 8434  
15 (relating to certificate of denial) as if the enterprise were  
16 a general partnership.

17 (b) Liability before correction.--A person that makes an  
18 investment described in subsection (a) is liable to the same  
19 extent as a general partner to any third party that enters into  
20 a transaction with the enterprise, believing in good faith that  
21 the person is a general partner, before the department files a  
22 certificate of negation, certificate of limited partnership,  
23 amendment or statement of correction to show that the person is  
24 not a general partner.

25 (c) Right to withdraw.--If a person makes a diligent effort  
26 in good faith to comply with subsection (a)(1) and is unable to  
27 cause the appropriate certificate of limited partnership,  
28 amendment or statement of correction to be signed and delivered  
29 to the department for filing, the person has the right to  
30 withdraw from the enterprise under subsection (a)(2) even if the

1 withdrawal would otherwise breach an agreement with others that  
2 are or have agreed to become co-owners of the enterprise.

3 (d) Cross references.--See:

4 Section 134 (relating to docketing statement).

5 Section 135 (relating to requirements to be met by filed  
6 documents).

7 Section 136(c) (relating to processing of documents by  
8 Department of State).

9 Section 8623 (relating to signing of filed documents).

10 SUBCHAPTER D

11 GENERAL PARTNERS

12 Sec.

13 8641. Becoming a general partner.

14 8642. General partner agent of limited partnership.

15 8643. Limited partnership liable for general partner's  
16 actionable conduct.

17 8644. General partner's liability.

18 8645. Actions by and against partnership and partners.

19 8646. Management rights.

20 8647. General partner rights to information.

21 8648. Reimbursement, indemnification, advancement and  
22 insurance.

23 8649. Standards of conduct for general partners.

24 § 8641. Becoming a general partner.

25 (a) Admission on formation.--On formation of a limited  
26 partnership, a person becomes a general partner as agreed among  
27 the persons that are to be the initial partners.

28 (b) Admission after formation.--After formation of a limited  
29 partnership, a person becomes a general partner:

30 (1) as provided in the partnership agreement;

1           (2) as the result of a transaction effective under  
2           Chapter 3 (relating to entity transactions);

3           (3) with the affirmative vote or consent of all the  
4           partners; or

5           (4) under section 8681(a)(3)(ii) or (5) (relating to  
6           events causing dissolution) following the dissociation of a  
7           limited partnership's last general partner.

8           (c) Noneconomic general partners.--A person may become a  
9           general partner without:

10           (1) acquiring a transferable interest; or

11           (2) making or being obligated to make a contribution to  
12           the partnership.

13           (d) Nature of interest.--The interest of a general partner  
14           in a limited partnership is personal property.

15           § 8642. General partner agent of limited partnership.

16           (a) General rule.--Each general partner is an agent of the  
17           limited partnership for the purposes of its activities and  
18           affairs. An act of a general partner, including the signing of a  
19           document in record form in the partnership's name, for  
20           apparently carrying on in the ordinary course the partnership's  
21           activities and affairs, or activities and affairs of the kind  
22           carried on by the partnership, binds the partnership, unless the  
23           general partner did not have authority to act for the  
24           partnership in the particular matter and the person with which  
25           the general partner was dealing knew or had notice that the  
26           general partner lacked authority.

27           (b) Act outside of ordinary course.--An act of a general  
28           partner which is not apparently for carrying on in the ordinary  
29           course the limited partnership's activities and affairs, or  
30           activities and affairs of the kind carried on by the

1 partnership, binds the partnership only if the partner had  
2 actual authority to take the action.

3 § 8643. Limited partnership liable for general partner's  
4 actionable conduct.

5 (a) General rule.--A limited partnership is liable for loss  
6 or injury caused to a person or for a penalty incurred as a  
7 result of a wrongful act, or other actionable conduct, of a  
8 general partner acting in the ordinary course of activities and  
9 affairs of the partnership or with the actual or apparent  
10 authority of the partnership.

11 (b) Misapplication of property.--If, in the course of a  
12 limited partnership's activities and affairs or while acting  
13 with actual or apparent authority of the partnership, a general  
14 partner receives or causes the partnership to receive money or  
15 property of a person not a partner, and the money or property is  
16 misapplied by a general partner, the partnership is liable for  
17 the loss.

18 § 8644. General partner's liability.

19 (a) General rule.--Except as provided under subsection (b)  
20 or section 8204 (relating to limitation on liability of  
21 partners), all general partners are liable jointly and severally  
22 for all debts, obligations and other liabilities of the limited  
23 partnership unless otherwise agreed by the claimant or provided  
24 by law.

25 (b) Preexisting obligations.--A person that becomes a  
26 general partner is not personally liable for a debt, obligation  
27 or other liability of the limited partnership incurred before  
28 the person became a general partner.

29 § 8645. Actions by and against partnership and partners.

30 (a) General partner as party.--To the extent not

1 inconsistent with section 8644 (relating to general partner's  
2 liability), a general partner may be joined in an action against  
3 the limited partnership or named in a separate action.

4 (b) Judgment against partnership only.--A judgment against a  
5 partnership:

6 (1) is not by itself a judgment against a partner; and  
7 (2) except as set forth in subsection (c), may not be  
8 satisfied from a partner's assets.

9 (c) Judgment against partnership and partner.--If there is a  
10 judgment against a partnership and a partner on the same claim,  
11 the judgment creditor may levy execution against the assets of  
12 the partner if both of the following paragraphs apply:

13 (1) The partner is personally liable for the claim under  
14 section 8644.

15 (2) One of the following subparagraphs applies:

16 (i) A writ of execution on the judgment against the  
17 partnership has been returned unsatisfied in whole or in  
18 part.

19 (ii) The partnership is a debtor in bankruptcy.

20 (iii) The partner has agreed that the creditor need  
21 not exhaust partnership assets.

22 (iv) A court grants permission to levy execution  
23 based on a finding that:

24 (A) partnership assets subject to execution are  
25 clearly insufficient to satisfy the judgment;

26 (B) exhaustion of partnership assets is  
27 excessively burdensome; or

28 (C) the grant of permission is an appropriate  
29 exercise of the court's equitable powers.

30 (v) Liability is imposed on the partner by law or

1 contract independent of the existence of the partnership.

2 § 8646. Management rights.

3 (a) General rule.--Each general partner has equal rights in  
4 the management and conduct of the limited partnership's  
5 activities and affairs. Except as provided in this title, any  
6 matter relating to the activities and affairs of the partnership  
7 is decided exclusively by the general partner or, if there is  
8 more than one general partner, by a majority of the general  
9 partners.

10 (b) Actions requiring unanimous approval.--The affirmative  
11 vote or consent of all the partners is required to:

12 (1) amend the partnership agreement; AND <--

13 (2) amend the certificate of limited partnership to  
14 delete a statement that the limited partnership is a limited  
15 liability limited partnership.; and <--

16 ~~(3) sell, lease, exchange, or otherwise dispose of all,~~  
17 ~~or substantially all, of the limited partnership's property,~~  
18 ~~with or without the goodwill, other than in the usual and~~  
19 ~~regular course of the partnership's activities and affairs.~~

20 (c) Reimbursement of advance.--A limited partnership shall  
21 reimburse a general partner for an advance to the partnership  
22 beyond the amount of capital the general partner agreed to  
23 contribute.

24 (d) Status of advance.--A payment or advance made by a  
25 general partner which gives rise to an obligation of the limited  
26 partnership under subsection (c) or section 8648(a) (relating to  
27 reimbursement, indemnification, advancement and insurance)  
28 constitutes a loan to the partnership which accrues interest  
29 from the date of the payment or advance.

30 (e) No right to remuneration.--A general partner is not

1 entitled to remuneration for services performed for the limited  
2 partnership.

3 (F) SALE OF ASSETS.--A SALE, LEASE, EXCHANGE OR OTHER <--  
4 DISPOSITION OF ALL, OR SUBSTANTIALLY ALL, THE PROPERTY AND  
5 ASSETS OF A LIMITED PARTNERSHIP THAT IS NOT MADE IN THE USUAL  
6 AND REGULAR COURSE OF THE BUSINESS OF THE PARTNERSHIP MUST BE  
7 APPROVED BY:

8 (1) ALL THE GENERAL PARTNERS; AND

9 (2) LIMITED PARTNERS OWNING THE RIGHTS TO RECEIVE A  
10 MAJORITY OF THE DISTRIBUTIONS AS LIMITED PARTNERS.

11 ~~(f) (G) Cross reference.--See section 324 (relating to~~ <--  
12 ~~approval by limited partnership).~~

13 § 8647. General partner rights to information.

14 (a) Right to required information.--A general partner may  
15 inspect and copy required information during regular business  
16 hours in the limited partnership's principal office, without <--  
17 having any particular purpose for seeking the information.

18 (b) Right to other information.--On reasonable notice, a  
19 general partner may inspect and copy during regular business  
20 hours, at a reasonable location specified by the limited  
21 partnership, any record OTHER RECORDS maintained by the <--

22 partnership IN ADDITION TO THE REQUIRED INFORMATION regarding <--  
23 the partnership's activities, affairs, financial condition and  
24 other circumstances, to the extent the information is material <--  
25 to the general partner's rights and duties under the partnership  
26 agreement or this title.

27 (c) Obligation of limited partnership.--A limited  
28 partnership shall furnish to each general partner: <--

29 ~~(1) —, without demand, any information concerning the~~ <--  
30 ~~partnership's activities, affairs, financial condition and~~

1 other circumstances which the partnership knows and is  
2 material to the proper exercise of the general partner's  
3 rights and duties under the partnership agreement or this  
4 title, except to the extent the partnership can establish  
5 that it reasonably believes the general partner already knows  
6 the information.; and <--

7 ~~(2) on demand, any other information concerning the~~  
8 ~~partnership's activities, affairs, financial condition and~~  
9 ~~other circumstances, except to the extent the demand or the~~  
10 ~~information demanded is unreasonable or otherwise improper~~  
11 ~~under the circumstances.~~

12 (d) Obligation of general partner.--The duty to furnish  
13 information under subsection (c) also applies to each general  
14 partner to the extent the general partner knows any of the  
15 information described in subsection (b).

16 (e) Rights of person dissociated as general partner.--  
17 Subject to subsection (j), within 10 days after receipt by a  
18 limited partnership of a demand made in record form, a person  
19 dissociated as a general partner may have access to the  
20 information and records described under subsections (a) and (b)  
21 at the locations specified under subsections (a) and (b) if:

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

24 (2) in seeking the information or record the person  
25 complies with section 8649(d) (relating to standards of  
26 conduct for general partners) as if still a general partner;  
27 and

28 (3) all of the following apply:

29 (i) the person seeks the information for a purpose  
30 reasonably related to the partner's interest as a former

1 general partner;

2 (ii) the person makes a demand in record form  
3 received by the partnership, describing with reasonable  
4 particularity the information sought and the purpose for  
5 seeking the information; and

6 (iii) the information sought is directly connected  
7 to the person's purpose.

8 (f) Required response to demand.--Within 10 days after  
9 receiving a demand under subsection (e), the limited partnership  
10 shall, in record form, inform the person that made the demand  
11 of:

12 (1) what information the partnership will provide in  
13 response to the demand and when and where the partnership  
14 will provide the information; and

15 (2) the partnership's reasons for declining, if the  
16 partnership declines to provide any demanded information.

17 (g) Copying costs.--A limited partnership may charge a  
18 person that makes a demand under this section the reasonable  
19 costs of copying.

20 (h) Rights of agent or guardian.--A general partner or  
21 person dissociated as a general partner may exercise the rights  
22 under this section through an agent or, in the case of an  
23 individual under legal disability, a guardian. Any restriction  
24 or condition imposed by the partnership agreement or under  
25 subsection (j) applies both to the agent or guardian and to the  
26 general partner or person dissociated as a general partner.

27 (i) No rights of transferee.--The rights under this section  
28 do not extend to a person as transferee, except that if:

29 (1) a general partner dies, section 8674 (relating to  
30 power of personal representative of deceased partner)

1 applies; and

2 (2) an individual dissociates as a general partner under  
3 section ~~8663(7)(ii)~~ 8663(A)(7)(II) or (iii) (relating to <--  
4 dissociation as general partner), the personal representative  
5 of the individual may exercise the rights under subsection  
6 (d) of a person dissociated as a general partner.

7 (j) Limitations on access.--In addition to any restriction  
8 or condition stated in its partnership agreement, a limited  
9 partnership, as a matter within the ordinary course of its  
10 activities and affairs, may impose reasonable restrictions and  
11 conditions on access to and use of information to be furnished  
12 under this section, including designating information  
13 confidential and imposing nondisclosure and safeguarding  
14 obligations on the recipient. In a dispute concerning the  
15 reasonableness of a restriction under this subsection, the  
16 partnership has the burden of proving reasonableness.

17 (k) Cross reference.--See section 8615 (relating to contents  
18 of partnership agreement).

19 § 8648. Reimbursement, indemnification, advancement and  
20 insurance.

21 (a) Reimbursement.--A limited partnership shall reimburse a  
22 general partner for any payment made by the general partner in  
23 the course of the general partner's activities on behalf of the  
24 partnership, if the general partner complied with sections 8646  
25 (relating to management rights), 8649 (relating to standards of  
26 conduct for general partners) and 8654 (relating to limitations  
27 on distributions) in making the payment.

28 (b) Indemnification.--A limited partnership shall indemnify  
29 and hold harmless a person with respect to any claim or demand  
30 against the person and any debt, obligation or other liability

1 incurred by the person by reason of the person's former or  
2 present capacity as a general partner, if the claim, demand,  
3 debt, obligation or other liability does not arise from the  
4 person's breach of section 8646, 8649 or 8654.

5 (c) Advancement.--In the ordinary course of its activities  
6 and affairs, a limited partnership may advance reasonable  
7 expenses, including attorney fees and costs, incurred by a  
8 person in connection with a claim or demand against the person  
9 by reason of the person's former or present capacity as a  
10 general partner, if the person promises to repay the partnership  
11 if the person ultimately is determined not to be entitled to be  
12 indemnified.

13 (d) Insurance.--A limited partnership may purchase and  
14 maintain insurance on behalf of a general partner against  
15 liability asserted against or incurred by the general partner in  
16 that capacity or arising from that status even if, under section <--  
17 8615(c)(11) (relating to contents of partnership agreement)  
18 SUBSECTION (G), the partnership agreement could not eliminate or <--  
19 limit the person's liability to the partnership for the conduct  
20 giving rise to the liability.

21 (e) Non-exclusivity.--The rights provided under subsections  
22 (a), (b), (c) and (d) shall not be deemed exclusive of any other  
23 rights to which a person seeking reimbursement, indemnification,  
24 advancement of expenses or insurance may be entitled under the  
25 partnership agreement, vote of partners, contract or otherwise,  
26 both as to action in his official capacity and as to action in  
27 another capacity while holding that position. Section 8649(f)  
28 shall be applicable to a vote, contract or other action under  
29 this subsection. A limited partnership may create a fund of any  
30 nature, which may, but need not be, under the control of a

1 trustee, or otherwise secure or insure in any manner its  
2 indemnification obligations, whether arising under this section  
3 or otherwise.

4 (f) Grounds.--Indemnification under subsection (e) may be  
5 granted for any action taken and may be made whether or not the  
6 limited partnership would have the power to indemnify the person  
7 under any other provision of law except as provided in THIS <--  
8 section ~~8615(e)(11)~~ and whether or not the indemnified liability <--  
9 arises or arose from any threatened, pending or completed action  
10 by or in the right of the partnership. Indemnification under  
11 subsection (e) is declared to be consistent with the public  
12 policy of the Commonwealth.

13 (G) LIMITATION.--INDEMNIFICATION UNDER THIS SECTION SHALL <--  
14 NOT BE MADE IN ANY CASE WHERE THE ACT GIVING RISE TO THE CLAIM  
15 FOR INDEMNIFICATION IS DETERMINED BY A COURT TO CONSTITUTE  
16 RECKLESSNESS, WILLFUL MISCONDUCT OR A KNOWING VIOLATION OF LAW.  
17 § 8649. Standards of conduct for general partners.

18 (a) General rule.--A general partner owes to the limited  
19 partnership and, subject to section 8691 (relating to direct  
20 action by partner), the other partners the duties of loyalty and  
21 care stated in subsections (b) and (c).

22 (b) Duty of loyalty.--The fiduciary duty of loyalty of a  
23 general partner includes the duties:

24 (1) to account to the limited partnership and hold as  
25 trustee for it any property, profit or benefit derived by the  
26 general partner:

27 (i) in the conduct or winding up of the  
28 partnership's activities and affairs;

29 (ii) from a use by the general partner of the  
30 partnership's property; or

1           (iii) from the appropriation of a partnership  
2           opportunity;

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

7           (3) to refrain from competing with the partnership in  
8           the conduct or winding up of the partnership's activities and  
9           affairs.

10          (c) Duty of care.--The duty of care of a general partner in  
11          the conduct or winding up of the limited partnership's  
12          activities and affairs is to refrain from engaging in grossly  
13          negligent or reckless conduct, willful or intentional misconduct  
14          or knowing violation of law.

15          (d) Good faith and fair dealing.--A general partner shall  
16          discharge the duties and obligations under this title or under  
17          the partnership agreement and exercise any rights consistent  
18          with the contractual obligation of good faith and fair dealing.

19          (e) Self-serving conduct.--A general partner does not  
20          violate a duty or obligation under this title or under the  
21          partnership agreement solely because the general partner's  
22          conduct furthers the general partner's own interest.

23          (f) Authorization or ratification.--All the partners of a  
24          limited partnership may authorize or ratify, after full  
25          disclosure of all material facts, a specific act or transaction  
26          that otherwise would violate the duty of loyalty of a general  
27          partner.

28          (g) Fairness as a defense.--It is a defense to a claim under  
29          subsection (b) (2) and any comparable claim in equity or at  
30          common law that the transaction was fair to the limited

1 partnership at the time it is authorized or ratified under  
2 subsection (f).

3 (h) Rights and obligations in approved transactions.--If a  
4 general partner enters into a transaction with the limited  
5 partnership which otherwise would be prohibited by subsection  
6 (b) (2) and the transaction is authorized or ratified as provided  
7 in subsection (f) or the partnership agreement, the general  
8 partner's rights and obligations arising from the transaction  
9 are the same as those of a person that is not a general partner.

10 (I) EXONERATION.--THE PARTNERSHIP AGREEMENT MAY PROVIDE THAT <--  
11 A GENERAL PARTNER SHALL NOT BE PERSONALLY LIABLE FOR MONETARY  
12 DAMAGES TO THE PARTNERSHIP OR THE OTHER PARTNER FOR A BREACH OF  
13 SUBSECTION (C), EXCEPT THAT A GENERAL PARTNER MAY NOT BE  
14 EXONERATED FOR AN ACT THAT CONSTITUTES RECKLESSNESS, WILLFUL  
15 MISCONDUCT OR A KNOWING VIOLATION OF LAW.

16 ~~(i)~~ (J) Cross reference.--See section 8615 (relating to <--  
17 contents of partnership agreement).

18 SUBCHAPTER E

19 CONTRIBUTIONS AND DISTRIBUTIONS

20 Sec.

21 8651. Form of contribution.

22 8652. Liability for contribution.

23 8653. Sharing of and right to distributions before dissolution.

24 8654. Limitations on distributions.

25 8655. Liability for improper distributions.

26 § 8651. Form of contribution.

27 A contribution may consist of:

28 (1) property transferred to, services performed for or  
29 another benefit provided to the limited partnership;

30 (2) an agreement to transfer property to, perform

1 services for or provide another benefit to the partnership;  
2 or  
3 (3) any combination of items listed in paragraphs (1)  
4 and (2).

5 § 8652. Liability for contribution.

6 (a) Obligation not excused.--A person's obligation to make a  
7 contribution to a limited partnership is not excused by the  
8 person's death, disability, termination or other inability to  
9 perform personally.

10 (b) Substitute payment.--If a person does not fulfill an  
11 obligation to make a contribution other than money, the person  
12 is obligated at the option of the limited partnership to  
13 contribute money equal to the value, as stated in the required  
14 information, of the part of the contribution which has not been  
15 made.

16 (c) Compromise of obligation.--The obligation of a person to  
17 make a contribution may be compromised only by the affirmative  
18 vote or consent of all the partners. If a creditor of a limited  
19 partnership extends credit or otherwise acts in reliance on an  
20 obligation described in subsection (a) without knowledge or  
21 notice of a compromise under this subsection, the creditor may  
22 enforce the obligation.

23 § 8653. Sharing of and right to distributions before  
24 dissolution.

25 (a) General rule.--Any distribution made by a limited  
26 partnership before its dissolution and winding up must be shared  
27 among the partners and persons dissociated as partners on the  
28 basis of the value, as stated in the required information when  
29 the limited partnership decides to make the distribution, of the  
30 contributions the limited partnership has received from each

1 partner, except to the extent necessary to comply with a <--  
2 transfer effective under section 8672 AS PROVIDED IN SECTION <--  
3 8672(B) (relating to transfer of transferable interest) or TO <--  
4 THE EXTENT NECESSARY TO COMPLY WITH A charging order in effect  
5 under section 8673 (relating to charging order).

6 (b) No entitlement to distribution.--A person has a right to  
7 a distribution before the dissolution and winding up of a  
8 limited partnership only if the partnership decides to make an  
9 interim distribution. A person's dissociation does not entitle  
10 the person to a distribution.

11 (c) Distribution in kind.--A person does not have a right to  
12 demand or receive a distribution from a limited partnership in  
13 any form other than money. Except as provided under section  
14 8690(f) (relating to disposition of assets in winding up and  
15 required contributions), a partnership may distribute an asset  
16 in kind only if each part of the asset is fungible with each  
17 other part and each person receives a percentage of the asset  
18 equal in value to the person's share of distributions.

19 (d) Status as creditor.--If a partner or transferee becomes  
20 entitled to receive a distribution, the partner or transferee  
21 has the status of, and is entitled to all remedies available to,  
22 a creditor of the limited partnership with respect to the  
23 distribution, except that the partnership's obligation to make a  
24 distribution is subject to offset for any amount owed to the  
25 partnership by the partner or a person dissociated as a partner  
26 on whose account the distribution is made.

27 § 8654. Limitations on distributions.

28 (a) General rule.--A limited partnership may not make a  
29 distribution, including a distribution under section 8690  
30 (relating to disposition of assets in winding up and required

1 contributions), if after the distribution:

2 (1) the partnership would not be able to pay its debts  
3 as they become due in the ordinary course of the  
4 partnership's activities and affairs; or

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

12 (b) Valuation.--A limited partnership may base a  
13 determination that a distribution is not prohibited under  
14 subsection (a) (2) on:

15 (1) the book values of the assets and liabilities of the  
16 partnership, as reflected on its books and records;

17 (2) a valuation that takes into consideration unrealized  
18 appreciation and depreciation or other changes in value of  
19 the assets and liabilities of the partnership;

20 (3) the current value of the assets and liabilities of  
21 the partnership, either valued separately or valued in  
22 segments or as an entirety as a going concern; or

23 (4) any other method that is reasonable in the  
24 circumstances.

25 (c) Excluded liabilities.--In determining whether a  
26 distribution is prohibited by subsection (a) (2), the limited  
27 partnership need not consider obligations and liabilities unless  
28 they are required to be reflected on a balance sheet, not  
29 including the notes to the balance sheet, prepared on the basis  
30 of generally accepted accounting principles or other such

1 accounting practices and principles as are used generally by the  
2 partnership in the maintenance of its books and records and as  
3 are reasonable in the circumstances.

4 (d) Measuring date of distribution.--Except as provided in  
5 subsection (e), the effect of a distribution under subsection  
6 (a) is measured:

7 (1) as of the date specified by the limited partnership  
8 when it authorizes the distribution if the distribution  
9 occurs within 125 days of the earlier of the date so  
10 specified or the date of authorization; or

11 (2) as of the date of distribution in all other cases.

12 (e) Date of redemption.--In the case of a distribution  
13 described in paragraph (1) of the definition of "distribution"  
14 in section 8612 (relating to definitions), the distribution is  
15 deemed to occur as of the earlier of the date money or other  
16 property is transferred or debt is incurred by the limited  
17 partnership or the date the person entitled to the distribution  
18 ceases to own the interest or right being acquired by the  
19 partnership in return for the distribution.

20 (f) Status of distribution debt.--The indebtedness of a  
21 limited partnership to a partner or transferee incurred by  
22 reason of a distribution made in accordance with this section  
23 shall be at least on a parity with the partnership's  
24 indebtedness to its general, unsecured creditors, except to the  
25 extent subordinated by agreement.

26 (g) Certain subordinated debt.--The indebtedness of a  
27 limited partnership, including indebtedness issued as a  
28 distribution, is not a liability for purposes of subsection (a)  
29 if the terms of the indebtedness provide that payment of  
30 principal and interest is made only if and to the extent that

1 payment of a distribution could then be made under this  
2 section. If the indebtedness is issued as a distribution, each  
3 payment of principal or interest is treated as a distribution,  
4 the effect of which is measured on the date the payment is made.

5 (h) Distributions in winding up.--In measuring the effect of  
6 a distribution under section 8690, the liabilities of a  
7 dissolved limited partnership do not include any claim that has  
8 been barred under section 8686 (relating to known claims against  
9 dissolved limited partnership) or 8687 (relating to other claims  
10 against dissolved limited partnership), or for which security  
11 has been provided under section 8688 (relating to court  
12 proceedings).

13 (i) Cross references.--See sections 8615(d)(1)(ii) (relating  
14 to contents of partnership agreement) and 8649 (relating to  
15 standards of conduct for general partners).  
16 § 8655. Liability for improper distributions.

17 (a) General rule.--If a general partner consents to a  
18 distribution made in violation of section 8654 (relating to  
19 limitations on distributions) and in consenting to the  
20 distribution fails to comply with section 8649 (relating to  
21 standards of conduct for general partners), the general partner  
22 is personally liable to the limited partnership for the amount  
23 of the distribution which exceeds the amount that could have  
24 been distributed without the violation of section 8654.

25 (b) Recipients.--A person that receives a distribution  
26 knowing that the distribution violated section 8654 is  
27 personally liable to the limited partnership but only to the  
28 extent that the distribution received by the person exceeded the  
29 amount that could have been properly paid under section 8654.

30 (c) Contribution.--A general partner against which an action

1 is commenced because the general partner is liable under  
2 subsection (a) may:

3 (1) join any other person that is liable under  
4 subsection (a) or otherwise seek to enforce a right of  
5 contribution from the person; and

6 (2) join any person that received a distribution in  
7 violation of subsection (b) or otherwise seek to enforce a  
8 right of contribution from the person in the amount the  
9 person received in violation of subsection (b).

10 (d) Statute of repose.--An action under this section is  
11 barred unless commenced within two years after the distribution.

12 SUBCHAPTER F

13 DISSOCIATION

14 Sec.

15 8661. Dissociation as limited partner.

16 8662. Effects of dissociation as limited partner.

17 8663. Dissociation as general partner.

18 8664. Power to dissociate as general partner and wrongful  
19 dissociation.

20 8665. Effects of dissociation as general partner.

21 8666. Power to bind and liability of person dissociated as  
22 general partner.

23 8667. Liability of person dissociated as general partner to  
24 other persons.

25 § 8661. Dissociation as limited partner.

26 (a) No right to dissociate.--A person does not have a right  
27 to dissociate as a limited partner before the completion of the  
28 winding up of the limited partnership.

29 (b) Events causing dissociation.--A person is dissociated as  
30 a limited partner when any of the following apply:

1           (1) The limited partnership knows or has notice of the  
2 person's express will to withdraw as a limited partner  
3 rightfully or wrongfully, except that, if the person has  
4 specified a withdrawal date later than the date the  
5 partnership knew or had notice, on that later date.

6           (2) An event stated in the partnership agreement as  
7 causing the person's dissociation as a limited partner  
8 occurs.

9           (3) The person is expelled as a limited partner pursuant  
10 to the partnership agreement.

11           (4) The person is expelled as a limited partner by the  
12 affirmative vote or consent of all the other partners if:

13           (i) it is unlawful to carry on the partnership's  
14 activities and affairs with the person as a limited  
15 partner;

16           (ii) there has been a transfer of all the person's  
17 transferable interest in the partnership, other than:

18           (A) a transfer for security purposes; or

19           (B) a charging order in effect under section  
20 8673 (relating to charging order) which has not been  
21 foreclosed;

22           (iii) the person is an entity and:

23           (A) the partnership notifies the person that it  
24 will be expelled as a limited partner because:

25           (I) the person has filed a certificate of  
26 dissolution or the equivalent;

27           (II) the person has been administratively  
28 dissolved;

29           (III) the person's charter or the equivalent  
30 has been revoked; or

1                   (IV) the person's right to conduct business  
2                   has been suspended by the person's jurisdiction  
3                   of formation; and

4                   (B) within 90 days after the notification:

5                   (I) the certificate of dissolution or the  
6                   equivalent has not been withdrawn, rescinded or  
7                   revoked;

8                   (II) the person has not been reinstated;

9                   (III) the person's charter or the equivalent  
10                   has not been reinstated; or

11                   (IV) the person's right to conduct business  
12                   has not been reinstated; or

13                   (iv) the person is an unincorporated entity that has  
14                   been dissolved and whose activities and affairs are being  
15                   wound up.

16                   (5) On application by the partnership or a partner in a  
17                   direct action under section 8691 (relating to direct action  
18                   by partner), the person is expelled as a limited partner by  
19                   judicial order because the person:

20                   (i) has engaged or is engaging in wrongful conduct  
21                   that has affected adversely and materially, or will  
22                   affect adversely and materially, the partnership's  
23                   activities and affairs;

24                   (ii) has committed willfully or persistently, or is  
25                   committing willfully or persistently, a material breach  
26                   of the partnership agreement or the contractual  
27                   obligation of good faith and fair dealing under section  
28                   8635(a) (relating to limited duties of limited partners);  
29                   or

30                   (iii) has engaged or is engaging in conduct relating

1 to the partnership's activities and affairs which makes  
2 it not reasonably practicable to carry on the activities  
3 and affairs with the person as a limited partner.

4 (6) In the case of an individual, the individual dies.

5 (7) In the case of a person that is a testamentary or  
6 inter vivos trust or is acting as a limited partner by virtue  
7 of being a trustee of such a trust, the trust's entire  
8 transferable interest in the limited partnership is  
9 distributed.

10 (8) In the case of a person that is an estate or is  
11 acting as a limited partner by virtue of being a personal  
12 representative of an estate, the estate's entire transferable  
13 interest in the limited partnership is distributed.

14 (9) In the case of a person that is not an individual,  
15 the existence of the person terminates.

16 (10) The partnership participates in a merger under  
17 Chapter 3 (relating to entity transactions) and:

18 (i) the partnership is not the surviving entity; or

19 (ii) otherwise as a result of the merger, the person  
20 ceases to be a limited partner.

21 (11) The partnership participates in an interest  
22 exchange under Chapter 3 and, as a result of the interest  
23 exchange, the person ceases to be a limited partner.

24 (12) The partnership participates in a conversion under  
25 Chapter 3.

26 (13) The partnership participates in a division under  
27 Chapter 3 and:

28 (i) the partnership is not a resulting association;

29 or

30 (ii) as a result of the division, the person ceases

1           to be a partner.

2           (14) The partnership participates in a domestication  
3 under Chapter 3 and, as a result of the domestication, the  
4 person ceases to be a limited partner.

5           (15) The partnership dissolves and completes winding up.

6           (c) Cross reference.--See section 8611(d) (relating to short  
7 title and application of chapter).

8           § 8662. Effects of dissociation as limited partner.

9           (a) General rule.--If a person is dissociated as a limited  
10 partner:

11           (1) subject to section 8674 (relating to power of  
12 personal representative of deceased partner), the person does  
13 not have further rights as a limited partner;

14           (2) the person's contractual obligation of good faith  
15 and fair dealing as a limited partner under section 8635(a)  
16 (relating to limited duties of limited partners) ends with  
17 regard to matters arising and events occurring after the  
18 person's dissociation except as provided in section 8634(c)  
19 (relating to limited partner rights to information); and

20           (3) subject to section 8674 and Chapter 3 (relating to  
21 entity transactions), any transferable interest owned by the  
22 person in the person's capacity as a limited partner  
23 immediately before dissociation is owned by the person solely  
24 as a transferee.

25           (b) Existing obligations not discharged.--A person's  
26 dissociation as a limited partner does not of itself discharge  
27 the person from any debt, obligation or other liability to the  
28 limited partnership or the other partners which the person  
29 incurred while a limited partner.

30           (c) Cross reference.--See section 8611(d) (relating to short

1 title and application of chapter).

2 § 8663. Dissociation as general partner.

3 (a) General rule.--A person is dissociated as a general  
4 partner when any of the following occurs:

5 (1) The limited partnership knows or has notice of the  
6 person's express will to withdraw as a general partner  
7 rightfully or wrongfully, except that, if the person has  
8 specified a withdrawal date later than the date the  
9 partnership knew or had notice, on that later date.

10 (2) An event stated in the partnership agreement as  
11 causing the person's dissociation as a general partner  
12 occurs.

13 (3) The person is expelled as a general partner pursuant  
14 to the partnership agreement.

15 (4) The person is expelled as a general partner by the  
16 affirmative vote or consent of all the other partners if:

17 (i) it is unlawful to carry on the partnership's  
18 activities and affairs with the person as a general  
19 partner;

20 (ii) there has been a transfer of all the person's  
21 transferable interest in the partnership, other than:

22 (A) a transfer for security purposes; or

23 (B) a charging order in effect under section  
24 8673 (relating to charging order) which has not been  
25 foreclosed;

26 (iii) the person is an entity and:

27 (A) the partnership notifies the person that it  
28 will be expelled as a general partner because:

29 (I) the person has filed a certificate of  
30 dissolution or the equivalent;

1                   (II) the person has been administratively  
2                   dissolved;

3                   (III) the person's charter or the equivalent  
4                   has been revoked; or

5                   (IV) the person's right to conduct business  
6                   has been suspended by the person's jurisdiction  
7                   of formation; and

8                   (B) within 90 days after the notification:

9                   (I) the certificate of dissolution or the  
10                   equivalent has not been withdrawn, rescinded or  
11                   revoked;

12                   (II) the person has not been reinstated;

13                   (III) the person's charter or the equivalent  
14                   has not been reinstated; or

15                   (IV) the person's right to conduct business  
16                   has not been reinstated; or

17                   (iv) the person is an unincorporated entity that has  
18                   been dissolved and whose activities and affairs are being  
19                   wound up.

20                   (5) On application by the partnership or a partner in a  
21                   direct action under section 8691 (relating to direct action  
22                   by partner), the person is expelled as a general partner by  
23                   judicial order because the person:

24                   (i) has engaged or is engaging in wrongful conduct  
25                   that has affected adversely and materially, or will  
26                   affect adversely and materially, the partnership's  
27                   activities and affairs;

28                   (ii) has committed willfully or persistently, or is  
29                   committing willfully or persistently, a material breach  
30                   of the partnership agreement or a duty or obligation

1 under section 8649 (relating to standards of conduct for  
2 general partners); or

3 (iii) has engaged or is engaging in conduct relating  
4 to the partnership's activities and affairs which makes  
5 it not reasonably practicable to carry on the activities  
6 and affairs of the partnership with the person as a  
7 general partner.

8 (6) The person:

9 (i) becomes a debtor in bankruptcy;

10 (ii) executes an assignment for the benefit of  
11 creditors; or

12 (iii) seeks, consents to or acquiesces in the  
13 appointment of a trustee, receiver or liquidator of the  
14 person or of all or substantially all the person's  
15 property.

16 (7) In the case of an individual:

17 (i) the individual dies;

18 (ii) a guardian for the individual is appointed; or

19 (iii) a court orders that the individual has  
20 otherwise become incapable of performing the individual's  
21 duties as a general partner under this title or the  
22 partnership agreement.

23 (8) In the case of a person that is a testamentary or  
24 inter vivos trust or is acting as a general partner by virtue  
25 of being a trustee of the trust, the trust's entire  
26 transferable interest in the limited partnership is  
27 distributed.

28 (9) In the case of a person that is an estate or is  
29 acting as a general partner by virtue of being a personal  
30 representative of an estate, the estate's entire transferable

1 interest in the limited partnership is distributed.

2 (10) In the case of a person that is not an individual,  
3 the existence of the person terminates.

4 (11) The partnership participates in a merger under  
5 Chapter 3 (relating to entity transactions) and:

6 (i) the partnership is not the surviving entity; or

7 (ii) otherwise as a result of the merger, the person  
8 ceases to be a general partner.

9 (12) The partnership participates in an interest  
10 exchange under Chapter 3 and, as a result of the interest  
11 exchange, the person ceases to be a general partner.

12 (13) The partnership participates in a conversion under  
13 Chapter 3.

14 (14) The partnership participates in a division under  
15 Chapter 3 and:

16 (i) the partnership is not a resulting association;

17 or

18 (ii) as a result of the division, the person ceases  
19 to be a partner.

20 (15) The partnership participates in a domestication  
21 under Chapter 3 and, as a result of the domestication, the  
22 person ceases to be a general partner.

23 (16) The partnership dissolves and completes winding up.

24 (b) Cross reference.--See section 8611(d) (relating to short  
25 title and application of chapter).

26 § 8664. Power to dissociate as general partner and wrongful  
27 dissociation.

28 (a) Power to dissociate.--A person has the power to  
29 dissociate as a general partner at any time, rightfully or  
30 wrongfully, by withdrawing as a general partner by express will

1 under section 8663(1) (relating to dissociation as general  
2 partner).

3 (b) Wrongful dissociation.--A person's dissociation as a  
4 general partner is wrongful only if the dissociation:

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

7 (2) occurs before the completion of the winding up of  
8 the limited partnership, and:

9 (i) the person withdraws as a general partner by  
10 express will;

11 (ii) the person is expelled as a general partner by  
12 judicial order under section 8663(5);

13 (iii) the person is dissociated as a general partner  
14 under section 8663(6); or

15 (iv) the person is expelled or otherwise dissociated  
16 as a general partner because its existence terminated,  
17 except that this subparagraph does not apply to a person  
18 that is:

19 (A) a trust that is not a business or statutory  
20 trust;

21 (B) an estate; or

22 (C) an individual.

23 (c) Damages for wrongful dissociation.--A person that  
24 wrongfully dissociates as a general partner is liable to the  
25 limited partnership and, subject to section 8691 (relating to  
26 direct action by partner), to the other partners for damages  
27 caused by the dissociation. The liability is in addition to any  
28 debt, obligation or other liability of the general partner to  
29 the partnership or the other partners.

30 (d) Cross reference.--See section 8615 (relating to contents

1 of partnership agreement).

2 § 8665. Effects of dissociation as general partner.

3 (a) General rule.--If a person is dissociated as a general  
4 partner:

5 (1) The person's right to participate as a general  
6 partner in the management and conduct of the limited  
7 partnership's activities and affairs terminates.

8 (2) The person's duties and obligations as a general  
9 partner under section 8649 (relating to standards of conduct  
10 for general partners) end with regard to matters arising and  
11 events occurring after the person's dissociation except as  
12 provided in section 8647(e)(2) (relating to general partner  
13 rights to information).

14 (3) The person may deliver to the department for filing  
15 a certificate of dissociation stating:

16 (i) the name of the partnership;

17 (ii) subject to section 109 (relating to name of  
18 commercial registered office provider in lieu of  
19 registered address), the address, including street and  
20 number, if any, of the registered office of the  
21 partnership; and

22 (iii) the name of the person and that the person has  
23 dissociated as a general partner.

24 (4) At the request of the limited partnership, the  
25 person shall sign an amendment to the certificate of limited  
26 partnership which states that the person has dissociated as a  
27 general partner.

28 (5) Subject to section 8674 (relating to power of  
29 personal representative of deceased partner) and Chapter 3  
30 (relating to entity transactions), any transferable interest

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

4 (b) Existing obligations not discharged.--A person's  
5 dissociation as a general partner does not of itself discharge  
6 the person from any debt, obligation or other liability to the  
7 limited partnership or the other partners which the person  
8 incurred while a general partner.

9 (c) Cross references.--See:

10 Section 134 (relating to docketing statement).

11 Section 135 (relating to requirements to be met by filed  
12 documents).

13 Section 136(c) (relating to processing of documents by  
14 Department of State).

15 Section 8623 (relating to signing of filed documents).

16 § 8666. Power to bind and liability of person dissociated as  
17 general partner.

18 (a) Power to bind.--After a person is dissociated as a  
19 general partner and before the limited partnership is merged or  
20 divided out of existence, converted or domesticated under  
21 Chapter 3 (relating to entity transactions) or dissolved, the  
22 partnership is bound by an act of the person only if:

23 (1) the act would have bound the partnership under  
24 section 8642 (relating to general partner agent of limited  
25 partnership) before the dissociation; and

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

28 (i) less than two years have passed since the  
29 dissociation; and

30 (ii) the other party does not know or have notice of

1 the dissociation and reasonably believes that the person  
2 is a general partner.

3 (b) Liability.--If a limited partnership is bound under  
4 subsection (a), the person dissociated as a general partner  
5 which caused the partnership to be bound is liable:

6 (1) to the partnership for any damage caused to the  
7 partnership arising from the obligation incurred under  
8 subsection (a); and

9 (2) if a general partner or another person dissociated  
10 as a general partner is liable for the obligation, to the  
11 general partner or other person for any damage caused to the  
12 general partner or other person arising from the liability.

13 § 8667. Liability of person dissociated as general partner to  
14 other persons.

15 (a) General rule.--A person's dissociation as a general  
16 partner does not of itself discharge the person's liability as a  
17 general partner for a debt, obligation or other liability of the  
18 limited partnership incurred before dissociation. Except as  
19 provided in subsections (b) and (c), the person is not liable  
20 for a partnership obligation incurred after dissociation.

21 (b) Obligations incurred after dissolution.--A person whose  
22 dissociation as a general partner results in a dissolution and  
23 winding up of the limited partnership's activities and affairs  
24 is liable on an obligation incurred by the partnership under  
25 section 8685 (relating to general partner liability after  
26 dissolution) to the same extent as a general partner under  
27 section 8644 (relating to general partner's liability).

28 (c) When partnership not dissolved.--A person that is  
29 dissociated as a general partner without the dissociation  
30 resulting in a dissolution and winding up of the limited

1 partnership's activities and affairs is liable on a transaction  
2 entered into by the partnership after the dissociation only if a  
3 general partner would be liable on the transaction, but at the  
4 time the other party enters into the transaction:

5 (1) less than two years have passed since the  
6 dissociation; and

7 (2) the other party does not have knowledge or notice of  
8 the dissociation and reasonably believes that the person is a  
9 general partner.

10 (d) Constructive release by creditor.--A person dissociated  
11 as a general partner is released from liability for a debt,  
12 obligation or other liability of the limited partnership if the  
13 partnership's creditor, with knowledge or notice of the person's  
14 dissociation as a general partner and without the person's  
15 consent, agrees to a material alteration in the nature or time  
16 of payment of the debt, obligation or other liability. The  
17 release from liability under this subsection applies whether the  
18 liability arises directly or indirectly, by way of contribution  
19 or otherwise, but only if the liability arises solely by reason  
20 of having been a general partner.

21 SUBCHAPTER G

22 TRANSFERABLE INTERESTS AND RIGHTS

23 OF TRANSFEREES AND CREDITORS

24 Sec.

25 8671. Nature of transferable interest.

26 8672. Transfer of transferable interest.

27 8673. Charging order.

28 8674. Power of personal representative of deceased partner.

29 § 8671. Nature of transferable interest.

30 (a) Personal property.--A transferable interest is personal

1 property.

2 (b) Only right that may be transferred.--A person may not  
3 transfer to a person not a partner any rights in a limited  
4 partnership other than a transferable interest.

5 § 8672. Transfer of transferable interest.

6 (a) General rule.--A transfer, in whole or in part, of a  
7 transferable interest:

8 (1) is permissible;

9 (2) does not by itself cause the dissociation of the  
10 transferor as a partner or a dissolution and winding up of  
11 the limited partnership's activities and affairs; and

12 (3) subject to section 8674 (relating to power of  
13 personal representative of deceased partner), does not  
14 entitle the transferee to:

15 (i) participate in the management or conduct of the  
16 partnership's activities and affairs; or

17 (ii) except as provided under subsection (c), have  
18 access to required information, records or other  
19 information concerning the partnership's activities and  
20 affairs.

21 (b) Right to distributions.--A transferee has the right to  
22 receive, in accordance with the transfer, distributions to which  
23 the transferor would otherwise be entitled.

24 (c) Right to account on dissolution.--In a dissolution and  
25 winding up of a limited partnership, a transferee is entitled to  
26 an account of the partnership's transactions only from the date  
27 of dissolution.

28 (d) Certificate of interest.--A transferable interest may be  
29 evidenced by a certificate of the interest issued by a limited  
30 partnership in record form, and, subject to this section, the

1 interest represented by the certificate may be transferred by a  
2 transfer of the certificate.

3 (e) Recognition of transferee's rights.--A limited  
4 partnership need not give effect to a transferee's rights under  
5 this section until the partnership knows or has notice of the  
6 transfer.

7 (f) Transfer restrictions.--A transfer of a transferable  
8 interest in violation of a restriction on transfer contained in  
9 the partnership agreement is ineffective if the intended  
10 transferee has knowledge or notice of the restriction at the  
11 time of transfer.

12 (g) Rights retained by transferor.--Except as provided under  
13 sections 8661(b)(4)(ii) (relating to dissociation as limited  
14 partner) and 8663(a)(4)(ii) (relating to dissociation as general  
15 partner), if a general or limited partner transfers a  
16 transferable interest, the transferor retains the rights of a  
17 general or limited partner other than the transferable interest  
18 transferred and retains all the duties and obligations of a  
19 general or limited partner.

20 § 8673. Charging order.

21 (a) General rule.--On application by a judgment creditor of  
22 a partner or transferee, a court may enter a charging order  
23 against the transferable interest of the judgment debtor for the  
24 unsatisfied amount of the judgment. A charging order constitutes  
25 a lien on a judgment debtor's transferable interest and requires  
26 the limited partnership to pay over to the person to which the  
27 charging order was issued any distribution that otherwise would  
28 be paid to the judgment debtor.

29 (b) Available relief.--To the extent necessary to effectuate  
30 the collection of distributions pursuant to a charging order in

1 effect under subsection (a), the court may:

2 (1) appoint a receiver of the distributions subject to  
3 the charging order, with the power to make all inquiries the  
4 judgment debtor might have made; and

5 (2) make all other orders necessary to give effect to  
6 the charging order.

7 (c) Foreclosure.--Upon a showing that distributions under a  
8 charging order will not pay the judgment debt within a  
9 reasonable time, the court may foreclose the lien and order the  
10 sale of the transferable interest. The purchaser at the  
11 foreclosure sale obtains only the transferable interest, does  
12 not thereby become a partner and is subject to section 8672  
13 (relating to transfer of transferable interest).

14 (d) Satisfaction of judgment.--At any time before  
15 foreclosure under subsection (c), the partner or transferee  
16 whose transferable interest is subject to a charging order under  
17 subsection (a) may extinguish the charging order by satisfying  
18 the judgment and filing a certified copy of the satisfaction  
19 with the court that issued the charging order.

20 (e) Purchase of rights.--At any time before foreclosure  
21 under subsection (c), a limited partnership or one or more  
22 partners whose transferable interests are not subject to the  
23 charging order may pay to the judgment creditor the full amount  
24 due under the judgment and thereby succeed to the rights of the  
25 judgment creditor, including the charging order.

26 (f) Exemption laws preserved.--This chapter shall not  
27 deprive any partner or transferee of the benefit of any  
28 exemption law applicable to the transferable interest of the  
29 partner or transferee.

30 (g) Exclusive remedy.--This section provides the exclusive

1 remedy by which a person seeking, in the capacity of a judgment  
2 creditor, to enforce a judgment against a partner or transferee  
3 may satisfy the judgment from the judgment debtor's transferable  
4 interest.

5 § 8674. Power of personal representative of deceased partner.

6 If a partner dies, the personal representative of the  
7 deceased partner may exercise:

8 (1) the rights of a transferee provided in section  
9 8672(c) (relating to transfer of transferable interest); and

10 (2) for the purposes of settling the estate, the rights  
11 of a current limited partner under section 8634 (relating to  
12 limited partner rights to information).

13 SUBCHAPTER H

14 DISSOLUTION AND WINDING UP

15 Sec.

16 8681. Events causing dissolution.

17 8681.1. Voluntary termination by partners.

18 8682. Winding up and filing of optional certificates.

19 8683. ~~Rescinding dissolution~~ (RESERVED).

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20 8684. Power to bind partnership after dissolution.

21 8685. General partner liability after dissolution.

22 8686. Known claims against dissolved limited partnership.

23 8687. Other claims against dissolved limited partnership.

24 8688. Court proceedings.

25 8689. General partner liability when claim against limited  
26 partnership barred.

27 8690. Disposition of assets in winding up and required  
28 contributions.

29 § 8681. Events causing dissolution.

30 (a) General rule.--A limited partnership is dissolved, and

1 its activities and affairs must be wound up, upon the occurrence  
2 of any of the following:

3 (1) an event or circumstance that the partnership  
4 agreement states causes dissolution;

5 (2) the affirmative vote or consent of all general <--  
6 partners and of limited partners owning a majority of the  
7 rights to receive OF: <--

8 (I) ALL GENERAL PARTNERS; AND

9 (II) LIMITED PARTNERS OWNING THE RIGHTS TO RECEIVE A  
10 MAJORITY OF THE distributions as limited partners at the  
11 time the vote or consent is to be effective;

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

14 (i) if the partnership has at least one remaining  
15 general partner, the affirmative vote or consent to  
16 dissolve the partnership within 90 days after the  
17 dissociation by partners owning a majority of the rights  
18 to receive distributions as partners at the time the vote  
19 or consent is to be effective; or

20 (ii) if the partnership does not have a remaining  
21 general partner, the passage of 180 days after the  
22 dissociation, unless before the end of the period:

23 (A) consent to continue the activities and  
24 affairs of the partnership and admit at least one  
25 general partner is given by limited partners owning a  
26 majority of the rights to receive distributions as  
27 limited partners at the time the consent is to be  
28 effective; and

29 (B) at least one person is admitted as a general  
30 partner in accordance with the consent;

1           (4) the passage of 90 180 consecutive days after the      <--  
2           dissociation of the partnership's last limited partner,  
3           unless before the end of the period the partnership admits at  
4           least one limited partner;

5           (5) the passage of 90 180 consecutive days during which      <--  
6           the partnership has only one partner, unless before the end  
7           of the period:

8                   (i) the partnership admits at least one person as a  
9                   partner;

10                   (ii) if the previously sole remaining partner is  
11                   only a general partner, the partnership admits a person  
12                   as a limited partner; and

13                   (iii) if the previously sole remaining partner is  
14                   only a limited partner, the partnership admits a person  
15                   as a general partner; or

16           (6) on application by a partner, the entry by the court  
17           of an order dissolving the partnership on the grounds that:

18                   (i) the conduct of all or substantially all the  
19                   partnership's activities and affairs is unlawful;

20                   (ii) it is not reasonably practicable to carry on  
21                   the partnership's activities and affairs in conformity  
22                   with the certificate of limited partnership and  
23                   partnership agreement; or

24                   (iii) the general partners have acted, are acting or  
25                   will act in a manner that is illegal or fraudulent.

26           (b) Multiple deadlines.--If an event occurs that imposes a  
27           deadline on a limited partnership under subsection (a) and  
28           before the partnership has met the requirements of the deadline,  
29           another event occurs that imposes a different deadline on the  
30           partnership under subsection (a):

1       (1) the occurrence of the second event does not affect  
2       the deadline caused by the first event; and

3       (2) the partnership's meeting of the requirements of the  
4       first deadline does not extend the second deadline.

5       (c) Cross references.--See sections 8611(d) (relating to  
6       short title and application of chapter) and 8615(c)(15)  
7       (relating to contents of partnership agreement).

8       § 8681.1. Voluntary termination by partners.

9       (a) General rule.--The general partners of a limited  
10       partnership that has not commenced business may effect the  
11       termination of the partnership by delivering to the department  
12       for filing a certificate of termination signed by a majority of <--  
13       the general partners and stating:

14               (1) the name of the partnership;

15               (2) subject to section 109 (relating to name of  
16       commercial registered office provider in lieu of registered  
17       address), the address, including street and number, if any,  
18       of the registered office of the partnership;

19               (3) that the partnership has not commenced business;

20               (4) that the amounts, if any, actually paid in as  
21       contributions, less any part disbursed for necessary  
22       expenses, have been returned to those entitled to the return  
23       of the amounts;

24               (5) that all liabilities of the partnership have been  
25       discharged or that adequate provision has been made for those  
26       liabilities; and

27               (6) that a majority of the general partners elect that  
28       the partnership be terminated.

29       (b) Effect.--Upon the filing of the certificate of  
30       termination, the existence of the limited partnership shall

1 cease.

2 (c) Cross references.--See:

3 Section 134 (relating to docketing statement).

4 Section 135 (relating to requirements to be met by filed  
5 documents).

6 Section 136(c) (relating to processing of documents by  
7 Department of State).

8 Section 8623 (relating to signing of filed documents).

9 § 8682. Winding up and filing of optional certificates.

10 (a) General rule.--A dissolved limited partnership shall  
11 wind up its activities and affairs and, ~~except as provided~~ <--  
12 ~~under section 8683 (relating to rescinding dissolution), the~~  
13 partnership continues after dissolution only for the purpose of  
14 winding up.

15 (b) Conduct of winding up.--In winding up its activities and  
16 affairs, the limited partnership:

17 (1) shall discharge the partnership's debts, obligations  
18 and other liabilities, settle and close the partnership's  
19 activities and affairs, and marshal and distribute the assets  
20 of the partnership; and

21 (2) may:

22 (i) amend its certificate of limited partnership to  
23 state that the partnership is dissolved;

24 (ii) preserve the partnership activities, affairs  
25 and property as a going concern for a reasonable time;

26 (iii) prosecute, defend and settle actions and  
27 proceedings, whether civil, criminal or administrative;

28 (iv) transfer the partnership's property;

29 (v) participate in, agree to participate in and  
30 settle disputes by mediation, arbitration or alternative

1 dispute resolution proceedings;

2 (vi) deliver to the department for filing the  
3 certificates, if any, required by section 139 (relating  
4 to tax clearance of certain fundamental transactions) and  
5 a certificate of termination stating:

6 (A) the name of the partnership;

7 (B) subject to section 109 (relating to name of  
8 commercial registered office provider in lieu of  
9 registered address), the address, including street  
10 and number, if any, of its registered office; and

11 (C) that the partnership is terminated; and

12 (vii) perform other acts necessary or appropriate to  
13 the winding up.

14 (c) Conduct of winding up when no general partner.--If a  
15 dissolved limited partnership does not have a general partner, a  
16 person to wind up the dissolved partnership's activities and  
17 affairs may be appointed by the affirmative vote or consent of  
18 limited partners owning a majority of the rights to receive A <--  
19 MAJORITY OF THE distributions as limited partners at the time  
20 the vote or consent is to be effective. A person appointed under  
21 this subsection:

22 (1) has the powers of a general partner under section  
23 8684 (relating to power to bind partnership after  
24 dissolution) but is not liable for the debts, obligations and  
25 other liabilities of the partnership solely by reason of  
26 having or exercising those powers or otherwise acting to wind  
27 up the dissolved partnership's activities and affairs; and

28 (2) shall deliver promptly to the department for filing  
29 an amendment to the partnership's certificate of limited  
30 partnership stating:

1           (i) that the partnership does not have a general  
2 partner;  
3           (ii) the name and address of the person; and  
4           (iii) that the person has been appointed under this  
5 subsection to wind up the partnership.

6   (d) Judicial supervision.--On the application of a partner  
7 or person entitled under subsection (c) to participate in  
8 winding up, the court may order judicial supervision of the  
9 winding up of a dissolved limited partnership, including the  
10 appointment of a person to wind up the partnership's activities  
11 and affairs, if:

12           (1) the partnership does not have a general partner and  
13 within a reasonable time following the dissolution no person  
14 has been appointed under subsection (c); or

15           (2) the applicant establishes other good cause.

16   (e) Cross references.--See:

17           Section 134 (relating to docketing statement).

18           Section 135 (relating to requirements to be met by filed  
19 documents).

20           Section 136(c) (relating to processing of documents by  
21 Department of State).

22           Section 8615(c)(16) (relating to contents of partnership  
23 agreement).

24           Section 8623 (relating to signing of filed documents).

25 ~~§ 8683. Rescinding dissolution.~~

<--

26   ~~(a) General rule. A limited partnership may rescind its~~  
27 ~~dissolution, unless a certificate of termination applicable to~~  
28 ~~the partnership is effective or the court has entered an order~~  
29 ~~under section 8681(a)(6) (relating to events causing~~  
30 ~~dissolution) dissolving the partnership.~~

1 ~~(b) Procedure. Rescinding dissolution under this section~~  
2 ~~requires:~~

3 ~~(1) the affirmative vote or consent of each partner; and~~

4 ~~(2) if the limited partnership has delivered to the~~  
5 ~~department for filing an amendment to the certificate of~~  
6 ~~limited partnership stating that the partnership is dissolved~~  
7 ~~and:~~

8 ~~(i) the amendment has not become effective, delivery~~  
9 ~~to the department for filing of a statement of~~  
10 ~~abandonment under section 141 (relating to abandonment of~~  
11 ~~filing before effectiveness) applicable to the amendment;~~

12 ~~or~~

13 ~~(ii) the amendment has become effective, the~~  
14 ~~delivery to the department for filing of an amendment to~~  
15 ~~the certificate of limited partnership stating that~~  
16 ~~dissolution has been rescinded under this section.~~

17 ~~(c) Effects of rescission. If a limited partnership~~  
18 ~~rescinds its dissolution:~~

19 ~~(1) the partnership resumes carrying on its activities~~  
20 ~~and affairs as if dissolution had never occurred;~~

21 ~~(2) subject to paragraph (3), any liability incurred by~~  
22 ~~the partnership after the dissolution and before the~~  
23 ~~rescission is effective is determined as if dissolution had~~  
24 ~~never occurred; and~~

25 ~~(3) the rights of a third party arising out of conduct~~  
26 ~~in reliance on the dissolution before the third party knew or~~  
27 ~~had notice of the rescission may not be adversely affected.~~

28 ~~(d) Cross references. See:~~

29 ~~Section 134 (relating to docketing statement).~~

30 ~~Section 135 (relating to requirements to be met by filed~~

1 documents).

2 Section 136(c) (relating to processing of documents by  
3 Department of State).

4 Section 8623 (relating to signing of filed documents).

5 (RESERVED).

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6 § 8684. Power to bind partnership after dissolution.

7 (a) Power of general partner.--A limited partnership is  
8 bound by a general partner's act after dissolution which:

9 (1) is appropriate for winding up the partnership's  
10 activities and affairs; or

11 (2) would have bound the partnership under section 8642  
12 (relating to general partner agent of limited partnership)  
13 before dissolution if, at the time the other party enters  
14 into the transaction, the other party does not know or have  
15 notice of the dissolution.

16 (b) Power of person dissociated as general partner.--A  
17 person dissociated as a general partner binds a limited  
18 partnership through an act occurring after dissolution if:

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

21 (i) less than two years have passed since the  
22 dissociation; and

23 (ii) the other party does not know or have notice of  
24 the dissociation and reasonably believes that the person  
25 is a general partner; and

26 (2) the act:

27 (i) is appropriate for winding up the partnership's  
28 activities and affairs; or

29 (ii) would have bound the partnership under section  
30 8642 before dissolution and at the time the other party

1 enters into the transaction, the other party does not  
2 know or have notice of the dissolution.

3 § 8685. General partner liability after dissolution.

4 (a) Liability of general partner.--If a general partner  
5 having knowledge of the dissolution causes a limited partnership  
6 to incur an obligation under section 8684(a) (relating to power  
7 to bind partnership after dissolution) by an act that is not  
8 appropriate for winding up the partnership's activities and  
9 affairs, the general partner is liable:

10 (1) to the partnership for any damage caused to the  
11 partnership arising from the obligation; and

12 (2) if another general partner or a person dissociated  
13 as a general partner is liable for the obligation, to that  
14 other general partner or person for any damage caused to that  
15 other general partner or person arising from the liability.

16 (b) Liability of person dissociated as general partner.--If  
17 a person dissociated as a general partner causes a limited  
18 partnership to incur an obligation under section 8684(b), the  
19 person is liable:

20 (1) to the partnership for any damage caused to the  
21 partnership arising from the obligation; and

22 (2) if a general partner or another person dissociated  
23 as a general partner is liable for the obligation, to the  
24 general partner or other person for any damage caused to the  
25 general partner or other person arising from the obligation.

26 § 8686. Known claims against dissolved limited partnership.

27 (a) General rule.--Except as provided under subsection (d),  
28 a dissolved limited partnership may give notice of a known claim  
29 under subsection (b), which has the effect provided in  
30 subsection (c).

1 (b) Required notice.--A dissolved limited partnership may  
2 notify in record form its known claimants of the dissolution.

3 The notice must:

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

6 (2) state that a claim must be in writing and provide a  
7 mailing address to which the claim is to be sent;

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

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

13 (5) unless the partnership has been throughout its  
14 existence a limited liability limited partnership, state that  
15 the barring of a claim against the partnership will also bar  
16 any corresponding claim against any general partner or person  
17 dissociated as a general partner which is based on section  
18 8644 (relating to general partner's liability).

19 (c) Claims barred.--A claim against a dissolved limited  
20 partnership is barred if the requirements of subsection (b) are  
21 met and:

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

24 (2) if the claim is timely received but rejected by the  
25 partnership:

26 (i) the partnership causes the claimant to receive a  
27 notice in record form stating that the claim is rejected  
28 and will be barred unless the claimant commences an  
29 action against the partnership to enforce the claim  
30 within 90 days after the claimant receives the notice;

1           and

2           (ii) the claimant fails to commence the required  
3           action no later than 90 days after the claimant receives  
4           the notice.

5           (d) Later arising claims.--This section shall not apply to a  
6           claim based on an event occurring after the date of dissolution  
7           or a liability that on that date is contingent.

8           § 8687. Other claims against dissolved limited partnership.

9           (a) Permissive notice.--A dissolved limited partnership may  
10          publish notice of its dissolution and request persons having  
11          claims against the partnership to present them in accordance  
12          with the notice.

13          (b) Notice procedure.--A notice under subsection (a) must:

14           (1) be officially published one time;

15           (2) describe the information required to be contained in  
16          a claim, state that the claim must be in writing and provide  
17          a mailing address to which the claim is to be sent;

18           (3) state that a claim against the partnership is barred  
19          unless an action to enforce the claim is commenced within two  
20          years after publication of the notice; and

21           (4) unless the partnership has been throughout its  
22          existence a limited liability limited partnership, state that  
23          the barring of a claim against the partnership will also bar  
24          any corresponding claim against any general partner or person  
25          dissociated as a general partner which is based on section  
26          8644 (relating to general partner's liability).

27          (c) Claims barred.--If a dissolved limited partnership  
28          publishes a notice in accordance with subsection (b), the claim  
29          of each of the following claimants is barred unless the claimant  
30          commences an action to enforce the claim against the partnership

1 within two years after the publication date of the notice:

2 (1) a claimant that did not receive notice in record  
3 form under section 8686 (relating to known claims against  
4 dissolved limited partnership);

5 (2) a claimant whose claim was timely sent to the  
6 partnership but not acted on; and

7 (3) a claimant whose claim is contingent at, or based on  
8 an event occurring after, the date of dissolution.

9 (d) Claims not barred.--A claim not barred under this  
10 section or section 8686 may be enforced:

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

13 (2) except as provided under section 8688 (relating to  
14 court proceedings), if assets of the partnership have been  
15 distributed after dissolution, against a partner or  
16 transferee to the extent of that person's proportionate share  
17 of the claim or of the partnership's assets distributed to  
18 the partner or transferee after dissolution, whichever is  
19 less, except that a person's total liability for all claims  
20 under this paragraph may not exceed the total amount of  
21 assets distributed to the person after dissolution; and

22 (3) against any person liable on the claim under  
23 sections 8644 and 8667 (relating to liability of person  
24 dissociated as general partner to other persons).

25 § 8688. Court proceedings.

26 (a) Determination of security.--A dissolved limited  
27 partnership that has officially published a notice under section  
28 8687 (relating to other claims against dissolved limited  
29 partnership) may file an application with the court of common  
30 pleas embracing the county where the partnership's principal

1 office is located or, if the principal office is not located in  
2 this Commonwealth, where its registered office is or was last  
3 located, for a determination of the amount and form of security  
4 to be provided for payment of claims that are reasonably  
5 expected to arise after the date of dissolution based on facts  
6 known to the partnership and:

7 (1) at the time of the application:

8 (i) are contingent; or

9 (ii) have not been made known to the partnership; or

10 (2) are based on an event occurring after the date of  
11 dissolution.

12 (b) When security not required.--Security is not required  
13 for any claim that is or is reasonably anticipated to be barred  
14 under section 8687.

15 (c) Notice.--Within 10 days after the filing of an  
16 application under subsection (a), the dissolved limited  
17 partnership shall give notice of the proceeding to each claimant  
18 holding a contingent claim known to the partnership.

19 (d) Guardian ad litem.--In a proceeding brought under this  
20 section, the court may appoint a guardian ad litem to represent  
21 all claimants whose identities are unknown. The reasonable fees  
22 and expenses of the guardian, including all reasonable expert  
23 witness fees, must be paid by the dissolved limited partnership.

24 (e) Effect on contingent claims.--A dissolved limited  
25 partnership that provides security in the amount and form  
26 ordered by the court under subsection (a) satisfies the  
27 partnership's obligations with respect to claims that are  
28 contingent, have not been made known to the partnership or are  
29 based on an event occurring after the date of dissolution. The  
30 claims may not be enforced against a partner or transferee on

1 account of assets received in liquidation.

2 § 8689. General partner liability when claim against limited  
3 partnership barred.

4 If a claim against a dissolved limited partnership is barred  
5 under section 8686 (relating to known claims against dissolved  
6 limited partnership), 8687 (relating to other claims against  
7 dissolved limited partnership) or 8688 (relating to court  
8 proceedings), any corresponding claim under section 8644  
9 (relating to general partner's liability) or 8667 (relating to  
10 liability of person dissociated as general partner to other  
11 persons) is also barred.

12 § 8690. Disposition of assets in winding up and required  
13 contributions.

14 (a) Creditors.--In winding up its activities and affairs, a  
15 limited partnership shall apply its assets, including the  
16 contributions required by this section, to discharge the  
17 partnership's obligations to creditors, including partners that  
18 are creditors.

19 (b) Surplus.--After a limited partnership complies with  
20 subsection (a), any surplus shall be distributed in the  
21 following order, subject to any charging order in effect under  
22 section 8673 (relating to charging order):

23 (1) to each owner of a transferable interest that  
24 reflects contributions made and not previously returned, an  
25 amount equal to the value of the unreturned contributions;  
26 and

27 (2) among owners of transferable interests in proportion  
28 to their respective rights to share in distributions  
29 immediately before the dissolution of the partnership.

30 (c) Insufficient assets.--If a limited partnership's assets

1 are insufficient to satisfy all of its obligations under  
2 subsection (a), with respect to each unsatisfied obligation  
3 incurred when the partnership was not a limited liability  
4 limited partnership, the following rules apply:

5 (1) Each person that was a general partner when the  
6 obligation was incurred and that has not been released from  
7 the obligation under section 8667 (relating to liability of  
8 person dissociated as general partner to other persons) shall  
9 contribute to the partnership for the purpose of enabling the  
10 partnership to satisfy the obligation. The contribution due  
11 from each of those persons is in proportion to the right to  
12 receive distributions in the capacity of a general partner in  
13 effect for each of those persons when the obligation was  
14 incurred.

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

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

29 (d) Recovery of additional contributions.--A person that  
30 makes an additional contribution under subsection (c) (2) or (3)

1 may recover from any person whose failure to contribute under  
2 subsection (c) (1) or (2) necessitated the additional  
3 contribution. A person may not recover under this subsection  
4 more than the amount additionally contributed. A person's  
5 liability under this subsection may not exceed the amount the  
6 person failed to contribute.

7 (e) Distribution when surplus insufficient.--If a limited  
8 partnership does not have sufficient surplus to comply with  
9 subsection (b) (1), any surplus must be distributed among the  
10 owners of transferable interests in proportion to the value of  
11 the respective unreturned contributions.

12 (f) Form of payment.--All distributions made under  
13 subsections (b) and (c) must be paid in money.

14 SUBCHAPTER I

15 ACTIONS BY PARTNERS

16 Sec.

17 8691. Direct action by partner.

18 8692. Derivative action.

19 8693. Proper plaintiff.

<--

20 ~~8694. Pleading.~~

21 ~~8695. SECURITY FOR COSTS.~~

<--

22 8694. Special litigation committee.

23 ~~8696~~ 8695. Proceeds and expenses.

<--

24 § 8691. Direct action by partner.

25 (a) General rule.--Subject to subsection (b), a partner may  
26 maintain a direct action against another partner or the limited  
27 partnership, with or without an accounting as to the  
28 partnership's activities and affairs, to enforce the partner's  
29 rights and protect the partner's interests, including rights and  
30 interests under the partnership agreement or this title or

1 arising independently of the partnership relationship.

2 (b) Required injury.--A partner maintaining a direct action  
3 under this section must plead and prove an actual or threatened  
4 injury that is not solely the result of an injury suffered or  
5 threatened to be suffered by the limited partnership.

6 (c) Claims not revived.--A right to an accounting on a  
7 dissolution and winding up does not revive a claim barred by  
8 law.

9 (d) Cross reference.--See section 8615(c)(17) (relating to  
10 contents of partnership agreement).

11 § 8692. Derivative action.

12 (a) General rule.--Subject to subsection (b), a partner may  
13 maintain a derivative action to enforce a right of a limited  
14 partnership only if:

15 (1) the partner first makes a demand on the general  
16 partners, requesting that they cause the partnership to bring <--  
17 an action to enforce the right, unless demand is excused <--  
18 under subsection (b); and

19 ~~(2) both:~~

20 ~~(i) a special litigation committee is not appointed~~  
21 ~~under section 8695 (relating to special litigation~~  
22 ~~committee); and~~

23 ~~(ii) the general partners do not bring the action~~  
24 ~~within a reasonable time. AND: <--~~

25 (I) IF A SPECIAL LITIGATION COMMITTEE IS NOT  
26 APPOINTED UNDER SECTION 8694 (RELATING TO SPECIAL  
27 LITIGATION COMMITTEE), THE PARTNERSHIP DOES NOT BRING THE  
28 ACTION WITHIN A REASONABLE TIME; OR

29 (II) IF A SPECIAL LITIGATION COMMITTEE IS APPOINTED  
30 UNDER SECTION 8694, A DETERMINATION IS MADE:

1                   (A) UNDER SECTION 8694(E) (1) THAT THE  
2                   PARTNERSHIP NOT OBJECT TO THE ACTION; OR

3                   (B) UNDER SECTION 8694(E) (5) (I) THAT THE  
4                   PLAINTIFF CONTINUE THE ACTION;

5                   (2) DEMAND IS EXCUSED UNDER SUBSECTION (B);

6                   (3) THE ACTION IS MAINTAINED FOR THE LIMITED PURPOSE OF  
7                   SEEKING COURT REVIEW UNDER SECTION 8694(F); OR

8                   (4) THE COURT HAS ALLOWED THE ACTION TO CONTINUE UNDER  
9                   THE CONTROL OF THE PLAINTIFF UNDER SECTION 8694(F) (3) (II).

10                  (b) Prior demand excused.--

11                  (1) A demand under subsection (a) (1) is excused only if  
12                  the partner makes a specific showing that IMMEDIATE AND       <--  
13                  irreparable harm to the limited partnership would otherwise  
14                  result.

15                  (2) If demand is excused under paragraph (1), demand  
16                  shall be made promptly after commencement of the action.

17                  (c) Contents of demand.--A demand under this section shall       <--  
18                  MUST BE IN RECORD FORM AND give notice with reasonable       <--  
19                  specificity of the essential facts relied upon to support each  
20                  of the claims made in the demand.

21                  (d) Additional claims.--If a derivative action is commenced  
22                  after a demand has been made under this section and includes a  
23                  claim that was not fairly subsumed under the demand, a new  
24                  demand must be made with respect to that claim. THE NEW DEMAND       <--  
25                  SHALL NOT RELATE BACK TO THE DATE OF THE ORIGINAL DEMAND FOR  
26                  PURPOSES OF SUBSECTION (E).

27                  (e) Statute of limitations.--The making of a demand tolls  
28                  any applicable statute of limitations with respect to a claim  
29                  asserted in the demand until the later EARLIER of the date:       <--

30                  (1) the partner making the demand is notified either:

1 (i) that the general partners have decided not to  
2 bring an action and not to appoint a special litigation  
3 committee; or

4 (ii) of the A determination under section 8695(e) <--  
5 8694(E) AFTER THE APPOINTMENT of a special litigation <--  
6 committee that has been appointed as provided in section <--  
7 8695 UNDER SECTION 8694; or <--

8 (2) the court determines under section 8695(f) either <--

9 to:

10 (i) enforce the determination of the special  
11 litigation committee; or

12 (ii) allow the action to continue under the control  
13 of the plaintiff. PLAINTIFF COMMENCES AN ACTION ASSERTING <--  
14 THE CLAIM.

15 (f) Cross reference.--See section 8615(c)(17) (relating to  
16 contents of partnership agreement).

17 § 8693. Proper plaintiff. <--

18 (a) General rule. A derivative action to enforce a right of  
19 a limited partnership may be maintained only by a person that is  
20 a partner at the time the action is commenced and:

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

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

27 (b) Cross reference. See section 8615(c)(12) (relating to  
28 contents of partnership agreement).

29 § 8694. Pleading.

30 Except where demand is excused under section 8692(b)

1 ~~(relating to derivative action), the complaint in a derivative~~  
2 ~~action must state with particularity the date and content of the~~  
3 ~~plaintiff's demand and the response to the demand by the general~~  
4 ~~partner.~~

5 § 8693. SECURITY FOR COSTS. <--

6 IN ANY ACTION OR PROCEEDING INSTITUTED OR MAINTAINED BY  
7 PARTNERS HOLDING TRANSFERABLE INTERESTS ENTITLED TO RECEIVE LESS  
8 THAN 5% OF ANY DISTRIBUTION BY A LIMITED PARTNERSHIP, UNLESS THE  
9 TRANSFERABLE INTERESTS HELD BY THE PARTNERS HAVE AN AGGREGATE  
10 FAIR MARKET VALUE IN EXCESS OF \$200,000, THE PARTNERSHIP IN  
11 WHOSE RIGHT THE ACTION OR PROCEEDING IS BROUGHT SHALL BE  
12 ENTITLED AT ANY STAGE OF THE PROCEEDINGS TO REQUIRE THE  
13 PLAINTIFFS TO GIVE SECURITY FOR THE REASONABLE EXPENSES,  
14 INCLUDING ATTORNEYS' FEES, THAT MAY BE INCURRED BY THE  
15 PARTNERSHIP IN CONNECTION THEREWITH OR FOR WHICH IT MAY BECOME  
16 LIABLE PURSUANT TO SECTION 8468(B) (RELATING TO REIMBURSEMENT,  
17 INDEMNIFICATION, ADVANCEMENT AND INSURANCE) TO WHICH SECURITY  
18 THE PARTNERSHIP SHALL HAVE RECOURSE IN SUCH AMOUNT AS THE COURT  
19 DETERMINES UPON THE TERMINATION OF THE ACTION OR PROCEEDING. THE  
20 AMOUNT OF SECURITY MAY, FROM TIME TO TIME, BE INCREASED OR  
21 DECREASED IN THE DISCRETION OF THE COURT UPON SHOWING THAT THE  
22 SECURITY PROVIDED HAS OR IS LIKELY TO BECOME INADEQUATE OR  
23 EXCESSIVE. THE SECURITY MAY BE DENIED OR LIMITED BY THE COURT IF  
24 THE COURT FINDS AFTER AN EVIDENTIARY HEARING THAT UNDUE HARDSHIP  
25 ON PLAINTIFFS AND SERIOUS INJUSTICE WOULD RESULT.

26 § ~~8695~~ 8694. Special litigation committee. <--

27 (a) General rule.--If a limited partnership receives OR THE <--  
28 GENERAL PARTNERS RECEIVE a demand to bring an action to enforce  
29 a right of the partnership, or if a derivative action is  
30 commenced before demand has been made on the partnership OR THE <--

1 GENERAL PARTNERS, the ~~partnership~~ GENERAL PARTNERS may appoint a <--  
2 special litigation committee to investigate the claims asserted  
3 in the demand or action and to determine on the basis of that <--  
4 investigation BEHALF OF THE LIMITED PARTNERSHIP OR RECOMMEND TO <--  
5 THE GENERAL PARTNERS whether pursuing any of the claims asserted  
6 is in the best interests of the partnership. THE PARTNERSHIP <--  
7 SHALL SEND A NOTICE IN RECORD FORM TO THE PLAINTIFF PROMPTLY  
8 AFTER THE APPOINTMENT OF THE COMMITTEE UNDER THIS SECTION  
9 NOTIFYING THE PLAINTIFF THAT A COMMITTEE HAS BEEN APPOINTED AND  
10 IDENTIFYING BY NAME THE MEMBERS OF THE COMMITTEE.

11 (b) Discovery stay.--If the ~~partnership appoints~~ GENERAL <--  
12 PARTNERS APPOINT a special litigation committee and an action is  
13 commenced before the committee has made a determination HAS BEEN <--  
14 MADE under subsection (e):

15 (1) On motion by the committee made in the name of the  
16 partnership, ~~except for good cause shown,~~ the court shall <--  
17 stay discovery for the time reasonably necessary to permit  
18 the committee to make its investigation, EXCEPT FOR GOOD <--  
19 CAUSE SHOWN.

20 (2) The time for the defendants to plead shall be tolled  
21 until the process provided for under subsection (f) has been  
22 completed.

23 (c) Composition of committee.--A special litigation  
24 committee shall be composed of two or more individuals who:

25 (1) are not interested in the CLAIMS ASSERTED IN THE <--  
26 DEMAND OR action;

27 (2) are capable as a group of objective judgment in the  
28 circumstances; and

29 (3) may, but need not, be general or limited partners.

30 (d) Appointment of committee.--A special litigation

1 committee may be appointed:

2 (1) by a majority of the general partners not named as  
3 actual or potential parties in the demand or action; or

4 (2) if all general partners are named as actual or  
5 potential parties in the demand or action, by a majority of  
6 the general partners so named.

7 (e) Determination by committee.--After appropriate <--

8 investigation, BY a special litigation committee, THE COMMITTEE <--

9 OR THE GENERAL PARTNERS may determine that it is in the best

10 interests of the limited partnership that:

11 (1) an action based on some or all of the claims  
12 asserted in the demand not be brought by the partnership but  
13 that the partnership not object to an action being brought by  
14 the party that made the demand;

15 (2) an action based on some or all of the claims  
16 asserted in the demand be brought by the partnership;

17 (3) some or all of the claims asserted in the demand be  
18 settled on terms approved by the committee;

19 (4) an action not be brought based on any of the claims  
20 asserted in the demand;

21 (5) an action already commenced continue under the  
22 control of:

23 (i) the plaintiff; or <--

24 (II) THE LIMITED PARTNERSHIP; OR <--

25 ~~(ii)~~ (III) the committee; <--

26 (6) some or all of the claims asserted in an action  
27 already commenced be settled on terms approved by the  
28 committee; or

29 (7) an action already commenced be dismissed.

30 (f) Court review and action.--If a special litigation

1 ~~committee is appointed and an action is commenced before the~~ <--  
2 ~~committee makes a determination~~ A DETERMINATION IS MADE under <--  
3 subsection (e):

4 (1) The limited partnership shall file with the court  
5 ~~after the committee makes a determination~~ A DETERMINATION IS <--  
6 ~~MADE~~ under subsection (e) a statement of the ~~committee's~~ <--  
7 ~~determination and a report supporting the determination~~ OF <--  
8 THE COMMITTEE. The partnership shall serve each party with a  
9 copy of the determination and report. If the partnership  
10 moves to file the report under seal, the report shall be  
11 served on the parties subject to an appropriate <--  
12 ~~order~~ STIPULATION agreed to by the parties or ~~ordered~~ A <--  
13 PROTECTIVE ORDER ISSUED by the court.

14 (2) The partnership shall file with the court a motion,  
15 pleading or notice consistent with the determination <--  
16 ~~of the~~ committee under subsection (e).

17 (3) If the ~~committee makes a determination~~ DETERMINATION <--  
18 IS ONE described in subsection (e) (2), (3), (4), (5) (ii), (6)  
19 or (7), the court shall determine whether the members of the  
20 committee met the qualifications required under subsection  
21 (c) (1) and (2) and whether the committee conducted its  
22 investigation and made its recommendation in good faith,  
23 independently and with reasonable care. If the court finds  
24 that the members of the committee met the qualifications  
25 required under subsection (c) (1) and (2) and that the  
26 committee acted in good faith, independently and with  
27 reasonable care, the court shall enforce the determination of  
28 the committee. Otherwise, the court shall:

29 (i) dissolve any stay of discovery entered under  
30 subsection (b);

1           (ii) allow the action to continue under the control  
2           of the plaintiff; and

3           (iii) permit the defendants to file preliminary  
4           objections and other appropriate motions and pleadings.

5           (G) ATTORNEY GENERAL.--NOTHING IN THIS SECTION SHALL LIMIT <--  
6           THE RIGHTS, POWERS AND DUTIES OF THE ATTORNEY GENERAL UNDER  
7           OTHER APPLICABLE LAW WITH RESPECT TO A LIMITED PARTNERSHIP  
8           ORGANIZED FOR A CHARITABLE PURPOSE.

9           ~~(g)~~ (H) Cross reference.--See section 8615(c)(18) (relating <--  
10           to contents of partnership agreement).

11           § ~~8696~~ 8695. Proceeds and expenses. <--

12           (a) Proceeds.--Except as provided in subsection (b):

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

16           (2) if the plaintiff OR ITS COUNSEL receives any <--  
17           proceeds, the plaintiff shall remit them PROCEEDS SHALL BE <--  
18           REMITTED immediately to the partnership.

19           (b) Expenses.--If a derivative action is successful in whole  
20           or in part, the court may award the plaintiff reasonable  
21           expenses, including reasonable attorney fees and costs, from the  
22           recovery of the limited partnership-, BUT IN NO EVENT SHALL THE <--  
23           ATTORNEY FEES AWARDED EXCEED A REASONABLE PROPORTION OF THE  
24           VALUE OF THE RELIEF, INCLUDING NONPECUNIARY RELIEF, OBTAINED BY  
25           THE PLAINTIFF FOR THE LIMITED PARTNERSHIP.

26           (c) Cross reference.--See section ~~8615(e)(13)~~ 8615(C)(7) <--  
27           (relating to contents of partnership agreement).

28           Section 28. Sections 8701, 8702 and 8705 of Title 15 are  
29 amended to read:

30 § 8701. Scope and definition.

1 (a) Application of chapter.--This chapter applies to a  
2 general or limited partnership formed under the laws of this  
3 Commonwealth that elects to be governed by this chapter. Any  
4 partnership that desires to elect to be governed by this  
5 chapter, or to amend or terminate the election, shall [file in]  
6 deliver to the Department of State for filing a statement of  
7 election, amendment or termination, as the case may be, which  
8 shall be signed by a general partner and shall set forth:

9 (1) The name of the partnership.

10 (2) The location of the principal place of business.

11 (3) The name of each general partner of the partnership  
12 as of the date of the statement.

13 (4) A statement that the partnership elects to be  
14 governed by this chapter or that the election to be governed  
15 by this chapter shall be amended or terminated, as the case  
16 may be.

17 (5) If the election is to be made or terminated, a  
18 statement that the election or termination has been  
19 authorized by at least a majority in interest of the  
20 partners.

21 (a.1) Effective date and time.--Subject to section 136(c)  
22 (relating to processing of documents by Department of State),  
23 [Upon] upon the filing of the statement of election, amendment  
24 or termination in the department, the election to be governed by  
25 this chapter shall be effective, amended or terminated, as the  
26 case may be.

27 (b) Effect of election.--As long as an election under  
28 subsection (a) is in effect, the partnership shall be governed  
29 by the provisions of this chapter and, to the extent not  
30 inconsistent with this chapter, Chapter [83] 84 (relating to

1 general partnerships) [and] OR, if a limited partnership,  
2 Chapter [85] 86 (relating to limited partnerships).

3 (c) Definition.--As used in this chapter, the term "electing  
4 partnership" means a partnership as to which an election under  
5 subsection (a) is in effect.

6 (d) Cross [reference.--See section] references.--See  
7 sections 134 (relating to docketing statement) and 135 (relating  
8 to requirements to be met by filed documents).

9 § 8702. Centralized management.

10 The business and affairs of every electing partnership shall  
11 be managed by one-third or less, but not less than one, of the  
12 partners selected for that purpose in the manner provided by any  
13 agreement between the partners, and no other partner shall have  
14 a right to participate in the management of the partnership. A  
15 partner of an electing partnership shall be an agent of the  
16 partnership only to the extent that an employee of the  
17 partnership would be under like circumstances. In making such a  
18 determination, the court may consider among other things whether  
19 a person dealing with the partnership has knowledge, as defined  
20 in section [8303(a) (relating to knowledge)] 8413(a) (relating  
21 to knowledge and notice), that this section is applicable to the  
22 partnership.

23 § 8705. Limited liability in certain cases.

24 (a) General rule.--The liability of a partner of an electing  
25 partnership for the debts and obligations of the partnership  
26 shall be satisfied out of partnership assets alone if[:

27 (1)] the debt or obligation arises from a transaction or  
28 occurrence in which the person dealing with the partnership  
29 has notice, as defined in section [8303(b) (relating to  
30 notice)] 8413(b) (relating to knowledge and notice), that

1 this section is applicable to the partnership.]; or

2 (2) the fact that this section is applicable to the  
3 partnership has been advertised in the manner provided by  
4 section 8357(a)(2)(ii) (relating to power of partner to bind  
5 partnership to third persons).]

6 (b) Exceptions.--Subsection (a) does not apply:

7 (1) Unless otherwise agreed by the obligee, to a debt or  
8 obligation arising prior to the time a partnership becomes an  
9 electing partnership [and complies with subsection (a)(1) or  
10 (2)].

11 (2) To a transaction or occurrence involving the  
12 furnishing or sale of any goods or services by the  
13 partnership.

14 (c) Professional relationship unaffected.--Subsection (a)  
15 shall not afford the partners of an electing partnership  
16 providing professional services with greater immunity than is  
17 available to the officers, shareholders, employees or agents of  
18 a professional corporation. See section 2925 (relating to  
19 professional relationship retained).

20 Section 29 Title 15 is amended by adding a chapter to read:

21 CHAPTER 88

22 LIMITED LIABILITY COMPANIES

23 Subchapter

24 A. General Provisions

25 B. Formation and Filings

26 C. Relations of Members and Managers to Persons Dealing with  
27 Limited Liability Company

28 D. Relations of Members to Each Other and to Limited  
29 Liability Company

30 E. Transferable Interests and Rights of Transferees and



1 (c) Full effective date.--Except as provided in subsection  
2 (d), on and after July 1, 2016, this chapter governs all limited  
3 liability companies.

4 (d) Certificates of membership interest.--For purposes of  
5 applying this chapter to a limited liability company formed  
6 before [the Legislative Reference Bureau shall insert here the  
7 effective date of this chapter], language in the company's  
8 certificate of organization authorizing the issuance of  
9 certificates of membership interest operates as if that language  
10 were in the operating agreement.

11 (e) Cross reference.--See section 8815(c)(5) (relating to  
12 contents of operating agreement).

13 § 8812. Definitions.

14 (a) General definitions.--The following words and phrases  
15 when used in this chapter shall have the meanings given to them  
16 in this section unless the context clearly indicates otherwise:

17 "Certificate of organization." The certificate required by  
18 section 8821 (relating to formation of limited liability company  
19 and certificate of organization). The term includes the  
20 certificate as amended or restated.

21 "Contribution." Property or a benefit described under  
22 section 8842 (relating to form of contribution) which is  
23 provided by a person to a limited liability company to become a  
24 member or in the capacity of a person as a member.

25 "Distribution." A direct or indirect transfer of money or  
26 other property from a limited liability company to a person on  
27 account of a transferable interest or in the person's capacity  
28 as a member. The term:

29 (1) includes:

30 (i) a redemption or other purchase by a limited

1 liability company of a transferable interest; and  
2 (ii) a transfer to a member in return for the  
3 member's relinquishment of any right to participate as a  
4 member in the management or conduct of the company's  
5 activities and affairs or to have access to records or  
6 other information concerning the company's activities and  
7 affairs; and

8 (2) does not include:

9 (i) amounts constituting reasonable compensation for  
10 present or past service or payments made in the ordinary  
11 course of business under a bona fide retirement plan or  
12 other bona fide benefits program;

13 (ii) the making of, or payment or performance on, a  
14 guaranty or similar arrangement by a company for the  
15 benefit of any or all of its members;

16 (iii) a direct or indirect allocation or transfer  
17 effected under Chapter 3 (relating to entity  
18 transactions) with the approval of the members; or

19 (iv) a direct or indirect transfer of:

20 (A) a governance or transferable interest; or

21 (B) options, rights or warrants to acquire a  
22 governance or transferable interest.

23 "Limited liability company." An association formed under  
24 this chapter or which becomes subject to this chapter under  
25 Chapter 3 or section 8811 (relating to short title and  
26 application of chapter).

27 "Manager." A person that under the operating agreement of a  
28 manager-managed limited liability company is responsible, alone  
29 or in concert with others, for performing the management  
30 functions stated under section 8847(c) (relating to management

1 of limited liability company).

2 "Manager-managed limited liability company." A limited  
3 liability company that qualifies as such under section 8847(a).

4 "Member." A person that:

5 (1) has become a member of a limited liability company  
6 under section 8841 (relating to becoming a member) or was a  
7 member in a company when the company became subject to this  
8 chapter under section 8811(b); and

9 (2) has not dissociated as a member under section 8861  
10 (relating to events causing dissociation).

11 "Member-managed limited liability company." A limited  
12 liability company that is not a manager-managed limited  
13 liability company.

14 "Operating agreement." The agreement, whether or not  
15 referred to as an operating agreement and whether oral, implied,  
16 in record form or in any combination thereof, of all the members  
17 of a limited liability company, including a sole member,  
18 concerning matters described in section 8815(a) (relating to  
19 contents of operating agreement). The term includes the  
20 agreement as amended or restated.

21 "Organizer." A person that acts under section 8821 to form a  
22 limited liability company.

23 "Professional company." A limited liability company that  
24 renders one or more professional services.

25 "Transferable interest." The right, as initially owned by a  
26 person in the person's capacity as a member, to receive  
27 distributions from a limited liability company, whether or not  
28 the person remains a member or continues to own any part of the  
29 right. The term applies to any fraction of the interest, by  
30 whomever owned.

1 "Transferee." A person to which all or part of a  
2 transferable interest has been transferred, whether or not the  
3 transferor is a member. The term includes a person that owns a  
4 transferable interest under section 8863(a)(3) (relating to  
5 effect of dissociation).

6 (b) Index of other definitions.--Following is a nonexclusive  
7 list of definitions in section 102 (relating to definitions)  
8 that apply to this chapter:

9 "Act" or "action."

10 "Debtor in bankruptcy."

11 "Department."

12 "Jurisdiction of formation."

13 "Principal office."

14 "Professional services."

15 "Property."

16 "Record form."

17 "Sign."

18 "Transfer."

19 § 8813. Knowledge and notice.

20 (a) Knowledge.--A person knows a fact if the person:

21 (1) has actual knowledge of it; or

22 (2) is deemed to know it under subsection (d) or law  
23 other than this chapter.

24 (b) Notice.--A person has notice of a fact if the person has  
25 reason to know the fact from all the facts known to the person  
26 at the time in question.

27 (c) Constructive notice.--A person not a member or manager  
28 is deemed to have notice of:

29 (1) the dissolution of a limited liability company 90  
30 days after a certificate of dissolution under section 8872(b)

1 (2) (i) (relating to winding up and filing of optional  
2 certificates) is effective;

3 (2) the termination of a company 90 days after a  
4 certificate of termination under section 8872(b) (2) (vi) is  
5 effective; and

6 (3) the participation of a company in a merger, interest  
7 exchange, conversion, division or domestication, 90 days  
8 after a statement of merger, interest exchange, conversion,  
9 division or domestication under Chapter 3 (relating to entity  
10 transactions) becomes effective.

11 (d) Notification.--Except as provided under section 113(b)  
12 (relating to delivery of document), a person notifies another  
13 person of a fact by taking steps reasonably required to inform  
14 the other person in ordinary course, whether or not those steps  
15 cause the other person to know the fact.

16 (e) Transfer of real property.--A person not a member or  
17 manager is deemed to know of a limitation on authority to  
18 transfer real property as provided under section 8832(g)  
19 (relating to certificate of authority).

20 (f) Effect of manager's knowledge or notice.--If the  
21 certificate of organization of a limited liability company  
22 provides that it is manager-managed, a manager's knowledge or  
23 notice of a fact relating to the company is effective  
24 immediately as knowledge of or notice to the company, except in  
25 the case of a fraud on the company committed by or with the  
26 consent of the manager.

27 § 8814. Governing law.

28 (a) General rule.--The law of this Commonwealth governs:

29 (1) the internal affairs of a limited liability company;  
30 and

1           (2) the liability of a member as member and of a manager  
2           as manager for the debts, obligations or other liabilities of  
3           a limited liability company.

4           (b) Cross reference.--See section 8815(c)(6) (relating to  
5           contents of operating agreement).

6           § 8815. Contents of operating agreement.

7           (a) Scope of operating agreement.--Except as provided under  
8           subsections (c) and (d), the operating agreement governs:

9                   (1) relations among the members as members and between  
10                   the members and the limited liability company;

11                   (2) the rights and duties under this title of a person  
12                   in the capacity of a member or manager;

13                   (3) the activities and affairs of the company and the  
14                   conduct of those activities and affairs;

15                   (4) the means and conditions for amending the operating  
16                   agreement; and

17                   (5) the means and conditions for approving a transaction  
18                   under Chapter 3 (relating to entity transactions).

19           (b) Title applies generally.--To the extent the operating  
20           agreement does not provide for a matter described in subsection  
21           (a), this title governs the matter.

22           (c) Limitations.--An operating agreement may not do any of  
23           the following:

24                   (1) Vary a provision of Chapter 1 (relating to general  
25                   provisions) or Subchapter A of Chapter 2 (relating to names).

26                   (2) Vary the right of a member to approve a merger,  
27                   interest exchange, conversion, division or domestication  
28                   under section 333(a)(2) (relating to approval of merger),  
29                   343(a)(2) (relating to approval of interest exchange), ~~353(a)~~ <--  
30                   ~~(2)~~ 353(A)(3) (relating to approval of conversion), 363(a)(2) <--

1 (relating to approval of division) or 373(a)(2) (relating to  
2 approval of domestication).

3 (3) Vary the required contents of a plan of merger under  
4 section 332(a) (relating to plan of merger), plan of interest  
5 exchange under section 342(a) (relating to plan of interest  
6 exchange), plan of conversion under section 352(a) (relating  
7 to plan of conversion), plan of division under section 362(a)  
8 (relating to plan of division) or plan of domestication under  
9 section 372(a) (relating to plan of domestication).

10 (4) Vary a provision of Chapter 81 (relating to general  
11 provisions).

12 (5) Vary the provisions of section 8811(b), (c) and (d)  
13 (relating to short title and application of chapter).

14 (6) Vary the law applicable under section 8814 (relating  
15 to governing law).

16 (7) Vary a provision of section 8818(d) (relating to  
17 characteristics of limited liability company).

18 (8) Vary a provision of section 8819 (relating to  
19 powers).

20 (9) Vary any requirement, procedure or other provision  
21 of this title pertaining to:

22 (i) registered offices; or

23 (ii) the department, including provisions pertaining  
24 to documents authorized or required to be delivered to  
25 the department for filing under this title.

26 (10) Provide indemnification against, or relieve or <--  
27 exonerate a person from, liability for an action that has  
28 been determined by a court to constitute recklessness,  
29 willful misconduct or a knowing violation of law. OR <--

30 EXONERATION IN VIOLATION OF THE LIMITATIONS IN SECTIONS

1 8848(G) (RELATING TO REIMBURSEMENT, INDEMNIFICATION,  
2 ADVANCEMENT AND INSURANCE), 8849.1(J) (RELATING TO STANDARDS  
3 OF CONDUCT FOR MEMBERS) AND 8849.2(H) (RELATING TO STANDARDS  
4 OF CONDUCT FOR MANAGERS).

5 (11) Eliminate the duty of loyalty provided for in  
6 section 8849.1(b)(1)(i) or (ii) or (2) (relating to standards  
7 of conduct for members) or the duty of care of a member in a  
8 member-managed company, except as provided in subsection (d).

9 (12) Eliminate the duty of loyalty provided for in  
10 section 8849.2(b)(1)(i) or (ii) or (2) (relating to standards  
11 of conduct for managers) or the duty of care of a manager,  
12 except as provided in subsection (d).

13 (13) Vary the contractual obligation of good faith and  
14 fair dealing under section 8849.1(d) or 8849.2(d), except as  
15 provided in subsection (d).

16 (14) Restrict the duties and rights under section 8850  
17 (relating to rights to information), except as provided in  
18 subsection (d).

19 (15) Vary the causes of dissolution specified in section  
20 8871(a)(4) (relating to events causing dissolution).

21 (16) Vary the requirement to wind up the company's  
22 activities and affairs as specified in section 8872(a), (b)  
23 (1), and (e) (relating to winding up and filing of optional  
24 certificates).

25 (17) Unreasonably restrict the right of a member to  
26 maintain an action under Subchapter H (relating to actions by  
27 members).

28 (18) Vary the provisions of section ~~8885~~ 8884 (relating <--  
29 to special litigation committee), except that the operating  
30 agreement may provide that the company may not have a special

1 litigation committee.

2 (19) Except as provided in section 8817(b) (relating to  
3 amendment and effect of operating agreement), restrict the  
4 rights under this title of a person other than a member or  
5 manager.

6 (d) Permitted terms.--Subject to subsection (c)(10), the  
7 following rules apply:

8 (1) The operating agreement may:

9 (i) specify the method by which a specific act or  
10 transaction that would otherwise violate the duty of  
11 loyalty may be authorized or ratified by one or more  
12 disinterested and independent persons after full  
13 disclosure of all material facts;

14 (ii) alter the prohibition stated in section 8845(a)  
15 (2) (relating to limitations on distributions) so that  
16 the prohibition requires only that the company's total  
17 assets not be less than the sum of its total liabilities;  
18 and

19 (iii) impose reasonable restrictions on the  
20 availability and use of information obtained under  
21 section 8850 and may define appropriate remedies,  
22 including liquidated damages, for a breach of any  
23 reasonable restriction on use.

24 (2) To the extent the operating agreement of a member-  
25 managed limited liability company expressly relieves a member  
26 of a responsibility that the member would otherwise have  
27 under this title and imposes the responsibility on one or  
28 more other members, the operating agreement also may  
29 eliminate or limit any fiduciary duty of the member relieved  
30 of the responsibility that would have pertained to the

1 responsibility.

2 (3) If not manifestly unreasonable, the operating  
3 agreement may:

4 (i) alter the aspects of the duty of loyalty stated  
5 under section 8849.1(b)(1)(i) or (ii) or (2) or 8849.2(b)  
6 (1)(i) or (ii) or (2);

7 (ii) prescribe the standards, if not manifestly  
8 unreasonable, by which the performance of the contractual  
9 obligation of good faith and fair dealing under section  
10 8849.1(d) or 8849.2(d) is to be measured;

11 (iii) identify specific types or categories of  
12 activities that do not violate the duty of loyalty;

13 (iv) alter the duty of care; and

14 (v) alter or eliminate any other fiduciary duty.

15 (e) Determination of manifest unreasonableness.--The court  
16 shall decide as a matter of law whether a term of an operating  
17 agreement is manifestly unreasonable under subsection (d)(3).

18 The court:

19 (1) shall make its determination as of the time the  
20 challenged term became part of the operating agreement and by  
21 considering only circumstances existing at that time; and

22 (2) may invalidate the term only if, in light of the  
23 purposes, activities and affairs of the limited liability  
24 company, it is readily apparent that:

25 (i) the objective of the term is unreasonable; or

26 (ii) the term is an unreasonable means to achieve  
27 the term's objective.

28 § 8816. Application of operating agreement.

29 (a) Company bound.--A limited liability company is bound by  
30 and may enforce the operating agreement, whether or not the

1 company has itself manifested assent to the agreement.

2 (b) Deemed assent.--A person that becomes a member of a  
3 limited liability company is deemed to assent to the operating  
4 agreement.

5 (c) Preformation agreement.--Two or more persons intending  
6 to become the initial members of a limited liability company may  
7 make an agreement providing that upon the formation of the  
8 company the agreement will become the operating agreement. One  
9 person intending to become the initial member of a limited  
10 liability company may assent to terms providing that upon the  
11 formation of the company the terms will become the operating  
12 agreement.

13 § 8817. Amendment and effect of operating agreement.

14 (a) Approval of amendments.--An operating agreement may  
15 specify that its amendment requires the approval of a person  
16 that is not a party to the agreement or the satisfaction of a  
17 condition. An amendment is ineffective if its adoption does not  
18 include the required approval or satisfy the specified  
19 condition. See section 8847(b)(6) and (c)(3)(iii) (relating to  
20 management of limited liability company).

21 (b) Obligations to nonmembers.--The obligations of a limited  
22 liability company and its members to a person in the person's  
23 capacity as a transferee or a person dissociated as a member are  
24 governed by the operating agreement. Except as provided in  
25 section 8844(d) (relating to sharing of and right to  
26 distributions before dissolution) or in a court order issued  
27 under section 8853(b)(2) (relating to charging order) to  
28 effectuate a charging order, an amendment to the operating  
29 agreement made after a person becomes a transferee or is  
30 dissociated as a member:

1       (1) is effective with regard to any debt, obligation or  
2 other liability of the limited liability company or its  
3 members to the person in the person's capacity as a  
4 transferee or person dissociated as a member; and

5       (2) is not effective to the extent the amendment imposes  
6 a new debt, obligation or other liability on the transferee  
7 or person dissociated as a member.

8       (c) Provisions in filed documents.--If a document delivered  
9 by a limited liability company to the department for filing  
10 contains a provision that would be ineffective under section  
11 8815(c) or (d)(3) (relating to contents of operating agreement)  
12 if contained in the operating agreement, the provision is  
13 ineffective in the document.

14       (d) Conflicts with operating agreement.--Subject to  
15 subsection (c):

16           (1) If a provision of the certificate of organization  
17 conflicts with a provision of the operating agreement, the  
18 provision of the certificate prevails.

19           (2) If a document other than its certificate of  
20 organization has been delivered by the company to the  
21 department for filing and conflicts with a provision of the  
22 operating agreement:

23                   (i) the operating agreement prevails as to members,  
24 dissociated members, transferees and managers; and

25                   (ii) the document prevails as to other persons to  
26 the extent they reasonably rely on the document.

27       (e) Prohibition of oral amendments.--If a provision of an  
28 operating agreement in record form provides that the operating  
29 agreement cannot be amended, modified or rescinded except in  
30 record form, an oral agreement, amendment, modification or

1 rescission shall not be enforceable.

2 § 8818. Characteristics of limited liability company.

3 (a) Separate entity.--A limited liability company is an  
4 entity distinct from its member or members.

5 (b) Purpose.--A limited liability company may have any  
6 lawful purpose OTHER THAN ACTING AS AN INSURER, regardless of <--  
7 whether the purpose is for profit. Nothing under this section  
8 shall prohibit the organization of an insurance agency licensed  
9 in this Commonwealth as a limited liability company. See section  
10 8102 (relating to interchangeability of partnership, limited  
11 liability company and corporate forms of organization).

12 (c) Duration.--A limited liability company has perpetual  
13 duration.

14 (d) Restrictions on nonprofit companies.--If a limited  
15 liability company has a purpose that is not for profit:

16 (1) Its purpose must be stated in the certificate of  
17 organization.

18 (2) The company shall not distribute any part of its  
19 income or profits to its members, managers or officers,  
20 except that it may pay compensation in a reasonable amount to  
21 those persons for services rendered.

22 (3) The company may confer benefits on members or  
23 nonmembers in conformity with its purposes, may repay capital  
24 contributions and may redeem evidences of indebtedness,  
25 except when the company is currently insolvent or would  
26 thereby be made insolvent or rendered unable to carry on its  
27 purposes, or when the fair value of the assets of the company  
28 remaining after the conferring of benefits, payment or  
29 redemption would be insufficient to meet its liabilities. The  
30 company may make distributions of money or property to

1 members upon dissolution or final liquidation as permitted by  
2 this chapter.

3 (4) If the company is organized for a charitable purpose  
4 ~~or purposes,~~ it may take, receive and hold real and personal <--  
5 property as may be given, devised to or otherwise vested in  
6 the company, in trust, for the purpose or purposes set forth  
7 in its certificate of organization. The members, if it is  
8 member-managed, or the managers, if it is manager-managed,  
9 shall, as trustees of the property, be held to the same  
10 degree of responsibility and accountability as other  
11 trustees, unless:

12 (i) a lesser degree or a particular degree of  
13 responsibility and accountability is prescribed in the  
14 trust instrument;

15 (ii) if the company is member-managed, the members  
16 remain under the control of third persons who retain the  
17 right to direct, and do direct, the actions of the  
18 members as to the use of the trust property from time to  
19 time; or

20 (iii) if the company is manager-managed, the  
21 managers remain under the control of the members or third  
22 persons who retain the right to direct, and do direct,  
23 the actions of the managers as to the use of the trust  
24 property from time to time.

25 (5) Property of the company committed to charitable  
26 purposes shall not, by any proceeding under Chapter 3  
27 (relating to entity transactions) or otherwise, be diverted  
28 from the objects to which it was donated, granted or devised,  
29 unless and until the company obtains from the court an order  
30 under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying the

1 disposition of the property.

2 (e) Cross reference.--See section 8815(c)(7) (relating to  
3 contents of operating agreement).

4 § 8819. Powers.

5 (a) General rule.--A limited liability company has the power  
6 to do all things necessary or convenient to carry on its  
7 activities and affairs.

8 (b) Capacity to sue and be sued.--A limited liability  
9 company has the capacity to sue and be sued in its own name.

10 (c) Certain specifically authorized debt terms.--A limited  
11 liability company shall be subject to section 1510 (relating to  
12 certain specifically authorized debt terms) to the same extent  
13 as if it were a business corporation.

14 (d) Cross references.--See sections 8102 (relating to  
15 interchangeability of partnership, limited liability company and  
16 corporate forms of organization) and 8815(c)(8) (relating to  
17 contents of operating agreement).

18 SUBCHAPTER B

19 FORMATION AND FILINGS

20 Sec.

21 8821. Formation of limited liability company and certificate of  
22 organization.

23 8822. Amendment or restatement of certificate of organization.

24 8823. Signing of filed documents.

25 8824. Liability of member, manager or other person for false or  
26 missing information in filed document.

27 8825. Registered office.

28 § 8821. Formation of limited liability company and certificate  
29 of organization.

30 (a) Formation.--One or more persons may act as organizers to

1 form a limited liability company by delivering to the department  
2 for filing a certificate of organization.

3 (b) Required contents of certificate.--A certificate of  
4 organization must state:

5 (1) the name of the limited liability company, which  
6 must comply with Subchapter A of Chapter 2 (relating to  
7 names); and

8 (2) subject to section 109 (relating to name of  
9 commercial registered office provider in lieu of registered  
10 address), the address, including street and number, if any,  
11 of the company's registered office.

12 (c) Optional contents of certificate.--A certificate of  
13 organization may contain statements as to matters other than  
14 those required by subsection (b), but may not vary or otherwise  
15 affect the provisions specified under section 8815(c) and (d)  
16 (relating to contents of operating agreement) in a manner  
17 inconsistent with that section.

18 (d) Substitute certificate of authority.--A statement in a  
19 certificate of organization with respect to a matter described  
20 in section 8832(a)(2) or (3) (relating to certificate of  
21 authority) is effective as a certificate of authority and the  
22 statement is subject to the provisions of section 8832 in the  
23 same manner as a certificate of authority.

24 (e) Effect of certificate of organization.--A provision of  
25 the certificate of organization shall be deemed to be a  
26 provision of the operating agreement for purposes of any  
27 provision of this title that refers to a rule as set forth in  
28 the operating agreement.

29 (f) Time of formation.--A limited liability company is  
30 formed when its certificate of organization becomes effective.

1 (g) Cross references.--See:

2 Section 134 (relating to docketing statement).

3 Section 135 (relating to requirements to be met by filed  
4 documents).

5 Section 136(c) (relating to processing of documents by  
6 Department of State).

7 Section 8818(d)(1) (relating to characteristics of  
8 limited liability company).

9 Section 8823 (relating to signing of filed documents).

10 § 8822. Amendment or restatement of certificate of  
11 organization.

12 (a) General rule.--A certificate of organization may be  
13 amended or restated at any time.

14 (b) Required contents of certificate of amendment.--To amend  
15 its certificate of organization, a limited liability company  
16 must deliver to the department for filing a certificate of  
17 amendment that states:

18 (1) the name of the company;

19 (2) the date of filing of its initial certificate of  
20 organization;

21 (3) subject to section 109 (relating to name of  
22 commercial registered office provider in lieu of registered  
23 address), the address, including street and number, if any,  
24 of its registered office; and

25 (4) the amendment.

26 (c) Restatement.--To restate its certificate of  
27 organization, a limited liability company must deliver to the  
28 department for filing a certificate of amendment that:

29 (1) is designated as a restatement; and

30 (2) includes a statement that the restated certificate

1 supersedes the original certificate and all previous  
2 amendments.

3 (d) Obligation to correct.--If a member of a member-managed  
4 limited liability company, or a manager of a manager-managed  
5 limited liability company, knows that any information in a filed  
6 certificate of organization is inaccurate, the member or manager  
7 shall promptly:

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

9 (2) if appropriate, deliver to the department for filing  
10 a statement of correction under section 138 (relating to  
11 statement of correction) or a statement of abandonment under  
12 section 141 (relating to abandonment of filing before  
13 effectiveness).

14 (e) Cross references.--See:

15 Section 134 (relating to docketing statement).

16 Section 135 (relating to requirements to be met by filed  
17 documents).

18 Section 136(c) (relating to processing of documents by  
19 Department of State).

20 Section 8823 (relating to signing of filed documents).

21 § 8823. Signing of filed documents.

22 (a) Required signatures.--~~A~~ EXCEPT AS PROVIDED IN THIS <--  
23 TITLE, A document delivered to the department for filing under  
24 this title relating to a limited liability company must be  
25 signed as follows:

26 (1) Except as provided in paragraphs (2) and (3), a  
27 document signed on behalf of a limited liability company must  
28 be signed by a person authorized by the company.

29 (2) A company's initial certificate of organization must  
30 be signed by each organizer.

1           (3) A document delivered on behalf of a dissolved  
2 company that has no member must be signed by the person  
3 winding up the company's activities and affairs under section  
4 8872(c) (relating to winding up and filing of optional  
5 certificates) or a person appointed under section 8872(d) to  
6 wind up the activities and affairs.

7           (4) A certificate of denial by a person under section  
8 8833 (relating to certificate of denial) must be signed by  
9 that person.

10           (5) Any other document delivered on behalf of a person  
11 to the department for filing must be signed by that person.

12           (b) Cross reference.--See section 142 (relating to effect of  
13 signing filings).

14 § 8824. Liability of member, manager or other person for false  
15 or missing information in filed document.

16           (a) General rule.--If a document delivered to the department  
17 for filing under this title and filed by the department contains  
18 a materially false statement or fails to state a material fact  
19 required to be stated, a person that suffers loss by reasonable  
20 reliance on the statement or failure to state a material fact  
21 may recover damages for the loss from:

22           (1) a person that signed the document or caused another  
23 to sign it on the person's behalf and knew there was false or  
24 missing information in the document at the time it was  
25 signed; and

26           (2) subject to subsection (b), a member of a member-  
27 managed limited liability company or a manager of a manager-  
28 managed limited liability company if:

29           (i) the document was delivered for filing on behalf  
30 of the company; and

1           (ii) the member or manager knew or had notice there  
2 was false or missing information for a reasonably  
3 sufficient time before the document was relied upon so  
4 that, before the reliance, the member or manager  
5 reasonably could have:

6           (A) effected an amendment under section 8822  
7 (relating to amendment or restatement of certificate  
8 of organization);

9           (B) filed a petition under section 144 (relating  
10 to signing and filing pursuant to judicial order); or

11           (C) delivered to the department for filing a  
12 statement of correction under section 138 (relating  
13 to statement of correction) or a statement of  
14 withdrawal under section 141 (relating to abandonment  
15 of filing before effectiveness).

16       (b) Substitute responsibility.--To the extent the operating  
17 agreement of a member-managed limited liability company  
18 expressly relieves a member of responsibility for maintaining  
19 the accuracy of information contained in documents delivered on  
20 behalf of the company to the department for filing under this  
21 chapter and imposes that responsibility on one or more other  
22 members, the liability stated under subsection (a)(2) applies to  
23 those other members and not to the member that the operating  
24 agreement relieves of the responsibility.

25 § 8825. Registered office.

26       (a) General rule.--Every limited liability company shall  
27 have and continuously maintain in this Commonwealth a registered  
28 office which may, but need not, be the same as its place of  
29 business.

30       (b) Change of registered office.--After organization, a

1 change in the location of the registered office may be effected  
2 at any time by the company. Before the change becomes effective,  
3 the company shall amend its certificate of organization under  
4 the provisions of this chapter to reflect the change in location  
5 or shall file with the department a certificate of change of  
6 registered office setting forth:

7 (1) The name of the company.

8 (2) The address, including street and number, if any, of  
9 its then registered office.

10 (3) The address, including street and number, if any, to  
11 which the registered office is to be changed.

12 (c) Alternative procedure.--A limited liability company may  
13 satisfy the requirements of this chapter concerning the  
14 maintenance of a registered office in this Commonwealth by  
15 setting forth in any document filed in the department under any  
16 provision of this chapter that permits or requires the statement  
17 of the address of its then registered office, in lieu of that  
18 address, the statement authorized under section 109(a) (relating  
19 to name of commercial registered office provider in lieu of  
20 registered address).

21 (d) Cross references.--See:

22 Section 108 (relating to change in location or status of  
23 registered office provided by agent).

24 Section 134 (relating to docketing statement).

25 Section 135 (relating to requirements to be met by filed  
26 documents).

27 Section 136(c) (relating to processing of documents by  
28 Department of State).

29 Section 8815(c) (7) (relating to contents of operating  
30 agreement).

1 Section 8823 (relating to signing of filed documents).

2 SUBCHAPTER C

3 RELATIONS OF MEMBERS AND MANAGERS

4 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

5 Sec.

6 8831. Status of member or manager as agent.

7 8832. Certificate of authority.

8 8833. Certificate of denial.

9 8834. Liability of members and managers.

10 8835. Taxation of limited liability companies.

11 § 8831. Status of member or manager as agent.

12 (a) No agency power of member as member.--A member is not an  
13 agent of a limited liability company solely by reason of being a  
14 member.

15 (b) Agency power of manager.--If the certificate of  
16 organization states that the company is manager-managed, the act  
17 of a manager for apparently carrying on in the usual way the  
18 business of the company binds the company unless the manager so  
19 acting has in fact no authority to act for the company in the  
20 particular matter and the person with whom the manager is  
21 dealing has knowledge of the fact that the manager does not have  
22 that authority.

23 (c) Liability of company under other law.--A person's status  
24 as a member or manager does not prevent or restrict law other  
25 than this chapter from imposing liability on a limited liability  
26 company because of the person's conduct.

27 § 8832. Certificate of authority.

28 (a) General rule.--A limited liability company may deliver  
29 to the department for filing a certificate of authority signed  
30 by the company. The certificate:

1       (1) must include the name of the company and, subject to  
2 section 109 (relating to name of commercial registered office  
3 provider in lieu of registered address), the address,  
4 including street and number, if any, of its registered  
5 office;

6       (2) with respect to any position that exists in or with  
7 respect to the company, may state the authority, or  
8 limitations on the authority, of all persons holding the  
9 position to:

10       (i) transfer real property held in the name of the  
11 company, including signing an instrument of transfer; or

12       (ii) enter into other transactions on behalf of, or  
13 otherwise act for or bind, the company; and

14       (3) may state the authority, or limitations on the  
15 authority, of a specific person to:

16       (i) transfer real property held in the name of the  
17 company, including signing an instrument of transfer; or

18       (ii) enter into other transactions on behalf of, or  
19 otherwise act for or bind, the company.

20       (b) Amendment or cancellation.--To amend or cancel a  
21 certificate of authority filed by the department, a limited  
22 liability company must deliver to the department for filing an  
23 amendment or cancellation that states:

24       (1) the name of the company;

25       (2) subject to section 109, the address, including  
26 street and number, if any, of the company's registered  
27 office;

28       (3) the date the certificate being affected became  
29 effective; and

30       (4) the contents of the amendment or a statement that

1 the certificate is canceled.

2 (c) Effect.--A certificate of authority:

3 (1) supersedes any inconsistent provision of the  
4 certificate of organization in effect at the time the  
5 certificate of authority becomes effective;

6 (2) affects only the power of a person to bind a limited  
7 liability company with respect to persons that are not  
8 members; and

9 (3) is not binding on the department for purposes of the  
10 administration of this title or any other provision of law.

11 (d) Certificate not evidence of knowledge or notice.--Except  
12 as provided in subsections (e), (f), (g) and (h), a limitation  
13 on the authority of a person or a position contained in an  
14 effective certificate of authority is not by itself evidence of  
15 knowledge or notice of the limitation by any person.

16 (e) Authority not pertaining to real property.--A grant of  
17 authority not pertaining to transfers of real property and  
18 contained in an effective certificate of authority is conclusive  
19 in favor of a person that gives value in reliance on the grant,  
20 except to the extent that when the person gives value:

21 (1) the person has knowledge to the contrary;

22 (2) the certificate has been canceled or restrictively  
23 amended under subsection (b); or

24 (3) a limitation on the grant is contained in another  
25 certificate of authority that became effective after the  
26 certificate containing the grant became effective.

27 (f) Authority to transfer real property.--An effective  
28 certificate of authority or certificate of organization that  
29 grants authority to transfer real property held in the name of a  
30 limited liability company, a certified copy of which certificate

1 is recorded in the office of the recorder of deeds for the  
2 county in which the property is located, is conclusive in favor  
3 of a person that gives value in reliance on the grant without  
4 knowledge to the contrary, except to the extent that when the  
5 person gives value:

6 (1) the certificate has been canceled or restrictively  
7 amended under subsection (b), and a certified copy of the  
8 cancellation or restrictive amendment has been recorded in  
9 the office of the recorder of deeds; or

10 (2) a limitation on the grant is contained in another  
11 certificate of authority that became effective after the  
12 certificate containing the grant became effective, and a  
13 certified copy of the later-effective certificate is recorded  
14 in the office of the recorder of deeds.

15 (g) Effect of recorded certificate.--If a certified copy of  
16 an effective certificate containing a limitation on the  
17 authority to transfer real property held in the name of a  
18 limited liability company is recorded in the office of the  
19 recorder of deeds for the county in which the real property is  
20 located, all persons are deemed to know of the limitation.

21 (h) Effect of dissolution or termination of company.--An  
22 effective certificate of dissolution does not cancel a filed  
23 certificate of authority for the purposes of subsection (f) and  
24 is a limitation on authority for the purposes of subsection  
25 (g). An effective certificate of termination cancels a filed  
26 certificate of authority.

27 (i) Automatic cancellation.--Unless earlier canceled, an  
28 effective certificate of authority that names an individual as  
29 having authority is canceled by operation of law five years  
30 after the date on which the certificate, or its most recent

1 amendment, becomes effective. The cancellation operates without  
2 need for any recording under subsection (f) or (g).

3 (j) Effect of certificate of denial.--An effective  
4 certificate of denial:

5 (1) operates as a restrictive amendment under this  
6 section and a certified copy may be recorded as provided in  
7 subsection (f)(1) by the limited liability company or the  
8 person that delivered the certificate of denial to the  
9 department for filing;

10 (2) affects only the authority of a person to bind the  
11 company with respect to persons that are not members; and

12 (3) supersedes any inconsistent provision of the  
13 certificate of organization in effect at the time the  
14 certificate of denial becomes effective.

15 (k) Foreign companies.--A foreign limited liability company  
16 may deliver a certificate of authority to the department for  
17 filing and may record a copy as provided in this section in the  
18 same manner and with the same effect as if it were a domestic  
19 company and regardless of whether the foreign company is  
20 registered to do business in this Commonwealth under Chapter 4  
21 (relating to foreign associations).

22 (l) Cross references.--See:

23 Section 134 (relating to docketing statement).

24 Section 135 (relating to requirements to be met by filed  
25 documents).

26 Section 136(c) (relating to processing of documents by  
27 Department of State).

28 Section 8823 (relating to signing of filed documents).

29 § 8833. Certificate of denial.

30 (a) General rule.--A person named in a filed certificate of

1 authority granting that person authority may deliver to the  
2 department for filing a certificate of denial that:

3 (1) states:

4 (i) the name of the limited liability company;

5 (ii) subject to section 109 (relating to name of  
6 commercial registered office provider in lieu of  
7 registered address), the address, including street and  
8 number, if any, of the registered office of the company;  
9 and

10 (iii) the date the certificate of authority to which  
11 the certificate of denial pertains was filed; and

12 (2) denies the grant of authority.

13 (b) Cross references.--See:

14 Section 134 (relating to docketing statement).

15 Section 135 (relating to requirements to be met by filed  
16 documents).

17 Section 136(c) (relating to processing of documents by  
18 Department of State).

19 Section 8823 (relating to signing of filed documents).

20 Section 8832(j) (relating to certificate of authority).

21 § 8834. Liability of members and managers.

22 (a) General rule.--A debt, obligation or other liability of  
23 a limited liability company is solely the debt, obligation or  
24 other liability of the company. A member or manager is not  
25 personally liable, directly or indirectly, by way of  
26 contribution or otherwise, for a debt, obligation or other  
27 liability of the company solely by reason of being or acting as

28 a member or manager. This subsection applies regardless of: A <--

29 MEMBER OR MANAGER. THIS SUBSECTION APPLIES REGARDLESS OF:

30 (1) WHETHER THE COMPANY HAS A SINGLE MEMBER OR MULTIPLE

1 MEMBERS; AND

2 (2) the dissolution, winding up or termination of the  
3 company.

4 (b) Professional relationship unaffected.--Subsection (a)  
5 shall not afford members of a professional company with greater  
6 immunity than is available to the officers, shareholders,  
7 employees or agents of a professional corporation. See section  
8 2925 (relating to professional relationship retained).

9 (c) Disciplinary jurisdiction unaffected.--A professional  
10 company shall be subject to the applicable rules and regulations  
11 adopted by, and all the disciplinary powers of, the court,  
12 department, board, commission or other government unit  
13 regulating the profession in which the company is engaged. The  
14 court, department, board or other government unit may require  
15 that a company include in its certificate of organization or  
16 operating agreement provisions that conform to any rule or  
17 regulation promulgated before, on or after the effective date of  
18 this section for the purpose of enforcing the ethics of a  
19 profession. This chapter shall not affect or impair the  
20 disciplinary powers of the court, department, board, commission  
21 or other government unit over licensed persons or any law, rule  
22 or regulation pertaining to the standards for professional  
23 conduct of licensed persons or to the professional relationship  
24 between any licensed person rendering professional services and  
25 the person receiving professional services.

26 (d) Rendering professional services.--

27 (1) Except as provided by a statute, rule or regulation  
28 applicable to a particular profession, a professional company  
29 may lawfully render professional services only through  
30 licensed persons. The company may employ persons not so

1 licensed except that those persons shall not render any  
2 professional services rendered or to be rendered by it.

3 (2) Paragraph (1) shall not be interpreted to preclude  
4 the use of clerks, secretaries, nurses, administrators,  
5 bookkeepers, technicians and other assistants or  
6 paraprofessionals who are not usually and ordinarily  
7 considered by law, custom and practice to be rendering the  
8 professional service or services for which the professional  
9 company was organized nor to preclude the use of any other  
10 person who performs all of the person's employment under the  
11 direct supervision and control of a licensed person. A person  
12 shall not under the guise of employment render professional  
13 services unless duly licensed or admitted to practice as  
14 required by law.

15 (3) Notwithstanding any other provision of law, a  
16 professional company may charge for the professional services  
17 rendered by it, may collect those charges and may compensate  
18 those who render the professional services.

19 (e) Medical professional liability.--A professional company  
20 shall be deemed to be a partnership for purposes of section 744  
21 of the act of March 20, 2002 (P.L.154, No.13), known as the  
22 Medical Care Availability and Reduction of Error (Mcare) Act.

23 (f) Cross reference.--See section 8105 (relating to  
24 ownership of certain professional partnerships).  
25 § 8835. Taxation of limited liability companies.

26 (a) General rule.--For the purposes of the imposition by the  
27 Commonwealth of any tax or license fee on or with respect to any  
28 income, property, privilege, transaction, subject or occupation,  
29 other than the corporate net income tax, capital stock and  
30 foreign franchise tax and personal income tax, a domestic or

1 foreign limited liability company shall be deemed to be a  
2 corporation organized and existing under Part II (relating to  
3 corporations), and a member of the company, as such, shall be  
4 deemed to be a shareholder of a corporation.

5 (b) Financial institutions.--For purposes of the bank shares  
6 tax and the mutual thrift institutions tax, a bank, bank and  
7 trust company, trust company, savings bank, building and loan  
8 association, savings and loan association or savings institution  
9 that is a domestic or foreign limited liability company shall be  
10 considered an "institution" as defined by Article VII or Article  
11 XV of the Tax Reform Code of 1971.

12 (c) Political subdivisions.--Nothing in this section shall  
13 impair or preempt the ability of a political subdivision to  
14 levy, assess or collect any applicable taxes or license fees  
15 authorized under the act of December 31, 1965 (P.L.1257,  
16 No.511), known as The Local Tax Enabling Act, on any limited  
17 liability company.

18 SUBCHAPTER D

19 RELATIONS OF MEMBERS TO EACH OTHER

20 AND TO LIMITED LIABILITY COMPANY

21 Sec.

22 8841. Becoming a member.

23 8842. Form of contribution.

24 8843. Liability for contributions.

25 8844. Sharing of and right to distributions before dissolution.

26 8845. Limitations on distributions.

27 8846. Liability for improper distributions.

28 8847. Management of limited liability company.

29 8848. Reimbursement, indemnification, advancement and  
30 insurance.

1 8849. (Reserved).

2 8849.1. Standards of conduct for members.

3 8849.2. Standards of conduct for managers.

4 8850. Rights to information.

5 § 8841. Becoming a member.

6 (a) Single initial member.--If a limited liability company  
7 is initially to have only one member, the person becomes a  
8 member as agreed by that person and the organizer of the  
9 company. That person and the organizer may be, but need not be,  
10 different persons. If the initial member and the organizer are  
11 different persons, the organizer acts on behalf of the initial  
12 member.

13 (b) Multiple initial members.--If a limited liability  
14 company is initially to have more than one member, those persons  
15 become members as agreed by those persons and the organizer  
16 before the formation of the company. The organizer acts on  
17 behalf of the persons in forming the company and may be, but  
18 need not be, one of the persons.

19 (c) Powers and authority of organizer.--Until a limited  
20 liability company has its first member, the organizer is deemed  
21 to be a manager of the company.

22 (d) Admission after formation.--After formation of a limited  
23 liability company, a person becomes a member:

24 (1) by action of the organizer if the company does not  
25 have any members;

26 (2) as provided in the operating agreement;

27 (3) as the result of a transaction effective under  
28 Chapter 3 (relating to entity transactions);

29 (4) with the affirmative vote or consent of all the  
30 members; or

1 (5) as provided in section 8871(a)(3) (relating to  
2 events causing dissolution).

3 (e) Noneconomic members.--A person may become a member  
4 without:

5 (1) acquiring a transferable interest; or

6 (2) making or being obligated to make a contribution to  
7 the limited liability company.

8 (f) Nature of interest.--The interest of a member in a  
9 limited liability company is personal property.

10 § 8842. Form of contribution.

11 A contribution may consist of:

12 (1) property transferred to, services performed for or  
13 another benefit provided to the limited liability company;

14 (2) an agreement to transfer property to, perform  
15 services for or provide another benefit to the company; or

16 (3) any combination of items listed in paragraphs (1)  
17 and (2).

18 § 8843. Liability for contributions.

19 (a) Obligation not excused.--A person's obligation to make a  
20 contribution to a limited liability company is not excused by  
21 the person's death, disability, termination or other inability  
22 to perform personally.

23 (b) Substitute payment.--If a person does not fulfill an  
24 obligation to make a contribution other than money, the person  
25 is obligated at the option of the limited liability company to  
26 contribute money equal to the value, as stated in the records of  
27 the company, of the part of the contribution which has not been  
28 made.

29 (c) Compromise of obligation.--The obligation of a person to  
30 make a contribution may be compromised only by the affirmative

1 vote or consent of all the members. If a creditor of a limited  
2 liability company extends credit or otherwise acts in reliance  
3 on an obligation described under subsection (a) without  
4 knowledge or notice of a compromise under this subsection, the  
5 creditor may enforce the obligation.

6 § 8844. Sharing of and right to distributions before  
7 dissolution.

8 (a) General rule.--Any distribution made by a limited  
9 liability company before its dissolution and winding up shall be  
10 in equal shares among members and persons dissociated as  
11 members, except to the extent necessary to comply with a <--  
12 transfer effective under section 8852 AS PROVIDED IN SECTION <--  
13 8852(B) (relating to transfer of transferable interest) or TO <--  
14 THE EXTENT NECESSARY TO COMPLY WITH A charging order in effect  
15 under section 8853 (relating to charging order).

16 (b) No entitlement to distribution.--Except as provided  
17 under subsection (e), a person has a right to a distribution  
18 before the dissolution and winding up of a limited liability  
19 company only if the company decides to make an interim  
20 distribution.

21 (c) Distribution in kind.--A person does not have a right to  
22 demand or receive a distribution from a limited liability  
23 company in any form other than money. Except as provided in  
24 section 8877(d) (relating to disposition of assets in winding  
25 up), a limited liability company may distribute an asset in kind  
26 only if each part of the asset is fungible with each other part  
27 and each person receives a percentage of the asset equal in  
28 value to the person's share of distributions.

29 (d) Status as creditor.--If a member or transferee becomes  
30 entitled to receive a distribution, the member or transferee has

1 the status of, and is entitled to all remedies available to, a  
2 creditor of the limited liability company with respect to the  
3 distribution, except that the company's obligation to make a  
4 distribution is subject to offset for any amount owed to the  
5 company by the member or transferee on whose account the  
6 distribution is made.

7 (e) Distribution upon an event of dissociation.--Upon the  
8 effectiveness of a transaction under Chapter 3 (relating to  
9 entity transactions) or an amendment of the certificate of  
10 organization or operating agreement that results in either case  
11 in an event of dissociation but does not result in the  
12 dissolution of the limited liability company, the dissociating  
13 member may elect in record form to receive in lieu of the  
14 property that the person would be entitled to receive pursuant  
15 to the terms of the transaction or amendment:

16 (1) any distribution to which the member is entitled  
17 under the operating agreement on the terms provided in the  
18 operating agreement; and

19 (2) within a reasonable time after dissociation, the  
20 fair value of the interest of the member in the company as of  
21 the date of dissociation based upon the right of the member  
22 to share in distributions from the company.

23 § 8845. Limitations on distributions.

24 (a) General rule.--A limited liability company may not make  
25 a distribution, including a distribution under section 8877  
26 (relating to disposition of assets in winding up), if after the  
27 distribution:

28 (1) the company would not be able to pay its debts as  
29 they become due in the ordinary course of the company's  
30 activities and affairs; or

1       (2) the company's total assets would be less than the  
2 sum of its total liabilities plus the amount that would be  
3 needed, if the company were to be dissolved and wound up at  
4 the time of the distribution, to satisfy the preferential  
5 rights upon dissolution and winding up of members and  
6 transferees whose preferential rights are superior to the  
7 rights of persons receiving the distribution.

8       (b) Valuation.--A limited liability company may base a  
9 determination that a distribution is not prohibited under  
10 subsection (a) (2) on:

11       (1) the book values of the assets and liabilities of the  
12 company, as reflected on its books and records;

13       (2) a valuation that takes into consideration unrealized  
14 appreciation and depreciation or other changes in value of  
15 the assets and liabilities of the company;

16       (3) the current value of the assets and liabilities of  
17 the company, either valued separately or valued in segments  
18 or as an entirety as a going concern; or

19       (4) any other method that is reasonable in the  
20 circumstances.

21       (c) Excluded liabilities.--In determining whether a  
22 distribution is prohibited under subsection (a) (2), the company  
23 need not consider obligations and liabilities unless they are  
24 required to be reflected on a balance sheet, not including the  
25 notes to the balance sheet, prepared on the basis of generally  
26 accepted accounting principles, or such other accounting  
27 practices and principles as are used generally by the company in  
28 the maintenance of its books and records and as are reasonable  
29 in the circumstances.

30       (d) Measuring date of distribution.--Except as provided in

1 subsection (e), the effect of a distribution under subsection  
2 (a) is measured:

3 (1) as of the date specified by the company when it  
4 authorizes the distribution if the distribution occurs within  
5 125 days of the earlier of the date so specified or the date  
6 of authorization; or

7 (2) as of the date of distribution in all other cases.

8 (e) Date of redemption.--In the case of a distribution  
9 described under paragraph (1) of the definition of  
10 "distribution" in section 8812 (relating to definitions), the  
11 distribution is deemed to occur as of the earlier of the date  
12 money or other property is transferred or debt is incurred by  
13 the company or the date the person entitled to the distribution  
14 ceases to own the interest or right being acquired by the  
15 company in return for the distribution.

16 (f) Status of distribution debt.--The indebtedness of a  
17 limited liability company to a member or transferee incurred by  
18 reason of a distribution made in accordance with this section  
19 shall be at least on a parity with the company's indebtedness to  
20 its general, unsecured creditors, except to the extent  
21 subordinated by agreement.

22 (g) Certain subordinated debt.--The indebtedness of a  
23 limited liability company, including indebtedness issued as a  
24 distribution, is not a liability for purposes of subsection (a)  
25 if the terms of the indebtedness provide that payment of  
26 principal and interest is made only if and to the extent that  
27 payment of a distribution could then be made under this  
28 section. If the indebtedness is issued as a distribution, each  
29 payment of principal or interest is treated as a distribution,  
30 the effect of which is measured on the date the payment is made.

1 (h) Distributions in winding up.--In measuring the effect of  
2 a distribution under section 8877, the liabilities of a  
3 dissolved limited liability company do not include any claim  
4 that has been barred under section 8874 (relating to known  
5 claims against dissolved limited liability company) or 8875  
6 (relating to other claims against dissolved limited liability  
7 company), or for which security has been provided under section  
8 8876 (relating to court proceedings).

9 (i) Cross references.--See:

10 Section 8815(d)(1)(ii) (relating to contents of operating  
11 agreement).

12 Section 8849.1 (relating to standards of conduct for  
13 members).

14 Section 8849.2 (relating to standards of conduct for  
15 managers).

16 § 8846. Liability for improper distributions.

17 (a) General rule.--Except as provided in subsection (b), if  
18 a member of a member-managed limited liability company or  
19 manager of a manager-managed limited liability company consents  
20 to a distribution made in violation of section 8845 (relating to  
21 limitations on distributions) and in consenting to the  
22 distribution fails to comply with section 8849.1 (relating to  
23 standards of conduct for members) or 8849.2 (relating to  
24 standards of conduct for managers), the member or manager is  
25 personally liable to the company for the amount of the  
26 distribution which exceeds the amount that could have been  
27 distributed without the violation of section 8845.

28 (b) Members without authority.--To the extent the operating  
29 agreement of a member-managed limited liability company relieves  
30 a member of the authority and responsibility to consent to

1 distributions and imposes that authority and responsibility on  
2 one or more other members, the liability stated in subsection  
3 (a) applies to the other members and not the member that the  
4 operating agreement relieves of authority and responsibility.

5 (c) Recipients.--A person that receives a distribution  
6 knowing that the distribution violated section 8845 is  
7 personally liable to the limited liability company but only to  
8 the extent that the distribution received by the person exceeded  
9 the amount that could have been properly paid under section  
10 8845.

11 (d) Contribution.--A person against which an action is  
12 commenced because the person is liable under subsection (a) may:

13 (1) join any other person that is liable under  
14 subsection (a) or otherwise seek to enforce a right of  
15 contribution from the person; and

16 (2) join any person that is liable under subsection (c)  
17 or otherwise seek to enforce a right of contribution from the  
18 person in the amount the person is liable for under  
19 subsection (c).

20 (e) Statute of repose.--An action under this section is  
21 barred unless commenced within two years after the distribution.

22 § 8847. Management of limited liability company.

23 (a) Determination of management of company.--A limited  
24 liability company is a member-managed limited liability company  
25 unless the operating agreement:

26 (1) expressly provides that:

27 (i) the company is or will be manager-managed;

28 (ii) the company is or will be managed by managers;

29 or

30 (iii) management of the company is or will be vested

1 in managers; or

2 (2) includes words of similar import.

3 (b) Member-managed company.--In a member-managed limited  
4 liability company, the following rules apply:

5 (1) Except as expressly provided in this title, the  
6 management and conduct of the company are vested in the  
7 members.

8 (2) Each member has equal rights in the management and  
9 conduct of the company's activities and affairs.

10 (3) A difference arising among members as to a matter in  
11 the ordinary course of the activities and affairs of the  
12 company may be decided by a majority of the members.

13 (4) Except as provided under section 325 (relating to  
14 approval by limited liability company) with respect to a  
15 transaction under Chapter 3 (relating to entity  
16 transactions), an act outside the ordinary course of the  
17 activities and affairs of the company may be undertaken only  
18 with the affirmative vote or consent of all members.

19 (5) Except as provided under section 8822(d) (relating  
20 to amendment or restatement of certificate of organization),  
21 the certificate of organization may be amended only with the  
22 affirmative vote or consent of all members.

23 (6) The operating agreement may be amended only with the  
24 affirmative vote or consent of all members.

25 (c) Manager-managed company.--In a manager-managed limited  
26 liability company, the following rules apply:

27 (1) Except as expressly provided in this title, any  
28 matter relating to the activities and affairs of the company  
29 is decided exclusively by the manager, or, if there is more  
30 than one manager, by a majority of the managers.

1           (2) Each manager has equal rights in the management and  
2 conduct of the company's activities and affairs.

3           (3) The affirmative vote or consent of all members is  
4 required:

5           (i) except as provided under section 325 with  
6 respect to a transaction under Chapter 3, to undertake  
7 any act outside the ordinary course of the company's  
8 activities and affairs;

9           (ii) except as provided under section 8822(d), to  
10 amend the certificate of organization; or

11           (iii) to amend the operating agreement.

12           (4) A manager may be chosen at any time by the  
13 affirmative vote or consent of a majority of the members and  
14 remains a manager until a successor has been chosen, unless  
15 the manager at an earlier time resigns, is removed or dies,  
16 or, in the case of a manager that is not an individual,  
17 terminates. A manager may be removed at any time by the  
18 affirmative vote or consent of a majority of the members  
19 without notice or cause.

20           (5) A person need not be a member to be a manager,  
21 except that the dissociation of a member that is also a  
22 manager removes the person as a manager. If a person that is  
23 both a manager and a member ceases to be a manager, that  
24 cessation does not by itself dissociate the person as a  
25 member.

26           (6) A person's ceasing to be a manager does not  
27 discharge any debt, obligation or other liability to the  
28 limited liability company or members which the person  
29 incurred while a manager.

30           (d) Action by consent or proxy.--An action requiring the

1 vote or consent of members under this title may be taken without  
2 a meeting and a member may appoint a proxy or other agent to  
3 vote, consent or otherwise act for the member by signing an  
4 appointing document in record form, personally or by the  
5 member's agent.

6 (e) Effect of dissolution.--The dissolution of a limited  
7 liability company does not affect the applicability of this  
8 section, except that a person that wrongfully causes dissolution  
9 of the company loses the right to participate in management as a  
10 member and a manager.

11 (f) Reimbursement of advances.--A limited liability company  
12 shall reimburse a member for an advance to the company beyond  
13 the amount of capital the member agreed to contribute.

14 (g) Interest on advance.--A payment or advance made by a  
15 member which gives rise to an obligation of the limited  
16 liability company under subsection (f) or section 8848(a)  
17 (relating to reimbursement, indemnification, advancement and  
18 insurance) constitutes a loan to the company which accrues  
19 interest from the date of the payment or advance.

20 (h) No remuneration for services.--A member is not entitled  
21 to remuneration for services performed for a member-managed  
22 limited liability company, except for reasonable compensation  
23 for services rendered in winding up the activities of the  
24 company.

25 (i) Increased vote requirements.--Whenever the certificate  
26 of organization or operating agreement requires for the taking  
27 of any action by the members or a class of members a specific  
28 number or percentage of votes or consents, the provision of the  
29 certificate or agreement setting forth that requirement shall  
30 not be amended or repealed by any lesser number or percentage of

1 votes or consents of the members or the class of members. This  
2 subsection does not apply to a provision setting forth the right  
3 of members to act by unanimous consent in lieu of a meeting.

4 (j) Exception.--None of the following shall be considered an  
5 amendment of the certificate of organization for purposes of the  
6 voting rules in subsections (b) (6) and (c) (3) (iii):

7 (1) a restatement of all the operative provisions of the  
8 certificate of organization without change;

9 (2) a change in the name or registered office of the  
10 limited liability company; or

11 (3) any combination of the foregoing purposes.

12 (k) Approval of minor amendments.--Unless otherwise provided  
13 in record form in the operating agreement, an amendment  
14 described in subsection (j) may be made by the affirmative vote  
15 or consent of a majority of the managers or, in the case of a  
16 member-managed limited liability company, of a majority of the  
17 members.

18 § 8848. Reimbursement, indemnification, advancement and  
19 insurance.

20 (a) Reimbursement.--A limited liability company shall  
21 reimburse a member of a member-managed company or manager of a  
22 manager-managed company for any payment made by the member or in  
23 the course of the member's or manager's activities on behalf of  
24 the company, if the member or manager complied with the  
25 applicable provisions of sections 8847 (relating to management  
26 of limited liability company), 8849.1 (relating to standards of  
27 conduct for members) and 8849.2 (relating to standards of  
28 conduct for managers) in making the payment.

29 (b) Indemnification.--A limited liability company shall  
30 indemnify and hold harmless a person with respect to any claim

1 or demand against the person and any debt, obligation or other  
2 liability incurred by the person by reason of the person's  
3 former or present capacity as a member or manager, if the claim,  
4 demand, debt, obligation or other liability does not arise from  
5 the person's breach of section 8845 (relating to limitations on  
6 distributions), 8847, 8849.1 or 8849.2.

7 (c) Advancement.--In the ordinary course of its activities  
8 and affairs, a limited liability company may advance reasonable  
9 expenses, including attorney fees and costs, incurred by a  
10 person in connection with a claim or demand against the person  
11 by reason of the person's former or present capacity as a member  
12 or manager, if the person promises to repay the company if the  
13 person ultimately is determined not to be entitled to be  
14 indemnified.

15 (d) Insurance.--A limited liability company may purchase and  
16 maintain insurance on behalf of a member or manager of the  
17 company against liability asserted against or incurred by the  
18 member or manager in that capacity or arising from that status  
19 even if, under ~~section 8815(c)(8) (relating to contents of~~ <--  
20 ~~operating agreement)~~ SUBSECTION (G), the operating agreement <--  
21 could not provide indemnification against the liability or  
22 eliminate or limit the person's liability to the company for the  
23 conduct giving rise to the liability.

24 (e) Nonexclusivity.--The rights provided by subsections (a),  
25 (b), (c) and (d) shall not be deemed exclusive of any other  
26 rights to which a person seeking reimbursement, indemnification,  
27 advancement of expenses or insurance may be entitled under the  
28 operating agreement, vote of members or disinterested managers,  
29 contract or otherwise, both as to action in his official  
30 capacity and as to action in another capacity while holding that

1 position. Sections 8849.1(f) and 8849.2(e) shall be applicable  
2 to a vote, contract or other action under this subsection. A  
3 limited liability company may create a fund of any nature, which  
4 may, but need not be, under the control of a trustee, or  
5 otherwise secure or insure in any manner its indemnification  
6 obligations, whether arising under this section or otherwise.

7 (f) Grounds.--Indemnification under subsection (e) may be  
8 granted for any action taken and may be made whether or not the  
9 limited liability company would have the power to indemnify the  
10 person under any other provision of law except as provided  
11 ~~under section 8815(c)(8)~~ IN THIS SECTION and whether or not the <--  
12 indemnified liability arises or arose from any threatened,  
13 pending or completed action by or in the right of the company.  
14 Indemnification under subsection (e) is declared to be  
15 consistent with the public policy of the Commonwealth.

16 (G) LIMITATION.--INDEMNIFICATION UNDER THIS SECTION SHALL <--  
17 NOT BE MADE IN ANY CASE WHERE THE ACT GIVING RISE TO THE CLAIM  
18 FOR INDEMNIFICATION IS DETERMINED BY A COURT TO CONSTITUTE  
19 RECKLESSNESS, WILLFUL MISCONDUCT OR A KNOWING VIOLATION OF LAW.  
20 § 8849. (Reserved).

21 § 8849.1. Standards of conduct for members.

22 (a) General rule.--A member of a member-managed limited  
23 liability company owes to the company and, subject to section  
24 8881(b) (relating to direct action by member), the other members  
25 the duties of loyalty and care stated under subsections (b) and  
26 (c).

27 (b) Duty of loyalty.--The fiduciary duty of loyalty of a  
28 member in a member-managed limited liability company includes  
29 the duties:

30 (1) to account to the company and to hold as trustee for

1 it any property, profit or benefit derived by the member:

2 (i) in the conduct or winding up of the company's  
3 activities and affairs;

4 (ii) from a use by the member of the company's  
5 property; or

6 (iii) from the appropriation of a company  
7 opportunity;

8 (2) to refrain from dealing with the company in the  
9 conduct or winding up of the company's activities and affairs  
10 as or on behalf of a person having an interest adverse to the  
11 company; and

12 (3) to refrain from competing with the company in the  
13 conduct of the company's activities and affairs before the  
14 dissolution of the company.

15 (c) Duty of care.--The duty of care of a member of a member-  
16 managed limited liability company in the conduct or winding up  
17 of the company's activities and affairs is to refrain from  
18 engaging in gross negligence, recklessness, willful misconduct  
19 or knowing violation of law.

20 (d) Good faith and fair dealing.--A member shall discharge  
21 the duties and obligations under this title or under the  
22 operating agreement and exercise any rights consistent with the  
23 contractual obligation of good faith and fair dealing.

24 (e) Self-serving conduct.--A member does not violate a duty  
25 or obligation under this title or under the operating agreement  
26 solely because the member's conduct furthers the member's own  
27 interest.

28 (f) Authorization or ratification.--All the members of a  
29 member-managed limited liability company may authorize or  
30 ratify, after disclosure of all material facts, a specific act

1 or transaction that otherwise would violate the duty of loyalty  
2 of a member.

3 (g) Fairness as a defense.--It is a defense to a claim under  
4 subsection (b) (2) and any comparable claim in equity or at  
5 common law that the transaction was fair to the limited  
6 liability company at the time it is authorized or ratified under  
7 subsection (f).

8 (h) Rights and obligations in approved transaction.--If a  
9 member enters into a transaction with the limited liability  
10 company which otherwise would be prohibited under subsection (b)  
11 (2), and the transaction is authorized or ratified as provided  
12 under subsection (f) or the operating agreement, the member's  
13 rights and obligations arising from the transaction are the same  
14 as those of a person that is not a member.

15 (i) Duties of members in manager-managed company.--Subject  
16 to subsection (d), a member does not have any duty to a manager-  
17 managed limited liability company or to any other member of the  
18 company solely by reason of being or acting as a member.

19 (J) EXONERATION.--THE OPERATING AGREEMENT MAY PROVIDE THAT A <--  
20 MEMBER IN A MEMBER-MANAGED LIMITED LIABILITY COMPANY SHALL NOT  
21 BE PERSONALLY LIABLE FOR MONETARY DAMAGES TO THE COMPANY OR THE  
22 OTHER MEMBERS FOR A BREACH OF SUBSECTION (C), EXCEPT THAT A  
23 MEMBER MAY NOT BE EXONERATED FOR AN ACT THAT CONSTITUTES  
24 RECKLESSNESS, WILLFUL MISCONDUCT OR A KNOWING VIOLATION OF LAW.

25 ~~(j)~~ (K) Cross reference.--See section 8815 (relating to <--  
26 contents of operating agreement).  
27 § 8849.2. Standards of conduct for managers.

28 (a) General rule.--A manager of a manager-managed limited  
29 liability company owes to the company and, subject to section  
30 8881(b) (relating to direct action by member), the members the

1 duties of loyalty and care stated under subsections (b) and (c).

2 (b) Duty of loyalty.--The fiduciary duty of loyalty of a  
3 manager in a manager-managed limited liability company includes  
4 the duties:

5 (1) to account to the company and to hold as trustee for  
6 it any property, profit or benefit derived by the manager:

7 (i) in the conduct or winding up of the company's  
8 activities and affairs;

9 (ii) from a use by the manager of the company's  
10 property; or

11 (iii) from the appropriation of a company  
12 opportunity;

13 (2) to refrain from dealing with the company in the  
14 conduct or winding up of the company's activities and affairs  
15 as or on behalf of a person having an interest adverse to the  
16 company; and

17 (3) to refrain from competing with the company in the  
18 conduct of the company's activities and affairs until  
19 completion of the winding up of the company.

20 (c) Duty of care.--The duty of care of a manager of a  
21 manager-managed limited liability company in the conduct or  
22 winding up of the company's activities and affairs is to refrain  
23 from engaging in gross negligence, recklessness, willful  
24 misconduct or knowing violation of law.

25 (d) Good faith and fair dealing.--A manager of a manager-  
26 managed limited liability company shall discharge the duties and  
27 obligations under this title or under the operating agreement  
28 and exercise any rights consistently with the contractual  
29 obligation of good faith and fair dealing.

30 (e) Ratification of breach of duty of loyalty.--All the

1 members, or a majority of disinterested managers, of a manager-  
2 managed limited liability company may authorize or ratify, after  
3 disclosure of all material facts, a specific act or transaction  
4 by a manager that otherwise would violate the duty of loyalty.

5 (f) Fairness as a defense.--It is a defense to a claim under  
6 subsection (b) (2) and any comparable claim in equity or at  
7 common law that the transaction was fair to the limited  
8 liability company.

9 (g) Manager's rights in approved transaction.--If a manager  
10 enters into a transaction with the limited liability company  
11 which otherwise would be prohibited by subsection (b) (2), and  
12 the transaction is approved or ratified as provided by  
13 subsection (e) or the operating agreement, the manager's rights  
14 and obligations arising from the transaction are the same as  
15 those of a person that is not a manager.

16 (H) EXONERATION.--THE OPERATING AGREEMENT MAY PROVIDE THAT A <--  
17 MANAGER IN A MANAGER-MANAGED LIMITED LIABILITY COMPANY SHALL NOT  
18 BE PERSONALLY LIABLE FOR MONETARY DAMAGES TO THE COMPANY OR THE  
19 MEMBERS FOR A BREACH OF SUBSECTION (C), EXCEPT THAT A MANAGER  
20 MAY NOT BE EXONERATED FOR AN ACT THAT CONSTITUTES RECKLESSNESS,  
21 WILLFUL MISCONDUCT OR A KNOWING VIOLATION OF LAW.

22 ~~(h)~~ (I) Cross reference.--See section 8815 (relating to <--  
23 contents of operating agreement).  
24 § 8850. Rights to information.

25 (a) In member-managed company.--In a member-managed limited  
26 liability company, the following rules apply:

27 (1) On reasonable notice, a member may inspect and copy  
28 during regular business hours, at a reasonable location  
29 specified by the company, any record maintained by the  
30 company regarding the company's activities, affairs,

1 ~~financial condition and other circumstances, to the extent~~ <--  
2 ~~the information is material to the member's rights and duties~~  
3 ~~under the operating agreement or this chapter.~~

4 ~~(2) The company shall furnish to each member:~~ <--  
5 ~~(i) —, without demand, any information concerning the~~ <--  
6 ~~company's activities, affairs, financial condition and other~~  
7 ~~circumstances which the company knows and is material to the~~  
8 ~~proper exercise of the member's rights and duties under the~~  
9 ~~operating agreement or this title, except to the extent the~~  
10 ~~company can establish that it reasonably believes the member~~  
11 ~~already knows the information.; and~~ <--

12 ~~(ii) on demand, any other information concerning the~~  
13 ~~company's activities, affairs, financial condition and~~  
14 ~~other circumstances, except to the extent the demand or~~  
15 ~~information demanded is unreasonable or otherwise~~  
16 ~~improper under the circumstances.~~

17 ~~(3) The duty to furnish information under paragraph (2)~~  
18 ~~also applies to each member to the extent the member knows~~  
19 ~~any of the information described in paragraph (2).~~

20 ~~(b) In manager-managed company.--In a manager-managed~~  
21 ~~limited liability company, the following rules apply:~~

22 ~~(1) The informational rights stated in subsection (a)~~  
23 ~~and the duty stated in subsection (a)(3) apply to the~~  
24 ~~managers and not the members.~~

25 ~~(2) During regular business hours and at a reasonable~~  
26 ~~location specified by the company, a member may inspect and~~  
27 ~~copy full information regarding the activities, affairs,~~  
28 ~~financial condition and other circumstances of the company as~~  
29 ~~is just and reasonable if:~~

30 ~~(i) the member seeks the information for a purpose~~

1 reasonably related to the member's interest as a member;

2 (ii) the member makes a demand in record form  
3 received by the company, describing with reasonable  
4 particularity the information sought and the purpose for  
5 seeking the information; and

6 (iii) the information sought is directly connected  
7 to the member's purpose.

8 (3) Within 10 days after receiving a demand under  
9 paragraph (2)(ii), the company shall, in record form, inform  
10 the member that made the demand of:

11 (i) the information that the company will provide in  
12 response to the demand and when and where the company  
13 will provide the information; and

14 (ii) the company's reasons for declining, if the  
15 company declines to provide any demanded information.

16 (c) Rights of person dissociated as member.--Subject to  
17 subsection (h), within 10 days after receipt by a limited  
18 liability company of a demand made in record form, a person  
19 dissociated as a member may have access to information to which  
20 the person was entitled while a member if:

21 (1) the information pertains to the period during which  
22 the person was a member;

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

24 (3) the person satisfies the requirements imposed on a  
25 member under subsection (b)(2).

26 (d) Response of company.--A limited liability company shall  
27 respond to a demand made under subsection (c) in the manner  
28 provided in subsection (b)(3).

29 (e) Copying costs.--A limited liability company may charge a  
30 person that makes a demand under this section the reasonable

1 costs of copying, limited to the costs of labor and material.

2 (f) Rights of agent or guardian.--A member or person  
3 dissociated as a member may exercise rights under this section  
4 through an agent or, in the case of an individual under legal  
5 disability, a guardian. Any restriction or condition imposed by  
6 the operating agreement or under subsection (h) applies both to  
7 the agent or guardian and the member or person dissociated as a  
8 member.

9 (g) No rights of transferee.--Subject to section 8854  
10 (relating to power of personal representative of deceased  
11 member), the rights under this section do not extend to a person  
12 as transferee.

13 (h) Limitations on access.--In addition to any restriction  
14 or condition stated in the operating agreement, a limited  
15 liability company, as a matter within the ordinary course of its  
16 activities and affairs, may impose reasonable restrictions and  
17 conditions on access to and use of information to be furnished  
18 under this section, including designating information  
19 confidential and imposing nondisclosure and safeguarding  
20 obligations on the recipient. In a dispute concerning the  
21 reasonableness of a restriction under this subsection, the  
22 company has the burden of proving reasonableness.

23 (i) Cross reference.--See section 8815 (relating to contents  
24 of operating agreement).

25 SUBCHAPTER E

26 TRANSFERABLE INTERESTS AND RIGHTS

27 OF TRANSFEREES AND CREDITORS

28 Sec.

29 8851. Nature of transferable interest.

30 8852. Transfer of transferable interest.

1 8853. Charging order.

2 8854. Power of personal representative of deceased member.

3 § 8851. Nature of transferable interest.

4 (a) Personal property.--A transferable interest is personal  
5 property.

6 (b) Only right that may be transferred.--A person may not  
7 transfer to a person not a member any rights in a limited  
8 liability company other than a transferable interest.

9 § 8852. Transfer of transferable interest.

10 (a) General rule.--Subject to section 8853(f) (relating to  
11 charging order), a transfer, in whole or in part, of a  
12 transferable interest:

13 (1) is permissible;

14 (2) does not by itself cause the dissociation of the  
15 transferor as a member or a dissolution and winding up of the  
16 limited liability company's activities and affairs; and

17 (3) subject to section 8854 (relating to power of  
18 personal representative of deceased member), does not entitle  
19 the transferee to:

20 (i) participate in the management or conduct of the  
21 company's activities and affairs; or

22 (ii) except as provided in subsection (c), have  
23 access to records or other information concerning the  
24 company's activities and affairs.

25 (b) Right to distributions.--A transferee has the right to  
26 receive, in accordance with the transfer, distributions to which  
27 the transferor would otherwise be entitled.

28 (c) Right to account on dissolution.--In a dissolution and  
29 winding up of a limited liability company, a transferee is  
30 entitled to an account of the company's transactions only from

1 the date of dissolution.

2 (d) Certificate of interest.--A transferable interest may be  
3 evidenced by a certificate of the interest issued by the limited  
4 liability company in record form and, subject to this section,  
5 the interest represented by the certificate may be transferred  
6 by a transfer of the certificate.

7 (e) Recognition of transferee's rights.--A limited liability  
8 company need not give effect to a transferee's rights under this  
9 section until the company knows or has notice of the transfer.

10 (f) Transfer restrictions.--A transfer of a transferable  
11 interest in violation of a restriction on transfer contained in  
12 the operating agreement is ineffective if the intended  
13 transferee has knowledge or notice of the restriction at the  
14 time of transfer.

15 (g) Rights retained by transferor.--Except as provided in  
16 section 8861(5)(ii) (relating to events causing dissociation),  
17 if a member transfers a transferable interest, the transferor  
18 retains the rights of a member other than the transferable  
19 interest transferred and retains all the duties and obligations  
20 of a member.

21 § 8853. Charging order.

22 (a) General rule.--On application by a judgment creditor of  
23 a member or transferee, a court may enter a charging order  
24 against the transferable interest of the judgment debtor for the  
25 unsatisfied amount of the judgment. Except as provided in  
26 subsection (f), a charging order constitutes a lien on a  
27 judgment debtor's transferable interest and requires the limited  
28 liability company to pay over to the person to which the  
29 charging order was issued any distribution that otherwise would  
30 be paid to the judgment debtor.

1 (b) Available relief.--To the extent necessary to effectuate  
2 the collection of distributions pursuant to a charging order in  
3 effect under subsection (a), the court may:

4 (1) appoint a receiver of the distributions subject to  
5 the charging order, with the power to make all inquiries the  
6 judgment debtor might have made; and

7 (2) make all other orders necessary to give effect to  
8 the charging order.

9 (c) Foreclosure.--Upon a showing that distributions under a  
10 charging order will not pay the judgment debt within a  
11 reasonable time, the court may foreclose the lien and order the  
12 sale of the transferable interest. Except as provided in  
13 subsection (f), the purchaser at the foreclosure sale only  
14 obtains the transferable interest, does not thereby become a  
15 member, and is subject to section 8852 (relating to transfer of  
16 transferable interest).

17 (d) Satisfaction of judgment.--At any time before  
18 foreclosure under subsection (c), the member or transferee whose  
19 transferable interest is subject to a charging order under  
20 subsection (a) may extinguish the charging order by satisfying  
21 the judgment and filing a certified copy of the satisfaction  
22 with the court that issued the charging order.

23 (e) Purchase of rights.--At any time before foreclosure  
24 under subsection (c), a limited liability company or one or more  
25 members whose transferable interests are not subject to the  
26 charging order may pay to the judgment creditor the full amount  
27 due under the judgment and thereby succeed to the rights of the  
28 judgment creditor, including the charging order.

29 (f) Foreclosure against sole member.--If a court orders  
30 foreclosure of a charging order lien against the sole member of

1 a limited liability company:

2 (1) the court shall confirm the sale;

3 (2) the purchaser at the sale obtains the member's  
4 entire interest, not only the member's transferable interest;

5 (3) the purchaser thereby becomes a member; and

6 (4) the person whose interest was subject to the  
7 foreclosed charging order is dissociated as a member.

8 (g) Exemption laws preserved.--This chapter shall not  
9 deprive any member or transferee of the benefit of any exemption  
10 laws applicable to the transferable interest of the member or  
11 transferee.

12 (h) Exclusive remedy.--This section provides the exclusive  
13 remedy by which a person seeking to enforce a judgment against a  
14 member or transferee may, in the capacity of judgment creditor,  
15 satisfy the judgment from the judgment debtor's transferable  
16 interest.

17 § 8854. Power of personal representative of deceased member.

18 If a member dies, the deceased member's personal  
19 representative may exercise:

20 (1) the rights of a transferee provided in section  
21 8852(c) (relating to transfer of transferable interest); and

22 (2) for the purposes of settling the estate, the rights  
23 the deceased member had under section 8850 (relating to  
24 rights to information).

25 SUBCHAPTER F

26 DISSOCIATION

27 Sec.

28 8861. Events causing dissociation.

29 8862. Power to dissociate and wrongful dissociation.

30 8863. Effects of dissociation.

1 § 8861. Events causing dissociation.

2 A person is dissociated as a member when any of the following  
3 occurs:

4 (1) The limited liability company knows or has notice of  
5 the person's express will to withdraw as a member, except  
6 that, if the person specified a withdrawal date later than  
7 the date the company knew or had notice, on that later date.

8 (2) An event stated in the operating agreement as  
9 causing the person's dissociation occurs.

10 (3) The person's entire interest is transferred in a  
11 foreclosure sale under section 8853(f) (relating to charging  
12 order).

13 (4) The person is expelled as a member pursuant to the  
14 operating agreement.

15 (5) The person is expelled as a member by the  
16 affirmative vote or consent of all the other members if:

17 (i) it is unlawful to carry on the company's  
18 activities and affairs with the person as a member;

19 (ii) there has been a transfer of all the person's  
20 transferable interest in the company, other than:

21 (A) a transfer for security purposes; or

22 (B) a charging order in effect under section  
23 8853 which has not been foreclosed;

24 (iii) the person is an entity and:

25 (A) the company notifies the person that it will  
26 be expelled as a member because:

27 (I) the person has filed a certificate of  
28 dissolution or the equivalent;

29 (II) the person has been administratively  
30 dissolved;

1                   (III) the person's charter or its equivalent  
2                   has been revoked; or  
3                   (IV) the person's right to conduct business  
4                   has been suspended by the person's jurisdiction  
5                   of formation; and  
6                   (B) within 90 days after the notification:  
7                   (I) the certificate of dissolution or the  
8                   equivalent has not been withdrawn, rescinded or  
9                   revoked;  
10                   (II) the person has not been reinstated;  
11                   (III) the person's charter or the equivalent  
12                   has not been reinstated; or  
13                   (IV) the person's right to conduct business  
14                   has not been reinstated; or  
15                   (iv) the person is an unincorporated entity that has  
16                   been dissolved and whose activities and affairs are being  
17                   wound up.  
18                   (6) On application by the company or a member in a  
19                   direct action under section 8881 (relating to direct action  
20                   by member), the person is expelled as a member by judicial  
21                   order because the person:  
22                   (i) has engaged or is engaging in wrongful conduct  
23                   that has affected adversely and materially, or will  
24                   affect adversely and materially, the company's activities  
25                   and affairs;  
26                   (ii) has committed willfully or persistently, or is  
27                   committing willfully and persistently, a material breach  
28                   of the operating agreement or a duty or obligation under  
29                   section 8849.1 (relating to standards of conduct for  
30                   members); or

1           (iii) has engaged or is engaging in conduct relating  
2 to the company's activities and affairs which makes it  
3 not reasonably practicable to carry on the activities and  
4 affairs with the person as a member.

5 (7) In the case of an individual:

6           (i) the individual dies; or

7           (ii) in a member-managed limited liability company:

8                 (A) a guardian for the individual is appointed;

9           or

10                 (B) a court orders that the individual has  
11 otherwise become incapable of performing the  
12 individual's duties as a member under this title or  
13 the operating agreement.

14           (8) In a member-managed limited liability company, the  
15 person:

16           (i) becomes a debtor in bankruptcy;

17           (ii) executes an assignment for the benefit of  
18 creditors; or

19           (iii) seeks, consents to or acquiesces in the  
20 appointment of a trustee, receiver or liquidator of the  
21 person or of all or substantially all the person's  
22 property.

23           (9) In the case of a person that is a testamentary or  
24 inter vivos trust or is acting as a member by virtue of being  
25 a trustee of such a trust, the trust's entire transferable  
26 interest in the company is distributed.

27           (10) In the case of a person that is an estate or is  
28 acting as a member by virtue of being a personal  
29 representative of an estate, the estate's entire transferable  
30 interest in the company is distributed.

1           (11) In the case of a person that is not an individual,  
2 the existence of the person terminates.

3           (12) The company participates in a merger under Chapter  
4 3 (relating to entity transactions) and:

5                 (i) the company is not the surviving entity; or

6                 (ii) otherwise as a result of the merger, the person  
7 ceases to be a member.

8           (13) The company participates in an interest exchange  
9 under Chapter 3 and, as a result of the interest exchange,  
10 the person ceases to be a member.

11           (14) The company participates in a conversion under  
12 Chapter 3.

13           (15) The company participates in a division under  
14 Chapter 3 and:

15                 (i) the company is not a resulting association; or

16                 (ii) as a result of the division, the person ceases  
17 to be a member.

18           (16) The company participates in a domestication under  
19 Chapter 3 and, as a result of the domestication, the person  
20 ceases to be a member.

21           (17) The company dissolves and completes winding up.

22 § 8862. Power to dissociate and wrongful dissociation.

23           (a) Power to dissociate.--A person has the power to  
24 dissociate as a member at any time, rightfully or wrongfully, by  
25 withdrawing as a member by express will under section 8861(1)  
26 (relating to events causing dissociation).

27           (b) Wrongful dissociation.--A person's dissociation as a  
28 member is wrongful only if the dissociation:

29                 (1) is in breach of an express provision of the  
30 operating agreement; or

1       (2) occurs before the completion of the winding up of  
2 the limited liability company and:

3       (i) the person withdraws as a member by express  
4 will;

5       (ii) the person is expelled as a member by judicial  
6 order under section 8861(6);

7       (iii) the person is dissociated under section  
8 8861(8); or

9       (iv) the person is expelled or otherwise dissociated  
10 as a member because it willfully dissolved or terminated,  
11 except that this subparagraph does not apply to a person  
12 that is:

13           (A) a trust that is not a business or statutory  
14 trust;

15           (B) an estate; or

16           (C) an individual.

17       (c) Damages for wrongful dissociation.--A person that  
18 wrongfully dissociates as a member is liable to the limited  
19 liability company and, subject to section 8881 (relating to  
20 direct action by member), to the other members for damages  
21 caused by the dissociation. The liability is in addition to any  
22 debt, obligation or other liability of the member to the company  
23 or the other members.

24 § 8863. Effects of dissociation.

25       (a) General rule.--If a person is dissociated as a member:

26           (1) the person's rights as a member terminate;

27           (2) if the company is member-managed, the person's  
28 duties and obligations under section 8849.1 (relating to  
29 standards of conduct for members) as a member end with regard  
30 to matters arising and events occurring after the person's

1 dissociation; and  
2 (3) subject to sections 8844(e) (relating to sharing of  
3 and right to distributions before dissolution) and 8854  
4 (relating to power of personal representative of deceased  
5 member) and Chapter 3 (relating to entity transactions), any  
6 transferable interest owned by the person in the person's  
7 capacity as a member immediately before dissociation as a  
8 member is owned by the person solely as a transferee.

9 (b) Existing obligations not discharged.--A person's  
10 dissociation as a member does not of itself discharge the person  
11 from any debt, obligation or other liability to the company or  
12 the other members which the person incurred while a member.

### 13 SUBCHAPTER G

#### 14 DISSOLUTION AND WINDING UP

15 Sec.

16 8871. Events causing dissolution.

17 8872. Winding up and filing of optional certificates.

18 8873. ~~Rescinding dissolution~~ (RESERVED). <--

19 8874. Known claims against dissolved limited liability company.

20 8875. Other claims against dissolved limited liability company.

21 8876. Court proceedings.

22 8877. Disposition of assets in winding up.

23 8878. Voluntary termination by members or organizers.

24 § 8871. Events causing dissolution.

25 (a) General rule.--A limited liability company is dissolved,  
26 and its activities and affairs shall be wound up, upon the  
27 occurrence of any of the following:

28 (1) An event or circumstance that the operating  
29 agreement states causes dissolution.

30 (2) The consent of all the members.

1           (3) The passage of 90 180 consecutive days after the  
2 company ceases to have any members unless before the end of  
3 the period:

4           (i) consent to admit at least one specified person  
5 as a member is given by transferees owning the rights to  
6 receive a majority of distributions as transferees at the  
7 time the consent is to be effective; and

8           (ii) at least one person becomes a member in  
9 accordance with the consent.

10          (4) On application by a member, the entry by the court  
11 of an order dissolving the company on the grounds that:

12           (i) the conduct of all or substantially all the  
13 company's activities and affairs is unlawful;

14           (ii) it is not reasonably practicable to carry on  
15 the company's activities and affairs in conformity with  
16 the certificate of organization and the operating  
17 agreement; or

18           (iii) the managers or those members in control of  
19 the company:

20                   (A) have acted, are acting, or will act in a  
21 manner that is illegal or fraudulent; or

22                   (B) have acted or are acting in a manner that is  
23 oppressive and was, is or will be directly harmful to  
24 the applicant.

25          (b) Other remedies.--In a proceeding brought under  
26 subsection (a) (4) (iii) (B), the court may order a remedy other  
27 than dissolution.

28          (c) Cross reference.--See section 8815(c) (15) (relating to  
29 contents of operating agreement).

30 § 8872. Winding up and filing of optional certificates.

1 (a) General rule.--A dissolved limited liability company  
2 shall wind up its activities and affairs and, ~~except as provided~~ <--  
3 in section 8873 (relating to rescinding dissolution), the  
4 company continues after dissolution only for the purpose of  
5 winding up.

6 (b) Conduct of winding up.--In winding up its activities and  
7 affairs, a limited liability company:

8 (1) shall discharge the company's debts, obligations and  
9 other liabilities, settle and close the company's activities  
10 and affairs, and marshal and distribute the assets of the  
11 company; and

12 (2) may:

13 (i) deliver to the department for filing a  
14 certificate of dissolution stating:

15 (A) the name of the company;

16 (B) subject to section 109 (relating to name of  
17 commercial registered office provider in lieu of  
18 registered address), the address, including street  
19 and number, if any, of the registered office of the  
20 company; and

21 (C) that the company is dissolved;

22 (ii) preserve the company's activities, affairs and  
23 property as a going concern for a reasonable time;

24 (iii) prosecute and defend actions and proceedings,  
25 whether civil, criminal or administrative;

26 (iv) transfer the company's property;

27 (v) settle disputes by mediation or arbitration; and

28 (vi) deliver to the department for filing the  
29 certificates required by section 139 (relating to tax  
30 clearance of certain fundamental transactions) and a

1 certificate of termination stating:

2 (A) the name of the company;

3 (B) subject to section 109, the address,  
4 including street and number, if any, of the  
5 registered office of the company;

6 (C) that all debts, obligations and liabilities  
7 of the company have been paid and discharged or that  
8 adequate provision has been made therefor;

9 (D) that all the remaining property and assets  
10 of the company have been distributed among its  
11 members in accordance with their respective rights  
12 and interests;

13 (E) that there are no actions pending against  
14 the company in any court or that adequate provision  
15 has been made for the satisfaction of any judgment  
16 that may be entered against it in any pending action;  
17 and

18 (F) that the company is terminated; and

19 (vii) perform other acts necessary or appropriate to  
20 the winding up.

21 (c) Conduct of winding up when no members.--If a dissolved  
22 limited liability company has no members, the personal  
23 representative, guardian or other person authorized to act on  
24 behalf of the last person to have been a member may wind up the  
25 activities and affairs of the company. If the person does so,  
26 the person has the powers of a sole manager under section  
27 8847(c) (relating to management of limited liability company)  
28 and is deemed to be a manager for the purposes of section  
29 8834(a) (relating to liability of members and managers).

30 (d) Action by transferees.--If the personal representative,

1 guardian or other person authorized to act under subsection (c)  
2 declines or fails to wind up the company's activities and  
3 affairs, a person may be appointed to do so by the consent of  
4 transferees owning a majority of the rights to receive  
5 distributions as transferees at the time the consent is to be  
6 effective. A person appointed under this subsection:

7 (1) has the powers of a sole manager under section  
8 8847(c) and is deemed to be a manager for the purposes of  
9 section 8834(a); and

10 (2) shall promptly deliver to the department for filing  
11 an amendment to the company's certificate of organization  
12 stating:

13 (i) that the company has no members;

14 (ii) the name and street and mailing addresses of  
15 the person; and

16 (iii) that the person has been appointed under this  
17 subsection to wind up the company.

18 (e) Judicial supervision.--The court may order judicial  
19 supervision of the winding up of a dissolved limited liability  
20 company, including the appointment of a person to wind up the  
21 company's activities and affairs:

22 (1) on the application of a member, if the applicant  
23 establishes good cause;

24 (2) on the application of a transferee, if:

25 (i) the company does not have any members;

26 (ii) the legal representative of the last person to  
27 have been a member declines or fails to wind up the  
28 company's activities; and

29 (iii) within a reasonable time following the  
30 dissolution a person has not been appointed under

1           subsection (c); or  
2           (3) in connection with a proceeding under section  
3           8871(a)(4) (relating to events causing dissolution).  
4           (f) Cross references.--See:  
5           Section 134 (relating to docketing statement).  
6           Section 135 (requirements to be met by filed documents).  
7           Section 136(c) (relating to processing of documents by  
8           Department of State).  
9           Section 8815(c)(16) (relating to contents of operating  
10           agreement).  
11           Section 8823 (relating to signing of filed documents).

12 ~~§ 8873. Rescinding dissolution.~~ <--

13           ~~(a) General rule. A limited liability company may rescind~~  
14 ~~its dissolution, unless a certificate of termination applicable~~  
15 ~~to the company is effective or the court has entered an order~~  
16 ~~under section 8871(a)(4) (relating to events causing~~  
17 ~~dissolution) dissolving the company.~~

18           ~~(b) Procedure. Rescinding dissolution under this section~~  
19 ~~requires:~~

20           ~~(1) the affirmative vote or consent of each member; and~~

21           ~~(2) if the limited liability company has delivered to~~  
22 ~~the department for filing a certificate of dissolution and:~~

23           ~~(i) the certificate of dissolution has not become~~  
24 ~~effective, delivery to the department for filing of a~~  
25 ~~statement of abandonment under section 141 (relating to~~  
26 ~~abandonment of filing before effectiveness) applicable to~~  
27 ~~the certificate of dissolution; or~~

28           ~~(ii) the certificate of dissolution has become~~  
29 ~~effective, the delivery to the department for filing of a~~  
30 ~~certificate of rescission stating:~~

1 ~~(A) the name of the company;~~  
2 ~~(B) subject to section 109 (relating to name of~~  
3 ~~commercial registered office provider in lieu of~~  
4 ~~registered address), the address, including street~~  
5 ~~and number, if any, of its registered office; and~~  
6 ~~(C) that dissolution has been rescinded under~~  
7 ~~this section.~~

8 ~~(c) Effects of rescission. If a limited liability company~~  
9 ~~rescinds its dissolution:~~

10 ~~(1) the company resumes carrying on its activities and~~  
11 ~~affairs as if dissolution had never occurred;~~

12 ~~(2) subject to paragraph (3), any liability incurred by~~  
13 ~~the company after the dissolution and before the rescission~~  
14 ~~is effective is determined as if dissolution had never~~  
15 ~~occurred; and~~

16 ~~(3) the rights of a third party arising out of conduct~~  
17 ~~in reliance on the dissolution before the third party knew or~~  
18 ~~had notice of the rescission may not be adversely affected.~~

19 ~~(d) Cross references. See:~~

20 ~~Section 134 (relating to docketing statement).~~

21 ~~Section 135 (relating to requirements to be met by filed~~  
22 ~~documents).~~

23 ~~Section 136(c) (relating to processing of documents by~~  
24 ~~Department of State).~~

25 ~~Section 8823 (relating to signing of filed documents).~~

26 ~~(RESERVED).~~

<--

27 § 8874. Known claims against dissolved limited liability  
28 company.

29 (a) General rule.--Except as provided in subsection (d), a  
30 dissolved limited liability company may give notice of a known

1 claim under subsection (b), which has the effect provided in  
2 subsection (c).

3 (b) Required notice.--A dissolved limited liability company  
4 may notify in record form its known claimants of the  
5 dissolution. The notice must:

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

8 (2) state that a claim must be in writing and provide a  
9 mailing address to which the claim is to be sent;

10 (3) state the deadline for receipt of a claim, which may  
11 not be less than 120 days after the date the notice is  
12 received by the claimant; and

13 (4) state that the claim will be barred if not received  
14 by the deadline.

15 (c) Claims barred.--A claim against a dissolved limited  
16 liability company is barred if the requirements of subsection  
17 (b) are met and:

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

20 (2) if the claim is timely received but rejected by the  
21 company:

22 (i) the company causes the claimant to receive a  
23 notice in record form stating that the claim is rejected  
24 and will be barred unless the claimant commences an  
25 action against the company to enforce the claim within 90  
26 days after the claimant receives the notice; and

27 (ii) the claimant does not commence the required  
28 action within 90 days after the complainant receives the  
29 notice.

30 (d) Later arising claims.--This section shall not apply to a

1 claim based on an event occurring after the effective date of  
2 dissolution or a liability that on that date is contingent.  
3 § 8875. Other claims against dissolved limited liability  
4 company.

5 (a) Permissive notice.--A dissolved limited liability  
6 company may publish notice of its dissolution and request  
7 persons having claims against the company to present them in  
8 accordance with the notice.

9 (b) Notice procedure.--A notice under subsection (a) must:

10 (1) be officially published one time;

11 (2) describe the information required to be contained in  
12 a claim, state that the claim must be in writing and provide  
13 a mailing address to which the claim is to be sent; and

14 (3) state that a claim against the limited liability  
15 company is barred unless an action to enforce the claim is  
16 commenced within two years after publication of the notice.

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

22 (1) a claimant that did not receive notice in record  
23 form under section 8874 (relating to known claims against  
24 dissolved limited liability company);

25 (2) a claimant whose claim was timely sent to the  
26 company but not acted on; and

27 (3) a claimant whose claim is contingent at, or based on  
28 an event occurring after, the effective date of dissolution.

29 (d) Claims not barred.--A claim not barred under this  
30 section or section 8874 may be enforced:

1           (1) against a dissolved limited liability company, to  
2 the extent of its undistributed assets; and

3           (2) except as provided in section 8876 (relating to  
4 court proceedings), if assets of the company have been  
5 distributed after dissolution, against a member or transferee  
6 to the extent of that person's proportionate share of the  
7 claim or of the company's assets distributed to the member or  
8 transferee after dissolution, whichever is less, except that  
9 a person's total liability for all claims under this  
10 paragraph may not exceed the total amount of assets  
11 distributed to the person after dissolution.

12 § 8876. Court proceedings.

13       (a) Determination of security.--A dissolved limited  
14 liability company that has officially published a notice under  
15 section 8875 (relating to other claims against dissolved limited  
16 liability company) may file an application with the court for a  
17 determination of the amount and form of security to be provided  
18 for payment of claims that are reasonably expected to arise  
19 after the date of dissolution based on facts known to the  
20 company and:

21           (1) at the time of application:

22                   (i) are contingent; or

23                   (ii) have not been made known to the company; or

24           (2) are based on an event occurring after the effective  
25 date of dissolution.

26       (b) When security not required.--Security is not required  
27 for any claim that is or is reasonably anticipated to be barred  
28 under section 8875(c).

29       (c) Notice.--Within 10 days after the filing of an  
30 application under subsection (a), the dissolved limited

1 liability company shall give notice of the proceeding to each  
2 claimant holding a contingent claim known to the company.

3 (d) Guardian ad litem.--In any proceeding under this  
4 section, the court may appoint a guardian ad litem to represent  
5 all claimants whose identities are unknown. The reasonable fees  
6 and expenses of the guardian, including all reasonable expert  
7 witness fees, must be paid by the dissolved limited liability  
8 company.

9 (e) Effect on contingent claims.--A dissolved limited  
10 liability company that provides security in the amount and form  
11 ordered by the court under subsection (a) satisfies the  
12 company's obligations with respect to claims that are  
13 contingent, have not been made known to the company or are based  
14 on an event occurring after the effective date of dissolution.  
15 The claims may not be enforced against a member or transferee  
16 that received assets in liquidation.  
17 § 8877. Disposition of assets in winding up.

18 (a) Creditors.--In winding up its activities and affairs, a  
19 limited liability company shall apply its assets to discharge  
20 its obligations to creditors, including members that are  
21 creditors.

22 (b) Surplus.--After a limited liability company complies  
23 with subsection (a), any surplus shall be distributed in the  
24 following order, subject to any charging order in effect under  
25 section 8853 (relating to charging order):

26 (1) to each owner of a transferable interest that  
27 reflects contributions made and not previously returned, an  
28 amount equal to the value of the unreturned contributions;  
29 and

30 (2) among owners of transferable interests in proportion

1 to their respective rights to share in distributions  
2 immediately before the dissolution of the company.

3 (c) Insufficient assets.--If a limited liability company  
4 does not have sufficient surplus to comply with subsection (b)  
5 (1), any surplus must be distributed among the owners of  
6 transferable interests in proportion to the value of the  
7 respective unreturned contributions.

8 (d) Form of payment.--All distributions made under  
9 subsections (b) and (c) must be paid in money.

10 § 8878. Voluntary termination by members or organizers.

11 (a) General rule.--The members or organizers of a limited  
12 liability company that has not commenced business may effect the  
13 termination of the company by delivering to the department for  
14 filing a certificate of termination signed by a majority of the <--  
15 organizers or a majority in interest of the members AN ORGANIZER <--  
16 OR A MEMBER and stating:

17 (1) the name of the company;

18 (2) subject to section 109 (relating to name of  
19 commercial registered office provider in lieu of registered  
20 address), the address, including street and number, if any,  
21 of the registered office of the company;

22 (3) that the company has not commenced business;

23 (4) that the amounts, if any, actually paid in as  
24 capital contributions, less any part disbursed for necessary  
25 expenses, have been returned to those entitled to the return  
26 of the amounts;

27 (5) that all liabilities of the company have been  
28 discharged or that adequate provision has been made for those  
29 liabilities; and

30 (6) that a majority of the organizers or a majority in

1 interest of the members elect that the company be terminated.  
2 (b) Effect.--Upon the filing of the certificate of  
3 termination, the existence of the limited liability company  
4 shall cease.

5 (c) Cross references.--See:

6 Section 134 (relating to docketing statement).

7 Section 135 (relating to requirements to be met by filed  
8 documents).

9 Section 136(c) (relating to processing of documents by  
10 Department of State).

11 Section 8823 (relating to signing of filed documents). <--

12 SUBCHAPTER H

13 ACTIONS BY MEMBERS

14 Sec.

15 8881. Direct action by member.

16 8882. Derivative action.

17 8883. Proper plaintiff. <--

18 ~~8884. Pleading.~~

19 ~~8885. SECURITY FOR COSTS.~~ <--

20 8884. Special litigation committee.

21 ~~8886~~ 8885. Proceeds and expenses. <--

22 § 8881. Direct action by member.

23 (a) General rule.--Subject to subsection (b), a member may  
24 maintain a direct action against another member, a manager or  
25 the limited liability company to enforce the member's rights and  
26 protect the member's interests, including rights and interests  
27 under the operating agreement or this title or arising  
28 independently of the membership relationship.

29 (b) Required injury.--A member maintaining a direct action  
30 under this section must plead and prove an actual or threatened

1 injury that is not solely the result of an injury suffered or  
2 threatened to be suffered by the limited liability company.

3 (c) Cross reference.--See section 8815(c)(17) (relating to  
4 contents of operating agreement).

5 § 8882. Derivative action.

6 (a) General rule.--Subject to subsection (b), a member OR <--  
7 MANAGER may maintain a derivative action to enforce a right of a  
8 limited liability company only if:

9 (1) the ~~member~~ PLAINTIFF first makes a demand on the <--  
10 other members in a member-managed limited liability company,  
11 or the managers of a manager-managed limited liability  
12 company, requesting that they cause the company to bring an  
13 action to enforce the right, unless demand is excused under <--  
14 subsection (b); and

15 ~~(2) both:~~

16 ~~(i) a special litigation committee is not appointed~~  
17 ~~under section 8885 (relating to special litigation~~  
18 ~~committee); and~~

19 ~~(ii) the managers or other members do not bring the~~  
20 ~~action within a reasonable time. ENFORCE THE RIGHT,~~ <--  
21 UNLESS DEMAND IS EXCUSED UNDER SUBSECTION (B) AND:

22 (I) IF A SPECIAL LITIGATION COMMITTEE IS NOT  
23 APPOINTED UNDER SECTION 8884 (RELATING TO SPECIAL  
24 LITIGATION COMMITTEE), THE COMPANY DOES NOT BRING THE  
25 ACTION WITHIN A REASONABLE TIME; OR

26 (II) IF A SPECIAL LITIGATION COMMITTEE IS APPOINTED  
27 UNDER SECTION 8884, A DETERMINATION IS MADE:

28 (A) UNDER SECTION 8884(E)(1) THAT THE COMPANY  
29 NOT OBJECT TO THE ACTION; OR

30 (B) UNDER SECTION 8884(E)(5)(I) THAT THE

1 PLAINTIFF CONTINUE THE ACTION;

2 (2) DEMAND IS EXCUSE UNDER SUBSECTION (B);

3 (3) THE ACTION IS MAINTAINED FOR THE LIMITED PURPOSE OF  
4 SEEKING COURT REVIEW UNDER SECTION 8884(F); OR

5 (4) THE COURT HAS ALLOWED THE ACTION TO CONTINUE  
6 UNDER THE CONTROL OF THE PLAINTIFF UNDER SECTION 8884(F)  
7 (3)(II).

8 (b) Prior demand excused.--

9 (1) A demand under subsection (a)(1) is excused only if  
10 the ~~member~~ PLAINTIFF makes a specific showing that <--  
11 irreparable harm to the limited liability company would  
12 otherwise result.

13 (2) If demand is excused under paragraph (1), demand  
14 should be made promptly after commencement of the action.

15 (c) Contents of demand.--A demand under this section shall <--  
16 MUST BE IN RECORD FORM AND give notice with reasonable <--  
17 specificity of the essential facts relied upon to support each  
18 of the claims made in the demand.

19 (d) Additional claims.--If a derivative action is commenced  
20 after a demand has been made under this section and includes a  
21 claim that was not fairly subsumed under the demand, a new  
22 demand must be made with respect to that claim. THE NEW DEMAND <--  
23 SHALL NOT RELATE BACK TO THE DATE OF THE ORIGINAL DEMAND FOR  
24 PURPOSES OF SUBSECTION (E).

25 (e) Statute of limitations.--The making of a demand tolls  
26 any applicable statute of limitations with respect to a claim  
27 asserted in the demand until the ~~later~~ EARLIER of the date: <--

28 (1) the ~~member~~ PLAINTIFF making the demand is notified <--  
29 either:

30 (i) that the managers or members have decided not to

1 bring an action and not to appoint a special litigation  
2 committee; or

3 (ii) of the A determination under section 8885(e) <--  
4 8884(E) AFTER THE APPOINTMENT of a special litigation <--  
5 committee that has been appointed as provided in UNDER <--  
6 section 8885 8884; or <--

7 (2) the court determines under section 8885(f) either <--

8 to:

9 (i) enforce the determination of the special  
10 litigation committee; or

11 (ii) allow the action to continue under the control  
12 of the plaintiff. PLAINTIFF COMMENCES AN ACTION ASSERTING <--  
13 THE CLAIM.

14 (f) Cross reference.--See section 8815(c)(17) (relating to  
15 contents of operating agreement).

16 § 8883. Proper plaintiff. <--

17 (a) General rule. A derivative action to enforce a right of  
18 a limited liability company may be maintained only by a person  
19 that is a member at the time the action is commenced and:

20 (1) who was a member when the conduct giving rise to the  
21 action occurred; or

22 (2) whose status as a member devolved on the person by  
23 operation of law or pursuant to the terms of the operating  
24 agreement from a person that was a member at the time of the  
25 conduct.

26 (b) Cross reference. See section 8815(c)(17) (relating to  
27 contents of operating agreement).

28 § 8884. Pleading.

29 In a derivative action, the complaint must state with  
30 particularity the date and content of the plaintiff's demand and

1 ~~the response by the managers or other members to the demand.~~

2 SECURITY FOR COSTS.

<--

3 IN ANY ACTION OR PROCEEDING INSTITUTED OR MAINTAINED BY  
4 MEMBERS HOLDING TRANSFERABLE INTERESTS ENTITLED TO RECEIVE LESS  
5 THAN 5% OF ANY DISTRIBUTION BY A LIMITED LIABILITY COMPANY,  
6 UNLESS THE TRANSFERABLE INTERESTS HELD BY THE MEMBERS HAVE AN  
7 AGGREGATE FAIR MARKET VALUE IN EXCESS OF \$200,000, THE COMPANY  
8 IN WHOSE RIGHT THE ACTION OR PROCEEDING IS BROUGHT SHALL BE  
9 ENTITLED AT ANY STAGE OF THE PROCEEDINGS TO REQUIRE THE  
10 PLAINTIFFS TO GIVE SECURITY FOR THE REASONABLE EXPENSES,  
11 INCLUDING ATTORNEY FEES, THAT MAY BE INCURRED BY THE COMPANY IN  
12 CONNECTION THEREWITH OR FOR WHICH IT MAY BECOME LIABLE PURSUANT  
13 TO SECTION 8848 (B) (RELATING TO REIMBURSEMENT, INDEMNIFICATION,  
14 ADVANCEMENT AND INSURANCE) TO WHICH SECURITY THE COMPANY SHALL  
15 HAVE RECOURSE IN SUCH AMOUNT AS THE COURT DETERMINES UPON THE  
16 TERMINATION OF THE ACTION OR PROCEEDING. THE AMOUNT OF SECURITY  
17 MAY, FROM TIME TO TIME, BE INCREASED OR DECREASED IN THE  
18 DISCRETION OF THE COURT UPON SHOWING THAT THE SECURITY PROVIDED  
19 HAS OR MAY BECOME INADEQUATE OR EXCESSIVE. THE SECURITY MAY BE  
20 DENIED OR LIMITED BY THE COURT IF THE COURT FINDS AFTER AN  
21 EVIDENTIARY HEARING THAT UNDUE HARDSHIP ON PLAINTIFFS AND  
22 SERIOUS INJUSTICE WOULD RESULT.

23 § ~~8885~~ 8884. Special litigation committee.

<--

24 (a) General rule.--If a limited liability company ~~receives~~  
25 OR ITS MEMBERS OR MANAGERS RECEIVE a demand to bring an action  
26 to enforce a right of the ~~corporation~~ COMPANY, or if a  
27 derivative action is commenced before demand has been made on  
28 the company, ~~the company~~ OR ITS MEMBERS OR MANAGERS, THE MEMBERS  
29 IN A MEMBER-MANAGED LIMITED LIABILITY COMPANY, OR THE MANAGERS  
30 IN A MANAGER-MANAGED LIMITED LIABILITY COMPANY, may appoint a

<--

<--

<--

<--

1 special litigation committee to investigate the claims asserted  
2 in the demand or action and to determine on the basis of that <--  
3 investigation BEHALF OF THE COMPANY OR RECOMMEND TO THE MANAGERS <--  
4 OR MEMBERS whether pursuing any of the claims asserted is in the  
5 best interests of the company. THE COMPANY SHALL SEND A NOTICE <--  
6 IN RECORD FORM TO THE PLAINTIFF PROMPTLY AFTER THE APPOINTMENT  
7 OF A COMMITTEE UNDER THIS SECTION NOTIFYING THE PLAINTIFF THAT A  
8 COMMITTEE HAS BEEN APPOINTED AND IDENTIFYING BY NAME THE MEMBERS  
9 OF THE COMMITTEE. A committee may not be appointed under this  
10 section if:

11 (1) every member of the company is also a manager of the  
12 company; or

13 (2) the company is member-managed and every member is  
14 actively involved in the management of the company.

15 (b) Discovery stay.--If a limited liability company appoints <--  
16 THE MEMBERS OR MANAGERS APPOINT a special litigation committee <--  
17 and an action is commenced before the committee has made a <--  
18 determination A DETERMINATION HAS BEEN MADE under subsection <--  
19 (e):

20 (1) On motion by the committee made in the name of the  
21 LIMITED LIABILITY company, except for good cause shown, the <--  
22 court shall stay discovery for the time reasonably necessary  
23 to permit the committee to make its investigation, EXCEPT FOR <--  
24 GOOD CAUSE SHOWN.

25 (2) The time for the defendants to plead shall be tolled  
26 until the process provided for under subsection (f) has been  
27 completed.

28 (c) Composition of committee.--A special litigation  
29 committee shall be composed of two or more disinterested and <--  
30 independent individuals who:

1           (1) are not interested in the ~~action~~ CLAIMS ASSERTED IN <--  
2           THE DEMAND;  
3           (2) are capable as a group of objective judgment in the  
4           circumstances; and  
5           (3) may, but need not, be members OR MANAGERS. <--  
6           (d) Appointment of committee.--A special litigation  
7           committee may be appointed:  
8           (1) in a member-managed limited liability company:  
9           (i) by a majority of the members not named as actual  
10           or potential parties in the demand or action; and  
11           (ii) if all members are named as actual or potential  
12           parties in the demand or action, by a majority of the  
13           members so named; or  
14           (2) in a manager-managed limited liability company:  
15           (i) by a majority of the managers not named as  
16           actual or potential parties in the demand or action; and  
17           (ii) if all managers are named as actual or  
18           potential parties in the demand or action, by a majority  
19           of the managers so named.  
20           (e) Determination by ~~committee~~.--After appropriate <--  
21           investigation, BY a special litigation committee, THE COMMITTEE <--  
22           OR THE MANAGERS OR MEMBERS may determine that it is in the best  
23           interests of the limited liability company that:  
24           (1) an action based on some or all of the claims  
25           asserted in the demand not be brought by the company but that  
26           the company not object to an action being brought by the  
27           party that made the demand:  
28           (2) an action based on some or all of the claims  
29           asserted in the demand be brought by the company;  
30           (3) some or all of the claims asserted in the demand be

1 settled on terms approved by the committee;  
2 (4) an action not be brought based on any of the claims  
3 asserted in the demand;  
4 (5) an action already commenced continue under the  
5 control of:  
6 (i) the plaintiff; or <--  
7 (II) THE COMPANY; OR <--  
8 ~~(ii)~~ (III) the committee; <--  
9 (6) some or all of the claims asserted in an action  
10 already commenced be settled on terms approved by the  
11 committee; or  
12 (7) an action already commenced be dismissed.  
13 (f) Court review and action.--If a special litigation  
14 committee is appointed and an action is commenced before the <--  
15 committee makes a determination A DERIVATIVE ACTION IS COMMENCED <--  
16 EITHER BEFORE OR AFTER A DETERMINATION IS MADE under subsection  
17 (e):  
18 (1) The limited liability company shall file with the  
19 court after the committee makes a determination A <--  
20 DETERMINATION IS MADE under subsection (e) a statement of the  
21 committee's determination and a report supporting the <--  
22 determination OF THE COMMITTEE. The company shall serve each <--  
23 party with a copy of the determination and report. If the  
24 company moves to file the report under seal, the report shall  
25 be served on the parties subject to an appropriate protective <--  
26 order STIPULATION agreed to by the parties or ordered A <--  
27 PROTECTIVE ORDER ISSUED by the court.  
28 (2) The company shall file with the court a motion,  
29 pleading or notice consistent with the determination of the <--  
30 committee under subsection (e).

1        ~~(3) If the committee makes a determination~~ DETERMINATION <--  
2        IS ONE described in subsection (e) (2), (3), (4), (5) (ii), (6)  
3        or (7), the court shall determine whether the members of the  
4        committee met the qualifications required under subsection  
5        (c) (1) and (2) and whether the committee conducted its  
6        investigation and made its recommendation in good faith,  
7        independently and with reasonable care. If the court finds  
8        that the members of the committee met the qualifications  
9        required under subsection (c) (1) and (2) and that the  
10       committee acted in good faith, independently and with  
11       reasonable care, the court shall enforce the determination of  
12       the committee. Otherwise, the court shall:

13            (i) dissolve any stay of discovery entered under  
14            subsection (b);

15            (ii) allow the action to continue under the control  
16            of the plaintiff; and

17            (iii) permit the defendants to file preliminary  
18            objections and other appropriate motions and pleadings.

19        (G) ATTORNEY GENERAL.--NOTHING IN THIS SECTION SHALL LIMIT <--  
20        THE RIGHTS, POWERS AND DUTIES OF THE ATTORNEY GENERAL UNDER  
21        OTHER APPLICABLE LAW WITH RESPECT TO A LIMITED LIABILITY COMPANY  
22        ORGANIZED FOR A CHARITABLE PURPOSE.

23        ~~(g)~~ (H) Cross reference.--See section 8815(c) (18) (relating <--  
24        to contents of operating agreement).

25        ~~§ 8886~~ 8885. Proceeds and expenses. <--

26        (a) Proceeds.--Except as provided in subsection (b):

27            (1) any proceeds or other benefits of a derivative  
28            action, whether by judgment, compromise or settlement, belong  
29            to the limited liability company and not to the plaintiff;  
30            and

1           (2) if the plaintiff OR ITS COUNSEL receives any           <--  
2           proceeds, the plaintiff shall remit them PROCEEDS SHALL BE   <--  
3           REMITTED immediately to the company.

4           (b) Expenses.--If a derivative action is successful in whole  
5           or in part, the court may award the plaintiff reasonable  
6           expenses, including reasonable attorney fees and costs, from the  
7           recovery of the limited liability company, BUT IN NO EVENT   <--  
8           SHALL THE ATTORNEY FEES AWARDED EXCEED A REASONABLE PROPORTION  
9           OF THE VALUE OF THE RELIEF, INCLUDING NONPECUNIARY RELIEF,  
10           OBTAINED BY THE PLAINTIFF FOR THE COMPANY.

11           (c) Cross reference.--See section 8815(c)(13) (relating to  
12           contents of operating agreement).

13           Section 30. Repeals are as follows:

14           (1) The General Assembly finds and declares as follows:

15           (i) The limited liability company has been evolving  
16           as a legal entity over the last 25 years, and statutory  
17           law must be updated to deal with the evolving entity.

18           (ii) Existing statutory law on limited liability  
19           companies was enacted in 1994. Discrete amendments were  
20           enacted in 1997, 1998, 2006, 2013 and 2014; and  
21           significant amendments were made by section 2 of the act  
22           of June 22, 2001 (P.L.418, No.34), known as the GAA  
23           Amendments Act of 2001. A more comprehensive legislative  
24           approach was taken in sections 54 and 55 of the act of  
25           October 22, 2014 (P.L.2640, No.172), known as the  
26           Associations Transactions Act.

27           (iii) Section 22 of this act adds a new chapter on  
28           limited liability companies. The new chapter continues  
29           the approach under the GAA Amendments Act of 2001 and the  
30           Associations Transactions Act and extensively revises

1 existing statutory law to the degree that identification  
2 of individual changes or reproduction of voluminous text  
3 to be eliminated would inhibit rather than enhance  
4 serious legal analysis.

5 (iv) The repeal under paragraph (2) is necessary to  
6 carry out this paragraph.

7 (2) Chapter 89 of Title 15 is repealed.

8 Section 31. Section 9115 of Title 15 are amended to read:

9 § 9115. Ownership and transfer of property.

10 (a) General rule.--A nonprofit association may acquire, hold  
11 or transfer, in its name, an interest in property.

12 (b) Testamentary and fiduciary dispositions.--A nonprofit  
13 association may be a beneficiary of a trust or contract, a  
14 legatee or a devisee.

15 (c) Authority to take and hold trust property.--Every  
16 nonprofit association organized for a charitable purpose or  
17 purposes may take, receive and hold real and personal property  
18 as may be given, devised to or otherwise vested in the nonprofit  
19 association, in trust, for the purpose or purposes set forth in  
20 its governing principles. The managers of the nonprofit  
21 association shall, as trustees of the property, be held to the  
22 same degree of responsibility and accountability as other  
23 trustees, unless a lesser degree or a particular degree of  
24 responsibility and accountability is prescribed in the trust  
25 instrument, or unless the managers remain under the control of  
26 the members of the nonprofit association or third persons who  
27 retain the right to direct, and do direct, the actions of the  
28 managers as to the use of the trust property from time to time.

29 (d) Nondiversion of certain property.--Property of a  
30 nonprofit association committed to charitable purposes shall

1 not, by any proceeding under Chapter 3 (relating to entity  
2 transactions) or otherwise, be diverted from the objects to  
3 which it was donated, granted or devised, unless and until the  
4 nonprofit association obtains from the court an order under 20  
5 Pa.C.S. Ch. 77 (relating to trusts) specifying the disposition  
6 of the property.

7 Section 32. Section 9302 of Title 15, amended October 22,  
8 2014 (P.L.2640, No.172), is amended to read:

9 § 9302. Application of chapter.

10 (a) General rule.--This chapter shall apply to and the word  
11 "association" in this chapter shall mean a professional  
12 association organized under the act of August 7, 1961 (P.L.941,  
13 No.416), known as the Professional Association Act, which has  
14 not:

15 (1) Reorganized as an electing partnership under Chapter  
16 87 (relating to electing partnerships).

17 (2) Elected to become a professional corporation in the  
18 manner provided by section 2905 (relating to election of  
19 professional associations to become professional  
20 corporations).

21 (3) Converted to a limited liability company under  
22 Subchapter E of Chapter 3 (relating to conversion).

23 (b) No new associations.--An association may not be  
24 originally organized under this chapter.

25 Section 33. Sections 9501 and 9506 of Title 15 are amended  
26 to read:

27 § 9501. Application and effect of chapter.

28 (a) General rule.--

29 (1) Unless the context clearly indicates otherwise, this  
30 chapter shall apply to and the words "business trust" in this

1 chapter shall mean an association organized as a trust:

2 (i) [Hereafter established under the laws of this  
3 Commonwealth.] Whose deed of trust or other organic  
4 document has been filed in the department and is in  
5 effect under this chapter.

6 (ii) Whose deed of trust or other organic document  
7 states, by amendment or otherwise, that the trust exists  
8 subject to the provisions of this chapter, in the case of  
9 a business trust heretofore established under the laws of  
10 this Commonwealth or heretofore or hereafter established  
11 under the laws of any other jurisdiction.

12 (2) The words "business trust" in this chapter shall not  
13 include:

14 (i) A trust contemplated by section 1768 (relating  
15 to voting trusts and other agreements among shareholders)  
16 or any similar provision of law.

17 (ii) A trust for creditors.

18 (iii) A mortgage, deed of trust or other indenture  
19 or similar instrument or agreement under which debt  
20 securities are outstanding or to be issued.

21 (iv) A trust for the benefit of one or more  
22 investors with respect to a lease of real or personal  
23 property, unless the instrument creating the trust is  
24 filed under this chapter.

25 (b) No franchise.--This chapter shall not confer on a  
26 business trust the power to engage in any activity that may be  
27 undertaken only in corporate form.

28 (c) Effect on taxation.--This chapter is enacted to codify  
29 and clarify certain common law principles applicable to business  
30 trusts and is not intended to affect the liability of any

1 business trust to any tax. A trust that is subject to this  
2 chapter shall not be deemed to be organized or created by or  
3 under this or any other statute or to have the benefit of any  
4 state franchise for the purpose of existing law relating to  
5 taxation.

6 (d) Multistate application.--It is the intent of the General  
7 Assembly in enacting this chapter that the legal existence of  
8 business trusts organized in this Commonwealth be recognized  
9 outside the boundaries of this Commonwealth and that, subject to  
10 any reasonable requirement of registration, a domestic business  
11 trust transacting business outside this Commonwealth be granted  
12 protection of full faith and credit under the Constitution of  
13 the United States.

14 § 9506. Liability of trustees and beneficiaries.

15 (a) General rule.--

16 (1) Except as otherwise provided in the instrument, the  
17 beneficiaries of a business trust shall be entitled to the  
18 same limitation of personal liability as is extended to  
19 shareholders in a domestic business corporation.

20 (2) Except as otherwise provided in the instrument, the  
21 trustees of a trust, as such, shall not be personally liable  
22 to any person for any act or obligation of the trust or any  
23 other trustee.

24 (3) An obligation of a trust based upon a writing may be  
25 limited to a specific fund or other identified pool or group  
26 of assets of the trust.

27 (b) Standards and immunities.--Except as otherwise provided  
28 in the instrument governing the trust, the provisions of  
29 Subchapters B (relating to fiduciary duty) and D (relating to  
30 indemnification) of Chapter 17 shall be applicable to

1 representatives of a business trust.

2 (c) Certain specifically authorized debt terms.--A business  
3 trust shall be subject to section 1510 (relating to certain  
4 specifically authorized debt terms) to the same extent as if it  
5 were a business corporation.

6 (d) Professional relationship unaffected.--Subsection (a)  
7 shall not afford trustees or beneficiaries of a business trust  
8 providing professional services with greater immunity than is  
9 available to the officers, shareholders, employees or agents of  
10 a professional corporation. See section 2925 (relating to  
11 professional relationship retained).

12 (e) Disciplinary jurisdiction unaffected.--A business trust  
13 providing professional services shall be subject to the  
14 applicable rules and regulations adopted by, and all the  
15 disciplinary powers of, the court, department, board, commission  
16 or other government unit regulating the profession in which the  
17 business trust is engaged. The court, department, board or other  
18 government unit may require that a business trust include in its  
19 instrument provisions that conform to any rule or regulation  
20 heretofore or hereafter promulgated for the purpose of enforcing  
21 the ethics of a profession. This chapter shall not affect or  
22 impair the disciplinary powers of the court, department, board,  
23 commission or other government unit over licensed persons or any  
24 law, rule or regulation pertaining to the standards for  
25 professional conduct of licensed persons or to the professional  
26 relationship between any licensed person rendering professional  
27 services and the person receiving professional services.

28 (f) Permissible beneficiaries.--Except as otherwise provided  
29 by a statute, rule or regulation applicable to a particular  
30 profession, all of the ultimate beneficial owners of interests

1 in a business trust that renders one or more restricted  
2 professional services shall be licensed persons[. As used in  
3 this subsection, the term "restricted professional services"  
4 shall have the meaning specified in section 8903 (relating to  
5 definitions and index of definitions).] in the profession the  
6 trust practices if the trust renders any of the following  
7 professional services: chiropractic, dentistry, law, medicine  
8 and surgery, optometry, osteopathic medicine and surgery,  
9 podiatric medicine, public accounting, psychology or veterinary  
10 medicine.

11 (g) Conflict of laws.--The personal liability of a trustee  
12 or beneficiary of a business trust to any person or in any  
13 action or proceeding for the debts, obligations or liabilities  
14 of the trust or for the acts or omissions of other trustees,  
15 beneficiaries, employees or agents of the trust shall be  
16 governed solely and exclusively by this chapter and the laws of  
17 this Commonwealth. Whenever a conflict arises between the laws  
18 of this Commonwealth and the laws of any other state with  
19 respect to the liability of trustees or beneficiaries of a trust  
20 organized and existing under this chapter for the debts,  
21 obligations and liabilities of the trust or for the acts or  
22 omissions of the other trustees, beneficiaries, employees or  
23 agents of the trust, the laws of this Commonwealth shall govern  
24 in determining such liability.

25 (h) Medical professional liability.--A business trust shall  
26 be deemed to be a professional corporation for purposes of  
27 section [811 of the act of October 15, 1975 (P.L.390, No.111),  
28 known as the Health Care Services Malpractice Act.] 744 of the  
29 act of March 20, 2002 (P.L.154, No.13), known as the Medical  
30 Care Availability and Reduction of Error (Mcare) Act.

1     (i) Failure to observe formalities.--The failure of a  
2 business trust to observe formalities relating to the exercise  
3 of its powers or management of its activities and affairs is not  
4 a ground for imposing liability on a beneficiary or trustee of  
5 the trust for a debt, obligation or other liability of the  
6 trust.

7     Section 34. Section 501(a)(6) and (8) of Title 54, amended  
8 October 22, 2014 (P.L.2640, No.172), are amended to read:

9     § 501. Register established.

10     (a) General rule.--A register is established by this chapter  
11 which shall consist of such of the following names as are not  
12 deleted therefrom by operation of section 504 (relating to  
13 effect of failure to make filings) or 506 (relating to voluntary  
14 termination of registration by corporations and other  
15 associations):

16             \* \* \*

17             (6) In the case of a limited partnership or limited  
18 liability company subject to 15 Pa.C.S. Ch. [85] 86 (relating  
19 to limited partnerships) or [89] 88 (relating to limited  
20 liability companies), the name of the partnership or company  
21 as set forth in the certificate of limited partnership,  
22 certificate of organization or statement of registration as a  
23 [registered] foreign association.

24             (8) In the case of a [registered] limited liability  
25 partnership subject to 15 Pa.C.S. Ch. 82 (relating to  
26 [registered] limited liability partnerships and limited  
27 liability limited partnerships) that is not also a limited  
28 partnership, the name of the partnership as set forth in the  
29 statement of registration as a [registered] foreign  
30 association.

1 \* \* \*

2 Section 35. This act shall take effect in 90 days.