
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,
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DAY, GROVE, FARRY, ELLIS, BENNINGHOFF, P. COSTA, F. KELLER,
R. BROWN, D. PARKER, KORTZ AND EVERETT, JUNE 24, 2015

REFERRED TO COMMITTEE ON COMMERCE, JUNE 24, 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.
11 As to corporations, making conforming changes by revising
12 provisions on distributions by business corporations and by
13 adding provisions on the use of special litigation committees
14 by business corporations and nonprofit corporations.
15 As to partnerships generally:
16 extensively revising provisions on:
17 interchangeability of partnership, limited
18 liability company and corporate forms of
19 organization; and
20 ownership of certain professional partnerships;
21 and
22 adding a provision on failure to observe formalities.
23 As to limited liability partnerships:
24 extensively revising provisions on:
25 scope;
26 definitions;
27 limitation on liability of partners;
28 extraterritorial application of subchapter;

1 foreign registered limited liability
2 partnerships; and
3 annual registration; and
4 adding provisions on:
5 distributions; and
6 dissolution.

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

9 general provisions;
10 nature of partnership;
11 relations of partners to persons dealing with
12 partnership;
13 relations of partners to each other and to
14 partnership;
15 transferable interests and rights of transferees and
16 creditors;
17 dissociation;
18 dissociation as partner if business not wound up; and
19 dissolution and winding up.

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

22 general provisions;
23 formation and filings;
24 limited partners;
25 general partners;
26 contributions and distributions;
27 dissociation;
28 transferable interests and rights of transferees and
29 creditors;
30 dissolution and winding up; and
31 actions by partners.

32 As to limited liability companies, repealing existing
33 Chapter 89 and replacing it with a new Chapter 88 relating
34 to:

35 general provisions;
36 formation and filings;
37 relations of members and managers to persons dealing
38 with limited liability company;
39 relations of members to each other and to limited
40 liability company;
41 transferable interests and rights of transferees and
42 creditors;
43 dissociation;
44 dissolution and winding up; and
45 actions by members.

46 As to unincorporated nonprofit associations, making
47 conforming amendments by revising provisions on ownership and
48 transfer of property.

49 As to business trusts, making conforming changes by
50 revising provisions on application and effect of chapter and
51 liability of trustees and beneficiaries.

1 As to names, revising provisions on register established.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. The definitions of "association," "general
5 partnership," "limited liability company" and "limited
6 partnership" in section 102(a) of Title 15 of the Pennsylvania
7 Consolidated Statutes, amended October 22, 2014 (P.L.2640,
8 No.172), are amended and the section is amended by adding
9 definitions to read:

10 § 102. Definitions.

11 (a) Defined terms.--Subject to additional or inconsistent
12 definitions contained in subsequent provisions of this title
13 that are applicable to specific provisions of this title, the
14 following words and phrases when used in this title shall have,
15 unless the context clearly indicates otherwise, the meanings
16 given to them in this section:

17 * * *

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

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

26 (2) an association or relationship that:

27 (i) is not a person that has:

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

30 (B) the power to acquire an interest in real

1 property in its own name; and

2 (ii) is not a partnership under the rules stated in
3 section [8312 (relating to rules for determining the
4 existence of partnership)] 8422(c) (relating to formation
5 of partnership) or a similar provision of the laws of
6 another jurisdiction;

7 (3) a decedent's estate; or

8 (4) a government or a governmental subdivision, agency
9 or instrumentality.

10 * * *

11 "Charitable purposes." The relief of poverty, the
12 advancement and provision of education, including postsecondary
13 education, the advancement of religion, the prevention and
14 treatment of disease or injury, including mental retardation and
15 mental disorders, governmental or municipal purposes and any
16 other purpose the accomplishment of which is recognized as
17 important and beneficial to the public.

18 * * *

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

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

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

25 * * *

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

30 (1) A partnership as defined in section 8412 (relating

1 to definitions).

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

6 * * *

7 "Limited liability company." [A domestic or foreign limited
8 liability company as defined in section 8903 (relating to
9 definitions and index of definitions).] Either of the following:

10 (1) A limited liability company as defined in section
11 8812 (relating to definitions).

12 (2) An association whose internal affairs are governed
13 by the laws of a jurisdiction other than this Commonwealth
14 which would be a limited liability company if its internal
15 affairs were governed by the laws of this Commonwealth.

16 * * *

17 "Limited partnership." [A domestic or foreign limited
18 partnership as defined in section 8503 (relating to definitions
19 and index of definitions), whether or not it is a limited
20 liability limited partnership or electing partnership.] Either
21 of the following:

22 (1) A limited partnership as defined in section 8612
23 (relating 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 limited partnership if its internal affairs
27 were governed by the laws of this Commonwealth.

28 * * *

29 Section 2. Section 152 of Title 15, amended October 22, 2014
30 (P.L.2640, No.172), is amended to read:

1 § 152. Definitions.

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

5 "Ancillary transaction." Includes:

6 (1) preclearance of document;

7 (2) amendment of articles, charter, certificate or other
8 organic document, restatement of articles, charter,
9 certificate or other organic document;

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

12 (3.1) rescission of dissolution;

13 (4) withdrawal by foreign association;

14 (5) withdrawal by a partner;

15 (5.1) statement or certificate of authority and denial
16 or negation of authority;

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

19 (6.1) withdrawal, abandonment or termination of a
20 document which has been delivered to the department for
21 filing but has not yet become effective; or

22 (7) delivery to the department for filing in, by or with
23 the department or the Secretary of the Commonwealth of any
24 articles, statements, proceedings, agreements or any similar
25 papers affecting associations under the statutes of this
26 Commonwealth for which a specific fee is not set forth in
27 section 153 (relating to fee schedule) or other applicable
28 statute.

29 Section 3. Sections 521, 522 and 523(a) of Title 15 are
30 amended to read:

1 § 521. Pensions and allowances.

2 A banking institution [or a savings association] may grant
3 allowances or pensions to officers, directors and employees for
4 faithful and long-continued services and, after the death of the
5 officer, director or employee either while in the service of the
6 corporation or after retirement, pensions or allowances may be
7 granted or continued to their dependents. The allowances to
8 dependents shall be reasonable in amount and paid only for a
9 limited time and, unless part of an employee benefit plan or
10 employment contract in effect at the time of retirement or death
11 of the officer, director or employee, shall not exceed in total
12 the amount of the compensation paid to the officer, director or
13 employee during the 12 months preceding retirement or death.

14 § 522. Indemnification of authorized representatives.

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

18 § 523. Actions by shareholders or members to enforce a
19 secondary right.

20 (a) General rule.--In any action brought to enforce a
21 secondary right on the part of one or more shareholders or
22 members against any officer or director or former officer or
23 director of a banking institution [or a savings association],
24 because the corporation refuses to enforce rights which may
25 properly be asserted by it, the plaintiff or plaintiffs must
26 aver and it must be made to appear that the plaintiff or each
27 plaintiff was a shareholder or was a member of the corporation
28 at the time of the transaction of which he complains or that his
29 stock or membership devolved upon him by operation of law from a
30 person who was a shareholder or member at that time.

1 * * *

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

4 § 1551. Distributions to shareholders.

5 * * *

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

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

13 (2) the total assets of the corporation would be less
14 than the sum of its total liabilities plus (unless otherwise
15 provided in the articles) the amount that would be needed, if
16 the corporation were to be dissolved at the time as of which
17 the distribution is measured, to satisfy the preferential
18 rights upon dissolution of shareholders whose preferential
19 rights are superior to those receiving the distribution.

20 * * *

21 (d.1) Distribution in winding up.--In measuring the effect
22 of a distribution under Subchapter F or H of Chapter 19, the
23 liabilities of a dissolved corporation do not include any
24 liabilities for which adequate provision has been made or any
25 claim that has been barred under those subchapters.

26 * * *

27 Section 5. Sections 1781 and 1782 heading of Title 15 are
28 amended to read:

29 § 1781. [(Reserved).] Derivative action.

30 (a) General rule.--Subject to section 1782 (relating to

1 eligible derivative plaintiffs and security for costs) and
2 subsection (b), a shareholder may maintain a derivative action
3 to enforce a right of a business corporation only if:

4 (1) the shareholder first makes a demand on the board of
5 directors requesting that it cause the corporation to bring
6 an action to enforce the right, unless demand is excused
7 under subsection (b); and

8 (2) both:

9 (i) a special litigation committee is not appointed
10 under section 1783 (relating to special litigation
11 committee); and

12 (ii) the board does not bring the action within a
13 reasonable time.

14 (b) Prior demand excused.--

15 (1) A demand under subsection (a) (1) is excused only if
16 the shareholder makes a specific showing that irreparable
17 harm to the business corporation would otherwise result.

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

20 (c) Contents of demand.--A demand under this section shall
21 give notice with reasonable specificity of the essential facts
22 relied upon to support each of the claims made in the demand.

23 (d) Additional claims.--If a derivative action is commenced
24 after a demand has been made under this section and includes a
25 claim that was not fairly subsumed under the demand, a new
26 demand must be made with respect to that claim.

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 of the date:

30 (1) the shareholder making the demand is notified

1 either:

2 (i) that the board of directors has decided not to
3 bring an action and not to appoint a special litigation
4 committee; or

5 (ii) of the determination under section 1783(e) of a
6 special litigation committee that has been appointed as
7 provided in 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.

14 (f) Certain provisions of articles ineffective.--This
15 section may not be relaxed by any provision of the articles.

16 § 1782. [Actions against directors and officers] Eligible
17 derivative plaintiffs and security for costs.

18 * * *

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

20 § 1783. Special litigation committee.

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

1 (b) Discovery stay.--If the corporation appoints a special
2 litigation committee and an action is commenced before the
3 committee has made a determination under subsection (e):

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

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

11 (c) Composition of committee.--A special litigation
12 committee shall be composed of two or more individuals who:

13 (1) are not interested in the action;

14 (2) are capable as a group of objective judgment in the
15 circumstances; and

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

17 (d) Appointment of committee.--A special litigation
18 committee may be appointed:

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

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

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

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

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

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

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

7 (5) an action already commenced continue under the
8 control of:

9 (i) the plaintiff; or

10 (ii) the committee;

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

14 (7) an action already commenced be dismissed.

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

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

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

30 (3) If the committee makes a determination described in

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

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

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

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

18 (g) Certain provisions of articles ineffective.--The
19 provisions of this section may not be varied by the articles.

20 § 1784. Proceeds and expenses.

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

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

25 (2) if the plaintiff receives any proceeds, the
26 plaintiff shall remit them immediately to the corporation.

27 (b) Expenses.--If a derivative action is successful in whole
28 or in part, the court may award the plaintiff reasonable
29 expenses, including reasonable attorney fees and costs, from the
30 recovery of the business corporation.

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

3 Section 7. Section 1907 of Title 15 is amended to read:
4 § 1907. Purpose of fundamental transactions.

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

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

10 § 5103. Definitions.

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

17 * * *

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

25 * * *

26 Section 9. Title 15 is amended by adding a section to read:
27 § 5781. Derivative action.

28 (a) General rule.--Subject to section 5782 (relating to
29 eligible derivative plaintiffs and security for costs) and
30 subsection (b), a member may maintain a derivative action to

1 enforce a right of a nonprofit corporation only if:

2 (1) the member first makes a demand on the board of
3 directors, requesting that it cause the corporation to bring
4 an action to enforce the right, unless demand is excused
5 under subsection (b); and

6 (2) both:

7 (i) a special litigation committee is not appointed
8 under section 5783 (relating to special litigation
9 committee); and

10 (ii) the board does not bring the action within a
11 reasonable time.

12 (b) Prior demand excused.--

13 (1) A demand under subsection (a)(1) is excused only if
14 the member makes a specific showing that irreparable harm to
15 the business corporation would otherwise result.

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

18 (c) Contents of demand.--A demand under this section shall
19 give notice with reasonable specificity of the essential facts
20 relied upon to support each 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.

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 of the date:

28 (1) the member making the demand is 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 5783(e)
3 (relating to special litigation committee) of a special
4 litigation committee that has been appointed as provided
5 in section 5783; or
6 (2) the court determines under section 5783(f) either
7 to:
8 (i) enforce the determination of the special
9 litigation committee; or
10 (ii) allow the action to continue under the control
11 of the plaintiff.

12 Section 10. Section 5782 heading of Title 15 is amended to
13 read:

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

17 * * *

18 Section 11. Title 15 is amended by adding sections to read:

19 § 5783. Special litigation committee.

20 (a) General rule.--If a nonprofit corporation receives a
21 demand to bring an action to enforce a right of the corporation,
22 or if a derivative action is commenced before demand has been
23 made on the corporation, the corporation may appoint a special
24 litigation committee to investigate the claims asserted in the
25 demand or action and to determine on the basis of that
26 investigation whether pursuing any of the claims asserted is in
27 the best interests of the corporation.

28 (b) Discovery stay.--If the corporation appoints a special
29 litigation committee and an action is commenced before the
30 committee has made a determination under subsection (e):

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

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

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

10 (1) are not interested in the action;

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

13 (3) may, but need not, be members, directors or members
14 of an other body.

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

24 (ii) the directors so named.

25 (e) Determination by committee.--After appropriate
26 investigation, a special litigation committee may determine that
27 it is in the best interests of the 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; or

11 (ii) the committee;

12 (6) some or all of the claims asserted in an action
13 already commenced be settled on terms approved by the
14 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 an action is commenced before the
18 committee makes a determination under subsection (e):

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

28 (2) The corporation 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 described in
2 subsection (e) (2), (3), (4), (5) (ii), (6) or (7), the court
3 shall 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 and other appropriate motions and pleadings.

19 § 5784. Proceeds and expenses.

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

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

24 (2) if the plaintiff receives any proceeds, the
25 plaintiff shall remit them immediately to the corporation.

26 (b) Expenses.--If a derivative action is successful in whole
27 or in part, the court may award the plaintiff reasonable
28 expenses, including reasonable attorney fees and costs, from the
29 recovery of the nonprofit corporation.

30 Section 12. Sections 8102 and 8105 of Title 15 are amended

1 to read:

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

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

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

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

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

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

22 (2) [Apply to a banking institution, credit union,
23 insurance corporation or savings association,] Authorize the
24 conduct of the business of banking or insurance unless the
25 laws relating thereto or this part expressly [contemplate]
26 permit the conduct of [the regulated] that business in
27 partnership or limited liability company form. See [section
28 8911 (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.

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

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

28 (b) Transitional provision.--Subsection (a) shall not apply
29 to a person that holds only a transferable interest that was
30 acquired before [the Legislative Reference Bureau shall insert

1 here the effective date of this act].

2 Section 13. Title 15 is amended by adding a section to read:

3 § 8106. Failure to observe formalities.

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

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

13 CHAPTER 82

14 [REGISTERED] LIMITED LIABILITY PARTNERSHIPS AND

15 LIMITED LIABILITY LIMITED PARTNERSHIPS

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

18 SUBCHAPTER A

19 DOMESTIC [REGISTERED]

20 LIMITED LIABILITY PARTNERSHIPS AND

21 LIMITED LIABILITY LIMITED PARTNERSHIPS

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

23 § 8201. Scope.

24 (a) Application of subchapter.--This subchapter applies to a
25 general or limited partnership formed under the laws of this
26 Commonwealth that registers under this section. Any partnership
27 that desires to register under this subchapter or to amend or
28 terminate its registration shall file in the Department of State
29 a statement of registration, amendment or termination, as the
30 case may be, which shall be signed by a general partner and

1 shall set forth:

2 (1) The name of the partnership.

3 (2) Either:

4 (i) the address of the principal place of business
5 of the partnership, in the case of a general partnership;

6 or

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 registered office of the
11 partnership, in the case of a limited partnership.

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

18 (4) A statement that:

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

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

24 (b) Effect of filing.--Upon the filing of the statement of
25 registration, amendment or termination in the department, the
26 registration under this subchapter shall be effective, amended
27 or terminated, as the case may be. The effectiveness, amendment
28 or termination of the registration of a partnership under this
29 subchapter shall not be deemed to cause a dissolution of the
30 partnership.

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

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

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

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

26 (e) Prohibited termination.--A registration under this
27 subchapter may not be terminated while the partnership is a
28 [bankrupt as that term is defined in section 8903 (relating to
29 definitions and index of definitions)] debtor in bankruptcy. See
30 section 8221(f) (relating to annual registration).

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

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

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

20 (i) Cross references.--See sections 134 (relating to
21 docketing statement) and 135 (relating to requirements to be met
22 by filed documents).

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

28 § 8202. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

5 The term:

6 (1) includes:

7 (i) a redemption or other purchase by a partnership
8 of a transferable interest; and

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

14 (2) does not include:

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

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

22 (iii) a direct or indirect allocation or transfer
23 effected under Chapter 3 (relating to entity
24 transactions) with the approval of the members; or

25 (iv) a direct or indirect transfer of:

26 (A) a governance or transferable interest; or

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

29 ["Foreign registered limited liability partnership." A
30 partnership that has registered under a law of any jurisdiction

1 other than this Commonwealth similar to this subchapter, whether
2 or not the partnership is required to register under section
3 8211 (relating to foreign registered limited liability
4 partnerships).]

5 "Partner." Includes a person who is or was a partner in a
6 [registered] limited liability partnership or limited liability
7 limited partnership at any time while the registration of the
8 partnership under this subchapter is or was in effect.

9 ["Registered limited liability partnership" or "domestic
10 registered limited liability partnership." A partnership as to
11 which a registration under section 8201(a) (relating to scope)
12 is in effect.]

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

14 § 8204. Limitation on liability of partners.

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

27 (b) Exceptions.--

28 (2) Subsection (a) shall not affect the liability of a
29 partner:

30 (i) Individually for any negligent or wrongful acts

1 or misconduct committed by [him or by any person under
2 his direct supervision and control] the partner.

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

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

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

9 (C) that:

10 (I) arose before [the Legislative Reference
11 Bureau shall insert here the effective date of
12 this clause]; and

13 (II) did not arise from any negligent or
14 wrongful acts or misconduct committed by a
15 partner or other representative of the
16 partnership.

17 (iii) To the extent expressly undertaken in the
18 partnership agreement or the certificate of limited
19 partnership.

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

21 (i) the liability of the partnership itself for all
22 its debts [and obligations], obligations and other
23 liabilities;

24 (ii) the availability of the entire assets of the
25 partnership to satisfy its debts [and obligations],
26 obligations and other liabilities; or

27 (iii) any obligation undertaken by a partner in
28 writing to individually indemnify another partner of the
29 partnership or to individually contribute toward a
30 liability of another partner.

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

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

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

17 Section 19. Section 8205 of Title 15 is repealed:
18 [§ 8205. Liability of withdrawing partner.

19 (a) General rule.--Except as provided in subsection (b), if
20 the business of a registered limited liability partnership is
21 continued without liquidation of the partnership affairs
22 following the dissolution of the partnership as a result of the
23 withdrawal for any reason of a partner, the withdrawing partner
24 shall not be individually liable directly or indirectly, whether
25 by way of indemnification, contribution or otherwise, for the
26 debts and obligations of either the dissolved partnership or any
27 partnership continuing the business if a statement of withdrawal
28 is filed as provided in this section.

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

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

4 (2) For any debts or obligations of the partnership as
5 to which the withdrawing partner has agreed in writing to be
6 liable.

7 (3) To the partnership for damages if the partnership
8 agreement prohibits the withdrawal of the partner or the
9 withdrawal otherwise violates the partnership agreement.

10 (4) Under section 8334 (relating to partner accountable
11 as fiduciary).

12 (5) To the extent a debt or obligation of the
13 partnership has been expressly undertaken by the partner in
14 the partnership agreement or the certificate of limited
15 partnership.

16 (6) If the partnership subsequently dissolves within one
17 year after the date of withdrawal of the partner and the
18 business of the partnership is not continued following such
19 subsequent dissolution. This paragraph shall not be
20 applicable in the case of a withdrawal caused by:

21 (i) the death of the partner; or

22 (ii) the retirement of the partner pursuant to a
23 retirement policy of the dissolved partnership that has
24 been in effect prior to the retirement of the partner for
25 the shorter of one year or the period that the
26 partnership has been in existence.

27 (7) For any obligation undertaken by a partner in
28 writing to individually indemnify another partner of the
29 partnership or to individually contribute toward a liability
30 of another partner.

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

4 (1) The name of the registered limited liability
5 partnership.

6 (2) The name of the withdrawing partner.

7 (d) Filing and effectiveness.--The statement of withdrawal
8 shall be filed in the Department of State and shall be effective
9 upon filing. The withdrawing partner shall send a copy of the
10 filed statement of withdrawal to the registered limited
11 liability partnership.

12 (e) Permissive filing.--Filing under this section is
13 permissive, and failure to make a filing under this section by a
14 partner entitled to do so shall not affect the right of that
15 partner to the limitation on liability provided by section 8204
16 (relating to limitation on liability of partners).

17 (f) Constructive notice.--Filing under this section shall
18 constitute constructive notice that the partner has withdrawn
19 from the partnership and is entitled to the protection from
20 liability provided by this section.

21 (g) Variation of section.--A written provision of the
22 partnership agreement may restrict or condition the application
23 of this section to some or all of the partners of the
24 partnership.

25 (h) Application of section.--A partner in a foreign
26 registered limited liability partnership, regardless of whether
27 or not it has registered to do business in this Commonwealth
28 under section 8211 (relating to foreign registered limited
29 liability partnerships), shall not be entitled to make a filing
30 under this section with regard to that partnership.

1 (i) Cross references.--See sections 134 (relating to
2 docketing statement) and 135 (relating to requirements to be met
3 by filed documents).]

4 Section 20. Section 8207 of Title 15 is amended to read:
5 § 8207. Extraterritorial application of subchapter.

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

15 (b) Basis for determining liability of partners.--The
16 liability of partners in a [registered] domestic limited
17 liability partnership or domestic limited liability limited
18 partnership shall at all times be determined under Chapters [83]
19 84 (relating to general partnerships) and [85] 86 (relating to
20 limited partnerships) as modified by the provisions of this
21 subchapter.

22 (c) Conflict of laws.--The personal liability of a partner
23 of a [registered] domestic limited liability partnership or
24 domestic limited liability limited partnership to any person or
25 in any action or proceeding for the debts, obligations or other
26 liabilities of the partnership or for the acts or omissions of
27 other partners or representatives of the partnership shall be
28 governed solely and exclusively by the laws of this
29 Commonwealth. Whenever a conflict arises between the laws of
30 this Commonwealth and the laws of any other state with regard to

1 the liability of partners of a [registered] domestic limited
2 liability partnership [registered under this subchapter] or
3 domestic limited liability limited partnership for the debts,
4 obligations and other liabilities of the partnership or for the
5 acts or omissions of the other partners or representatives of
6 the partnership, the laws of this Commonwealth shall govern in
7 determining such liability.

8 Section 21. Subchapter B of Chapter 82 of Title 15 is
9 repealed:

10 [SUBCHAPTER B

11 FOREIGN REGISTERED

12 LIMITED LIABILITY PARTNERSHIPS

13 § 8211. Foreign registered limited liability partnerships.

14 (a) Governing law.--Subject to the Constitution of
15 Pennsylvania:

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

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

23 (c) Exception.--The liability of the partners in a foreign
24 registered limited liability partnership shall be governed by
25 the laws of the jurisdiction under which it is organized, except
26 that the partners shall not be entitled to greater protection
27 from liability than is available to the partners in a domestic
28 registered limited liability partnership.]

29 Section 22. Section 8221 of Title 15 is amended to read:

30 § 8221. Annual registration.

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

14 (b) Annual registration fee.--

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

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

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

26 (2) The base fee of \$200 shall be increased on December
27 31, 1997, and December 31 of every third year thereafter by
28 the percentage increase in the Consumer Price Index for Urban
29 Workers during the most recent three calendar years for which
30 that index is available on the date of adjustment. Each

1 adjustment under this paragraph shall be rounded up to the
2 nearest \$10.

3 (c) Notice of annual registration.--Not later than February
4 1 of each year, the department shall give notice to every
5 partnership required to file a certificate of annual
6 registration with respect to the preceding year of the
7 requirement to file the certificate. The notice shall state the
8 amount of the base fee payable under subsection (b)(1), as
9 adjusted pursuant to subsection (b)(2), if applicable, and shall
10 be accompanied by the form of certificate of annual registration
11 to be filed. Failure by the department to give notice to any
12 party, or failure by any party to receive notice, of the annual
13 registration requirement shall not relieve the party of the
14 obligation to file the certificate of annual registration.

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

21 (e) Failure to pay annual fee.--

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

25 (i) the status of the [registered] limited liability
26 partnership [as such.] or limited liability limited
27 partnership as such, if it is a domestic partnership; or

28 (ii) the registration of the limited liability
29 partnership or limited liability limited partnership, if
30 it is a foreign partnership.

1 (1.1) [In addition, any] Any annual registration fee
2 that is not paid when due shall be a lien in the manner
3 provided in this subsection from the time the annual
4 registration fee is due and payable. If a certificate of
5 annual registration is not filed within 30 days after the
6 date on which it is due, the department shall assess a
7 penalty of \$500 against the partnership, which shall also be
8 a lien in the manner provided in this subsection. The
9 imposition of that penalty shall not be construed to relieve
10 the partnership from liability for any other penalty or
11 interest provided for under other applicable law.

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

23 (3) The annual registration fee shall bear simple
24 interest from the date that it becomes due and payable until
25 paid. The interest rate shall be that provided for in section
26 806 of the act of April 9, 1929 (P.L.343, No.176), known as
27 The Fiscal Code, with respect to unpaid taxes. The penalty
28 provided for in paragraph (1) shall not bear interest. The
29 payment of interest shall not relieve the [registered limited
30 liability] partnership from liability for any other penalty

1 or interest provided for under other applicable law.

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

24 (5) If the annual registration fee paid by a [registered
25 limited liability] partnership is subsequently determined to
26 be more than should have been paid for any reason, no refund
27 of the additional fee shall be made.

28 (6) Termination of the status [of a registered limited
29 liability partnership as such] or foreign registration of a
30 partnership under this section, whether voluntarily or

1 involuntarily, shall not release it from the obligation to
2 pay any accrued fees, penalties and interest and shall not
3 release the lien created by this subsection.

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

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

22 SUBCHAPTER D

23 DISTRIBUTIONS

24 Sec.

25 8231. Limitations on distributions by limited liability
26 partnership.

27 8232. Liability for improper distributions by limited liability
28 partnership.

29 § 8231. Limitations on distributions by limited liability
30 partnership.

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

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

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

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

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

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

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

26 (4) any other method that is reasonable in the
27 circumstances.

28 (c) Excluded liabilities.--In determining whether a
29 distribution is prohibited under subsection (a) (2), the
30 partnership need not consider obligations and liabilities unless

1 they are required to be reflected on a balance sheet, not
2 including the notes to the balance sheet, prepared on the basis
3 of generally accepted accounting principles, or other such
4 accounting practices and principles as are used generally by the
5 partnership in the maintenance of its books and records and as
6 are reasonable in the circumstances.

7 (d) Measuring date of distribution.--Except as provided in
8 subsection (e), the effect of a distribution under subsection
9 (a) is measured:

10 (1) as of the date specified by the partnership when it
11 authorizes the distribution if the distribution occurs within
12 125 days of the earlier of the date so specified or the date
13 of authorization; or

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

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

23 (f) Status of distribution debt.--The indebtedness of a
24 domestic limited liability partnership to a partner or
25 transferee incurred by reason of a distribution made in
26 accordance with this section shall be at least on a parity with
27 the partnership's indebtedness to its general, unsecured
28 creditors, except to the extent subordinated by agreement.

29 (g) Certain subordinated debt.--The indebtedness of a
30 domestic limited liability partnership, including indebtedness

1 issued as a distribution, is not a liability for purposes of
2 subsection (a) if the terms of the indebtedness provide that
3 payment of principal and interest is made only if and to the
4 extent that a payment of a distribution could then be made under
5 this section. If the indebtedness is issued as a distribution,
6 each payment of principal or interest is treated as a
7 distribution, the effect of which is measured on the date the
8 payment is made.

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

17 (i) Cross references.--See sections 8415(d)(1) (relating to
18 contents of partnership agreement) and 8447 (relating to
19 standards of conduct for partners).

20 § 8232. Liability for improper distributions by limited
21 liability partnership.

22 (a) General rule.--Except as provided in subsection (b), if
23 a partner of a limited liability partnership consents to a
24 distribution made in violation of section 8231 (relating to
25 limitations on distributions by limited liability partnership)
26 and in consenting to the distribution fails to comply with
27 section 8447 (relating to standards of conduct for partners),
28 the partner is personally liable to the partnership for the
29 amount of the distribution which exceeds the amount that could
30 have been distributed without the violation of section 8231.

1 (b) Partners without authority.--To the extent the
2 partnership agreement of a limited liability partnership
3 expressly relieves a partner of the authority and responsibility
4 to consent to distributions and imposes that authority and
5 responsibility on one or more other partners, the liability in
6 subsection (a) applies to the other partners and not to the
7 partner that the partnership agreement relieves of the authority
8 and responsibility.

9 (c) Recipients.--A person that receives a distribution
10 knowing that the distribution violated section 8231 is
11 personally liable to the limited liability partnership, but only
12 to the extent that the distribution received by the person
13 exceeded the amount that could have been properly paid under
14 section 8231.

15 (d) Contribution.--A person against which an action is
16 commenced because the person is liable under subsection (a) may:

17 (1) join any other person that is liable under
18 subsection (a) and seek to enforce a right of contribution
19 from the person; and

20 (2) join any person that received a distribution in
21 violation of subsection (c) and seek to enforce a right of
22 contribution from the person in the amount the person
23 received in violation of subsection (c).

24 (e) Statute of repose.--An action under this section is
25 barred unless commenced within two years after the distribution.

SUBCHAPTER E

DISSOLUTION

28 Sec.

29 8241. Known claims against dissolved limited liability
30 partnership.

1 8242. Other claims against dissolved limited liability
2 partnership.

3 8243. Court proceedings.

4 8244. Liability of partner when claim against partnership
5 barred.

6 § 8241. Known claims against dissolved limited liability
7 partnership.

8 (a) General rule.--Except as provided in subsection (d), a
9 dissolved limited liability partnership may give notice of a
10 known claim under subsection (b), which has the effect provided
11 in subsection (c).

12 (b) Required notice.--A dissolved limited liability
13 partnership may notify in record form its known claimants of the
14 dissolution. The notice must:

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

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

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

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

24 (5) unless the partnership has been throughout its
25 existence a limited liability partnership, state that the
26 barring of a claim against the partnership will also bar any
27 corresponding claim against any partner or person dissociated
28 as a partner which is based on section 8436 (relating to
29 partner's liability).

30 (c) Claims barred.--A claim against a dissolved limited

1 liability partnership is barred if the requirements of
2 subsection (b) are met and:

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

5 (2) if the claim is timely received but rejected by the
6 partnership:

7 (i) the partnership causes the claimant to receive a
8 notice in record form stating that the claim is rejected
9 and will be barred unless the claimant commences an
10 action against the partnership to enforce the claim
11 within 90 days after the claimant receives the notice;
12 and

13 (ii) the claimant does not commence the required
14 action within 90 days after the claimant receives the
15 notice.

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

19 § 8242. Other claims against dissolved limited liability
20 partnership.

21 (a) Permissive notice.--A dissolved limited liability
22 partnership may publish notice of its dissolution and request
23 persons having claims against the partnership to present them in
24 accordance with the notice.

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

26 (1) be officially published one time;

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

30 (3) state that a claim against the partnership is barred

1 unless an action to enforce the claim is commenced within two
2 years after publication of the notice; and

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

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

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

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

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

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

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

26 (2) except as provided in section 8243 (relating to
27 court proceedings), if assets of the partnership have been
28 distributed after dissolution, against a partner or
29 transferee to the extent of that person's proportionate share
30 of the claim or of the partnership's assets distributed to

1 the partner or transferee after dissolution, whichever is
2 less, except that a person's total liability for all claims
3 under this paragraph may not exceed the total amount of
4 assets distributed to the person after dissolution; and

5 (3) against any person liable on the claim under
6 sections 8436, 8473 (relating to liability of person
7 dissociated as partner to other persons) and 8485 (relating
8 to liability after dissolution).

9 § 8243. Court proceedings.

10 (a) Determination of security.--A dissolved limited
11 liability partnership that has published a notice under section
12 8242 (relating to other claims against dissolved limited
13 liability partnership) may file an application with the court of
14 common pleas embracing the county where the partnership's
15 principal office is located or, if the principal office is not
16 located in this Commonwealth, where its registered office is or
17 was last located, for a determination of the amount and form of
18 security to be provided for payment of claims that are
19 reasonably expected to arise after the date of dissolution based
20 on facts known to the partnership and:

21 (1) at the time of the application:

22 (i) are contingent; or

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

24 (2) are based on an event occurring after the date of
25 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 8241 (relating to known claims against dissolved
29 limited liability partnership).

30 (c) Notice.--Within 10 days after the filing of an

1 application under subsection (a), the dissolved limited
2 liability partnership shall give notice of the proceeding to
3 each claimant holding a contingent claim known to the
4 partnership.

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

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

19 § 8244. Liability of partner when claim against partnership
20 barred.

21 If a claim against a dissolved partnership is barred under
22 this subchapter, any corresponding claim under sections 8436
23 (relating to partner's liability), 8473 (relating to liability
24 of person dissociated as partner to other person) and 8485
25 (relating to liability after dissolution) is also barred.

26 Section 24. Repeals are as follows:

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

28 (i) Over the last 25 years, there have been
29 significant changes in the business model for
30 partnerships; and statutory law must be updated to deal

1 with the new business model.

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

4 (iii) Section 18 of this act adds a new chapter on
5 general partnerships. The new chapter extensively revises
6 existing statutory law to the degree that identification
7 of individual changes or reproduction of voluminous text
8 to be eliminated would inhibit rather than enhance
9 serious legal analysis.

10 (iv) The repeal under paragraph (2) is necessary to
11 carry out this paragraph.

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

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

14 CHAPTER 84

15 GENERAL PARTNERSHIPS

16 Subchapter

17 A. General Provisions

18 B. Nature of Partnership

19 C. Relations of Partners to Persons Dealing with Partnership

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

21 E. Transferable Interests and Rights of Transferees and
22 Creditors

23 F. Dissociation

24 G. Dissociation as Partner if Business Not Wound Up

25 H. Dissolution and Winding Up

26 SUBCHAPTER A

27 GENERAL PROVISIONS

28 Sec.

29 8411. Short title and application of chapter.

30 8412. Definitions.

1 8413. Knowledge and notice.

2 8414. Governing law.

3 8415. Contents of partnership agreement.

4 8416. Application of partnership agreement.

5 8417. Amendment and effect of partnership agreement.

6 8418. Signing of filed documents.

7 8419. Liability of general partner or other person for false or
8 missing information in filed document.

9 § 8411. Short title and application of chapter.

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

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

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

17 (2) except as provided in subsection (d), a partnership
18 formed before [the Legislative Reference Bureau shall insert
19 here the effective date of this chapter] which elects, in the
20 manner provided in its partnership agreement or by law for
21 amending the partnership agreement, to be subject to this
22 chapter.

23 (c) Full effective date.--Except as provided under
24 subsection (d), on and after July 1, 2016, this chapter governs
25 all partnerships.

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

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

2 (i) a third party that had not done business with
3 the partnership in the year before the election took
4 effect; and

5 (ii) a third party that had done business with the
6 partnership in the year before the election took effect
7 only if the third party knows or has been notified of the
8 election; and

9 (2) on and after July 1, 2016, to all third parties,
10 except that those provisions remain inapplicable to any
11 obligation incurred while those provisions were inapplicable
12 under paragraph (1)(ii).

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

15 § 8412. Definitions.

16 (a) General definitions.--The following words and phrases
17 when used in this chapter shall have the meanings given to them
18 in this subsection unless the context clearly indicates
19 otherwise:

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

21 "Contribution." Property or a benefit described in section
22 8443 (relating to form of contribution) which is provided by a
23 person to a partnership to become a partner or in the person's
24 capacity as a partner.

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

28 (1) includes:

29 (i) a redemption or other purchase by a partnership
30 of a transferable interest; and

1 (ii) a transfer to a partner in return for the
2 partner's relinquishment of any right to participate as a
3 partner in the management or conduct of the partnership's
4 business or have access to records or other information
5 concerning the partnership's business; and

6 (2) does not include:

7 (i) amounts constituting reasonable compensation for
8 present or past service or payments made in the ordinary
9 course of business under a bona fide retirement plan or
10 other bona fide benefits program;

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

14 (iii) a direct or indirect allocation or transfer
15 effected under Chapter 3 (relating to entity
16 transactions) with the approval of the members; or

17 (iv) a direct or indirect transfer of:

18 (A) a governance or transferable interest; or

19 (B) options, rights or warrants to acquire a
20 governance or transferable interest.

21 "Partner." A person that:

22 (1) has become a partner in a partnership under section
23 8442 (relating to becoming partner) or was a partner in a
24 partnership when the partnership became subject to this
25 chapter under section 8411 (relating to short title and
26 application of chapter); and

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

29 "Partnership." An association of two or more persons to
30 carry on as co-owners a business for profit formed under this

1 chapter or that becomes subject to this chapter under Chapter 3
2 (relating to entity transactions) or section 8411. The term
3 includes a limited liability partnership or an electing
4 partnership that is not also a limited partnership.

5 "Partnership agreement." The agreement, whether or not
6 referred to as a partnership agreement and whether oral,
7 implied, in record form or in any combination thereof, of all
8 the partners of a partnership concerning the matters described
9 in section 8415(a) (relating to contents of partnership
10 agreement). The term includes the agreement as amended or
11 restated.

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

15 "Transferable interest." The right, as initially owned by a
16 person in the person's capacity as a partner, to receive
17 distributions from a partnership, whether or not the person
18 remains a partner or continues to own any part of the right. The
19 term applies to any fraction of the interest, by whomever owned.

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

23 (b) Index of definitions.--The following is a nonexclusive
24 list of definitions in section 102 (relating to definitions)
25 that apply to this chapter:

26 "Act" or "action."

27 "Court."

28 "Debtor in bankruptcy."

29 "Department."

30 "Jurisdiction."

1 "Jurisdiction of formation."

2 "Obligation."

3 "Principal office."

4 "Professional services."

5 "Property."

6 "Record form."

7 "Sign."

8 "Transfer."

9 § 8413. Knowledge and notice.

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

11 (1) has actual knowledge of it; or

12 (2) is deemed to know it under subsection (d) (1) or law
13 other than this chapter.

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

15 (1) has reason to know the fact from all the facts known
16 to the person at the time in question; or

17 (2) is deemed to have notice of the fact under
18 subsection (d) (2).

19 (c) Notification.--Except as provided under section 113(b)
20 (relating to delivery of document), a person notifies another
21 person of a fact by taking steps reasonably required to inform
22 the other person in ordinary course, whether or not those steps
23 cause the other person to know the fact.

24 (d) Constructive notice.--A person not a partner is deemed:

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

28 (2) to have notice of:

29 (i) a person's dissociation as a partner 90 days
30 after a certificate of dissociation under section 8474

1 (relating to certificate of dissociation) becomes
2 effective;

3 (ii) the dissolution of the partnership 90 days
4 after a certificate of dissolution under section 8482(b)
5 (2)(i) (relating to winding up and filing of optional
6 certificates) is effective;

7 (iii) the termination of the partnership 90 days
8 after a certificate of termination under section 8482(b)
9 (2)(vi) is effective; and

10 (iv) participation in a merger, interest exchange,
11 conversion, division or domestication, 90 days after a
12 statement of merger, interest exchange, conversion,
13 division or domestication under Chapter 3 (relating to
14 entity transactions) is effective.

15 (e) Effect of partner's knowledge or notice.--A partner's
16 knowledge or notice of a fact relating to the partnership is
17 effective immediately as knowledge of or notice to the
18 partnership, except in the case of a fraud on the partnership
19 committed by or with the consent of that partner.

20 § 8414. Governing law.

21 (a) General rule.--The internal affairs of a partnership and
22 the liability of a partner as a partner for the debts,
23 obligations or other liabilities of the partnership are governed
24 by:

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

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

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

1 (ii) the jurisdiction in which the partnership has
2 its principal office if there is no choice of law under
3 subparagraph (i).

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

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

9 (2) Application of the chosen law would be contrary to a
10 fundamental policy of a jurisdiction that has a materially
11 greater interest in the determination of the particular issue
12 than does the jurisdiction whose law has been chosen.

13 (c) Cross reference.--See section 8415(c)(6) (relating to
14 contents of partnership agreement).
15 § 8415. Contents of partnership agreement.

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

18 (1) relations among the partners as partners and between
19 the partners and the partnership;

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

22 (3) the business of the partnership and the conduct of
23 that business;

24 (4) the means and conditions for amending the
25 partnership agreement; and

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

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

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

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

5 (2) Vary the right of a partner to approve a merger,
6 interest exchange, conversion, division or domestication
7 under section 333(a)(2) (relating to approval of merger),
8 343(a)(2) (relating to approval of interest exchange), 353(a)
9 (2) (relating to approval of conversion), 363(a)(2) (relating
10 to approval of division) or 373(a)(2) (relating to approval
11 of domestication).

12 (3) Vary the required contents of a plan of merger under
13 section 332(a) (relating to plan of merger), plan of interest
14 exchange under section 342(a) (relating to plan of interest
15 exchange), plan of conversion under section 352(a) (relating
16 to plan of conversion), plan of division under section 362(a)
17 (relating to plan of division) or plan of domestication under
18 section 372(a) (relating to plan of domestication).

19 (4) Vary a provision of Chapter 81 (relating to general
20 provisions) or 82 (relating to limited liability partnerships
21 and limited liability limited partnerships).

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

24 (6) Vary the law applicable under section 8414 (relating
25 to governing law).

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

28 (i) registered offices; or

29 (ii) the department, including provisions pertaining
30 to documents authorized or required to be delivered to

1 the department for filing under this title.

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

4 (9) Unreasonably restrict the duties and rights under
5 section 8446 (relating to rights to information), except as
6 provided in subsection (d).

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

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

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

17 (13) Provide indemnification against, or relieve or
18 exonerate a person from, liability for an action that has
19 been determined by a court to constitute recklessness,
20 willful misconduct or a knowing violation of law.

21 (14) Vary the power of a person to dissociate as a
22 partner under section 8462(a) (relating to power to
23 dissociate as partner and wrongful dissociation), except to
24 require that the notice under section 8461(1) (relating to
25 events causing dissociation) be in record form.

26 (15) Vary the causes of dissolution specified in section
27 8481(4) or (5) (relating to events causing dissolution).

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

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

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

6 (1) The partnership agreement may:

7 (i) specify the method by which a specific act or
8 transaction that would otherwise violate the duty of
9 loyalty may be authorized or ratified by one or more
10 disinterested and independent persons after full
11 disclosure of all material facts;

12 (ii) alter the prohibition in section 8231(a)(2)
13 (relating to limitations on distributions by limited
14 liability partnership) so that the prohibition requires
15 only that the partnership's total assets not be less than
16 the sum of its total liabilities; and

17 (iii) impose reasonable restrictions on the
18 availability and use of information obtained under
19 section 8446 and may define appropriate remedies,
20 including liquidated damages, for a breach of any
21 reasonable restriction on use.

22 (2) To the extent the partnership agreement expressly
23 relieves a partner of a responsibility that the partner would
24 otherwise have under this title and imposes the
25 responsibility on one or more other partners, the agreement
26 also may eliminate or limit any fiduciary duty of the partner
27 relieved of the responsibility which would have pertained to
28 the responsibility.

29 (3) If not manifestly unreasonable, the partnership
30 agreement may:

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

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

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

8 (iv) alter the duty of care; and

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

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

13 The court:

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

17 (2) may invalidate the term only if, in light of the
18 purposes and business of the partnership, it is readily
19 apparent that:

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

21 (ii) the term is an unreasonable means to achieve
22 the term's objective.

23 § 8416. Application of partnership agreement.

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

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

29 (c) Preformation agreement.--Two or more persons intending
30 to become the initial partners of a partnership may make an

1 agreement providing that upon the formation of the partnership
2 the agreement will become the partnership agreement.

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

5 § 8417. Amendment and effect of partnership agreement.

6 (a) Approval of amendments.--A partnership agreement may
7 specify that its amendment requires the approval of a person
8 that is not a party to the agreement or the satisfaction of a
9 condition. An amendment is ineffective if its adoption does not
10 include the required approval or satisfy the specified
11 condition. See section 8441(j) (relating to partner's rights and
12 duties).

13 (b) Obligations to nonpartners.--The obligations of a
14 partnership and its partners to a person in the person's
15 capacity as a transferee or person dissociated as a partner are
16 governed by the partnership agreement. Except as provided in
17 section 8445(d) (relating to sharing of and right to
18 distribution before dissolution) or in a court order issued
19 under section 8454(b) (2) (relating to charging order) to
20 effectuate a charging order, an amendment to the partnership
21 agreement made after a person becomes a transferee or is
22 dissociated as a partner:

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

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

28 (i) imposes a new debt, obligation or other
29 liability on the transferee or person dissociated as a
30 partner; or

1 (ii) prejudices the rights under section 8471
2 (relating to purchase of interest of person dissociated
3 as partner) of a person that dissociated as a partner
4 before the amendment was made.

5 (c) Provisions in filed documents.--If a document delivered
6 by a partnership to the department for filing becomes effective
7 and contains a provision that would be ineffective under section
8 8415(c) or (d)(3) (relating to contents of partnership
9 agreement) if contained in the partnership agreement, the
10 provision is ineffective in the document.

11 (d) Conflicts with partnership agreement.--Subject to
12 subsection (c), if a document delivered by a partnership to the
13 department for filing becomes effective and conflicts with a
14 provision of the partnership agreement:

15 (1) the agreement prevails as to partners, persons
16 dissociated as partners and transferees; and

17 (2) the document prevails as to other persons to the
18 extent they reasonably rely on the document.

19 (e) Prohibition of oral amendments.--If a provision of a
20 partnership agreement in record form provides that the
21 partnership agreement cannot be amended, modified or rescinded
22 except in record form, an oral agreement, amendment,
23 modification or rescission shall not be enforceable.

24 § 8418. Signing of filed documents.

25 (a) Required signatures.--A document delivered to the
26 department for filing under this title relating to a partnership
27 must be signed as follows:

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

1 (2) A document filed on behalf of a dissolved
2 partnership that has no partner must be signed by the person
3 winding up the partnership's business under section 8482(c)
4 (relating to winding up and filing of optional certificates)
5 or a person appointed under section 8482(d) to wind up the
6 business.

7 (3) A certificate of denial by a person under section
8 8434 (relating to certificate of denial) must be signed by
9 that person.

10 (4) 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 § 8419. Liability of general partner 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 partner if:

27 (i) the document was delivered for filing on behalf
28 of the partnership; and

29 (ii) the partner knew or had notice there was false
30 or missing information for a reasonably sufficient time

1 before the document was relied upon so that, before the
2 reliance, the partner reasonably could have:

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

5 (B) delivered to the department for filing a
6 statement of correction under section 138 (relating
7 to statement of correction) or a statement of
8 abandonment under section 141 (relating to
9 abandonment of filing before effectiveness).

10 (b) Partner relieved of responsibility.--To the extent the
11 partnership agreement expressly relieves a partner of
12 responsibility for maintaining the accuracy of information
13 contained in records delivered on behalf of the partnership to
14 the department for filing under this title and imposes that
15 responsibility on one or more other partners, the liability
16 stated in subsection (a) (2) applies to those other partners and
17 not to the partner that the partnership agreement relieves of
18 the responsibility.

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

21 SUBCHAPTER B

22 NATURE OF PARTNERSHIP

23 Sec.

24 8421. Partnership as entity.

25 8422. Formation of partnership.

26 8423. Partnership property.

27 8424. When property is partnership property.

28 § 8421. Partnership as entity.

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

1 (b) Limited liability partnership.--A partnership is the
2 same entity regardless of whether the partnership has a
3 statement of registration in effect under section 8201 (relating
4 to scope).

5 § 8422. Formation of partnership.

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

10 (b) Excluded associations.--An association formed under a
11 statute other than this chapter, a predecessor statute or a
12 comparable statute of another jurisdiction is not a partnership
13 under this chapter.

14 (c) Rules for determining formation of partnership.--In
15 determining whether a partnership is formed, the following rules
16 apply:

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

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

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

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

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

1 (iii) of rent;
2 (iv) of an annuity or other retirement or health
3 benefit to a deceased or retired partner or a
4 beneficiary, representative or designee of a deceased or
5 retired partner;

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

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

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

16 § 8423. Partnership property.

17 Property acquired by a partnership is property of the
18 partnership and not of the partners individually.

19 § 8424. When property is partnership property.

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

22 (1) the partnership; or

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

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

29 (1) the partnership in its name; or

30 (2) one or more partners in their capacity as partners

1 in the partnership, if the name of the partnership is
2 indicated in the instrument transferring title to the
3 property.

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

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

16 SUBCHAPTER C

17 RELATIONS OF PARTNERS TO PERSONS

18 DEALING WITH PARTNERSHIP

19 Sec.

20 8431. Partner agent of partnership.

21 8432. Transfer of partnership property.

22 8433. Certificate of partnership authority.

23 8434. Certificate of denial.

24 8435. Partnership liable for partner's actionable conduct.

25 8436. Partner's liability.

26 8437. Actions by and against partnership and partners.

27 8438. Liability of purported partner.

28 § 8431. Partner agent of partnership.

29 Subject to the effect of a certificate of partnership
30 authority under section 8433 (relating to certificate of

1 partnership authority), the following rules apply:

2 (1) Each partner is an agent of the partnership for the
3 purpose of its business. An act of a partner, including the
4 signing of an instrument in the partnership name, for
5 apparently carrying on in the ordinary course the partnership
6 business or business of the kind carried on by the
7 partnership binds the partnership, unless the partner did not
8 have authority to act for the partnership in the particular
9 matter and the person with which the partner was dealing knew
10 or had notice that the partner lacked authority.

11 (2) An act of a partner which is not apparently for
12 carrying on in the ordinary course the partnership's business
13 or business of the kind carried on by the partnership binds
14 the partnership only if the partner had actual authority to
15 take the action.

16 § 8432. Transfer of partnership property.

17 (a) General rule.--Partnership property may be transferred
18 as follows:

19 (1) Subject to the effect of a certificate of
20 partnership authority under section 8433 (relating to
21 certificate of partnership authority), partnership property
22 held in the name of the partnership may be transferred by an
23 instrument of transfer signed by a partner in the partnership
24 name.

25 (2) Partnership property held in the name of one or more
26 partners with an indication in the instrument transferring
27 the property to them of their capacity as partners or of the
28 existence of a partnership, but without an indication of the
29 name of the partnership, may be transferred by an instrument
30 of transfer signed by the persons in whose name the property

1 is held.

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

8 (b) Recovery of property by partnership.--A partnership may
9 recover partnership property from a transferee only if it proves
10 that the signing of the instrument of initial transfer did not
11 bind the partnership under section 8431 (relating to partner
12 agent of partnership) and:

13 (1) as to a subsequent transferee who gave value for
14 property transferred under subsection (a) (1) and (2), proves
15 that the subsequent transferee knew or had been notified that
16 the person who signed the instrument of initial transfer
17 lacked authority to bind the partnership; or

18 (2) as to a transferee who gave value for property
19 transferred under subsection (a) (3), proves that the
20 transferee knew or had been notified that the property was
21 partnership property and that the person who signed the
22 instrument of initial transfer lacked authority to bind the
23 partnership.

24 (c) Subsequent transferees.--A partnership may not recover
25 partnership property from a subsequent transferee if the
26 partnership would not have been entitled to recover the property
27 under subsection (b) from any earlier transferee of the
28 property.

29 (d) Sole partner.--If one person holds all the interests in
30 a partnership, all the partnership property vests in that

1 person. The person may sign a document in the name of the
2 partnership to evidence vesting of the property in that person
3 and may file or record the document.

4 § 8433. Certificate of partnership authority.

5 (a) General rule.--A partnership may deliver to the
6 department for filing a certificate of partnership authority.

7 The certificate:

8 (1) must include the name of the partnership and:

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

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

18 (2) with respect to any position that exists in or with
19 respect to the partnership, may state the authority, or
20 limitations on the authority, of all persons holding the
21 position to:

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

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

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

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

30 (ii) enter into other transactions on behalf of, or

1 otherwise act for or bind, the partnership.

2 (b) Amendment or cancellation.--To amend or cancel a
3 certificate of authority filed by the department, a partnership
4 must deliver to the department for filing an amendment or
5 cancellation stating:

6 (1) the name of the partnership;

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

10 (3) if the partnership is a registered foreign limited
11 liability partnership, subject to section 109, the address,
12 including street and number, if any, of its registered
13 office;

14 (4) the date the certificate being affected became
15 effective; and

16 (5) the contents of the amendment or a statement that
17 the certificate is canceled.

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

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

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

23 (d) Effect of limitation on authority.--Subject to
24 subsection (c) and section 8413(d)(1) (relating to knowledge and
25 notice), and except as provided in subsections (f), (g) and (h),
26 a limitation on the authority of a person or a position
27 contained in an effective certificate of authority is not by
28 itself evidence of any person's knowledge or notice of the
29 limitation.

30 (e) Authority not relating to real property.--A grant of

1 authority not pertaining to transfers of real property and
2 contained in an effective certificate of authority is conclusive
3 in favor of a person that gives value in reliance on the grant,
4 except to the extent that if the person gives value:

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

6 (2) the certificate has been canceled or restrictively
7 amended under subsection (b); or

8 (3) a limitation on the grant is contained in another
9 certificate of authority that became effective after the
10 certificate containing the grant became effective.

11 (f) Authority relating to real property.--An effective
12 certificate of authority that grants authority to transfer real
13 property held in the name of the partnership, a certified copy
14 of which certificate is recorded in the office of the recorder
15 of deeds for the county in which the real property is located,
16 is conclusive in favor of a person that gives value in reliance
17 on the grant without knowledge to the contrary, except to the
18 extent that when the person gives value:

19 (1) the certificate has been canceled or restrictively
20 amended under subsection (b), and a certified copy of the
21 cancellation or restrictive amendment has been recorded in
22 the office of the recorder of deeds for the county in which
23 the real property is located; or

24 (2) 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 and a
27 certified copy of the later-effective certificate is recorded
28 in the office of the recorder of deeds for the county in
29 which the real property is located.

30 (g) Constructive notice of limitation.--Subject to

1 subsection (c), if a certified copy of an effective certificate
2 containing a limitation on the authority to transfer real
3 property held in the name of a partnership is recorded in the
4 office of the recorder of deeds for the county in which real
5 property is located, all persons are deemed to know of the
6 limitation.

7 (h) Effect of certificate of dissolution.--Subject to
8 subsection (i), an effective certificate of dissolution is a
9 cancellation of any filed certificate of authority for the
10 purposes of subsection (f) and is a limitation on authority for
11 purposes of subsection (g).

12 (i) Post-dissolution certificate of authority.--After a
13 certificate of dissolution becomes effective, a partnership may
14 deliver to the department for filing and, if appropriate, may
15 record a certificate of authority that is designated as a post-
16 dissolution certificate of authority. The certificate operates
17 as provided in subsections (f) and (g).

18 (j) Cancellation by operation of law.--Unless canceled
19 earlier, an effective certificate of authority is canceled by
20 operation of law five years after the date on which the
21 certificate, or its most recent amendment, becomes effective.
22 The cancellation is effective without recording under subsection
23 (f) or (g).

24 (k) Effect of certificate of denial.--An effective
25 certificate of denial under section 8434 (relating to
26 certificate of denial):

27 (1) operates as a restrictive amendment under this
28 section and a certified copy may be recorded as provided in
29 subsection (f)(1) by the partnership or the person that
30 delivered the certificate of denial to the department for

1 filing; and

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

4 (1) Foreign partnerships.--A foreign partnership, regardless
5 of whether it is registered to do business in this Commonwealth,
6 may deliver a certificate of authority to the department for
7 filing and may record a copy as provided in this section in the
8 same manner and with the same effect is if it were a domestic
9 partnership.

10 (m) Cross references.--See:

11 Section 134 (relating to docketing statement).

12 Section 135 (relating to requirements to be met by filed
13 documents).

14 Section 136(c) (relating to processing of documents by
15 Department of State).

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

17 Section 8482 (relating to winding up and filing of
18 optional certificates).

19 § 8434. Certificate of denial.

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

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

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

27 (ii) if the partnership is a registered foreign
28 limited liability partnership, subject to section 109
29 (relating to name of commercial registered office
30 provider in lieu of registered address), the address,

1 including street and number, if any, of its registered
2 office;

3 (2) states the caption of the certificate of authority
4 to which the certificate of denial pertains; and

5 (3) denies the grant of authority.

6 (b) Cross references.--See:

7 Section 134 (relating to docketing statement).

8 Section 135 (relating to requirements to be met by filed
9 documents).

10 Section 136(c) (relating to processing of documents by
11 Department of State).

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

13 § 8435. Partnership liable for partner's actionable conduct.

14 (a) General rule.--A partnership is liable for loss or
15 injury caused to a person, or for a penalty incurred, as a
16 result of a wrongful act or other actionable conduct, of a
17 partner acting in the ordinary course of business of the
18 partnership or with the actual or apparent authority of the
19 partnership.

20 (b) Misapplication of property.--If, in the course of the
21 partnership's business or while acting with actual or apparent
22 authority of the partnership, a partner receives or causes the
23 partnership to receive money or property of a person not a
24 partner and the money or property is misapplied by a partner,
25 the partnership is liable for the loss.

26 § 8436. Partner's liability.

27 (a) General rule.--Except as provided in subsection (b) or
28 section 8204 (relating to limitation on liability of partners),
29 all partners are jointly and severally liable for all debts,
30 obligations and other liabilities of the partnership unless

1 otherwise agreed by the claimant or provided by law.

2 (b) Preexisting liabilities.--A person that becomes a
3 partner is not personally liable for a debt, obligation or other
4 liability of the partnership incurred before the person became a
5 partner.

6 § 8437. Actions by and against partnership and partners.

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

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

13 (c) Judgment against partnership only.--A judgment against a
14 partnership:

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

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

18 (d) Judgment against partnership and partner.--If there is a
19 judgment against a partnership and a partner on the same claim,
20 the judgment creditor may levy execution against the assets of
21 the partner if both of the following apply:

22 (1) The partner is personally liable for the claim under
23 section 8436.

24 (2) One of the following subparagraphs applies:

25 (i) A writ of execution on the judgment against the
26 partnership has been returned unsatisfied in whole or in
27 part.

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

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

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

3 (A) partnership assets subject to execution are
4 clearly insufficient to satisfy the judgment;

5 (B) exhaustion of partnership assets is
6 excessively burdensome; or

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

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

11 (e) Liability for representations.--This section also
12 applies to any debt, liability or other obligation of a
13 partnership which results from a representation by a partner or
14 purported partner under section 8438 (relating to liability of
15 purported partner).

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

18 § 8438. Liability of purported partner.

19 (a) General rule.--If a person, by words or conduct,
20 purports to be a partner, or consents to being represented by
21 another as a partner, in a partnership or with one or more
22 persons not partners, the purported partner is liable to a
23 person to whom the representation is made, if that person,
24 relying on the representation, enters into a transaction with
25 the actual or purported partnership. If the representation,
26 either by the purported partner or by a person with the
27 purported partner's consent, is made in a public manner, the
28 purported partner is liable to a person who relies upon the
29 purported partnership even if the purported partner is not aware
30 of being held out as a partner to the claimant. If partnership

1 liability results, the purported partner is liable with respect
2 to that liability as if the purported partner were a partner. If
3 no partnership liability results, the purported partner is
4 jointly and severally liable, with any other person consenting
5 to the representation, with respect to that liability.

6 (b) Authority of purported partner.--If a person is
7 represented in the manner described in subsection (a) to be a
8 partner in an existing partnership, or with one or more persons
9 not partners, the purported partner is an agent of persons
10 consenting to the representation to bind them to the same extent
11 and in the same manner as if the purported partner were a
12 partner with respect to persons who enter into transactions in
13 reliance upon the representation. If all the partners of the
14 existing partnership consent to the representation, a
15 partnership act or obligation results. If fewer than all the
16 partners of the existing partnership consent to the
17 representation, the person acting and the partners consenting to
18 the representation are jointly and severally liable.

19 (c) Effect of certificate of partnership authority.--A
20 person is not liable as a partner merely because the person is
21 named by another as a partner in a certificate of partnership
22 authority.

23 (d) No effect of failure to disclaim authority.--A person
24 does not continue to be liable as a partner merely because of a
25 failure to file a certificate of dissociation or to amend a
26 certificate of partnership authority to indicate the person's
27 dissociation as a partner.

28 (e) Nonliability of persons not partners.--Except as
29 provided in subsections (a) and (b), persons who are not
30 partners as to each other are not liable as partners to other

1 persons.

2 SUBCHAPTER D

3 RELATIONS OF PARTNERS TO EACH OTHER

4 AND TO PARTNERSHIP

5 Sec.

6 8441. Partner's rights and duties.

7 8442. Becoming a partner.

8 8443. Form of contribution.

9 8444. Liability for contribution.

10 8445. Sharing of and right to distribution before dissolution.

11 8446. Rights to information.

12 8447. Standards of conduct for partners.

13 8448. Actions by partnership and partners.

14 8449. Continuation of partnership beyond definite term or
15 particular undertaking.

16 § 8441. Partner's rights and duties.

17 (a) Distributions and losses.--Each partner is entitled to
18 an equal share of distributions and, except in the case of a
19 limited liability partnership, is chargeable with a share of the
20 partnership losses in proportion to the partner's share of
21 distributions.

22 (b) Reimbursement.--A partnership shall reimburse a partner
23 for:

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

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

30 (c) Indemnification.--A partnership shall indemnify and hold

1 harmless a person with respect to any claim or demand against
2 the person and any debt, obligation or other liability incurred
3 by the person by reason of the person's former or present
4 capacity as partner, if the claim, demand, debt, obligation or
5 other liability does not arise from the person's breach of this
6 section or section 8232 (relating to liability for improper
7 distributions by limited liability partnership) or 8447.

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

15 (e) Insurance.--A partnership may purchase and maintain
16 insurance on behalf of a partner against liability asserted
17 against or incurred by the partner in that capacity or arising
18 from that status even if, under section 8415(c)(13) (relating to
19 contents of partnership agreement), the partnership agreement
20 could not eliminate or limit the person's liability to the
21 partnership for the conduct giving rise to the liability.

22 (f) Loan to partnership.--A payment or advance made by a
23 partner which gives rise to a partnership obligation under
24 subsection (b) constitutes a loan to the partnership which
25 accrues interest from the date of the payment or advance.

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

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

30 (i) Compensation for services.--A partner is not entitled to

1 remuneration for services performed for the partnership, except
2 for reasonable compensation for services rendered in winding up
3 the business of the partnership.

4 (j) Required approvals by partners.--A difference arising as
5 to a matter in the ordinary course of business of a partnership
6 may be decided by a majority of the partners. An act outside the
7 ordinary course of business of a partnership and an amendment to
8 the partnership agreement may be undertaken only with the
9 affirmative vote or consent of all the partners.

10 (k) Nonexclusivity.--The rights provided by subsections (b),
11 (c), (d) and (e) shall not be deemed exclusive of any other
12 rights to which a person seeking reimbursement, indemnification
13 advancement of expenses or insurance may be entitled under the
14 partnership agreement, vote of partners, contract or otherwise,
15 both as to action in his official capacity and as to action in
16 another capacity while holding that position. Section 8447(f)
17 shall be applicable to a vote, contract or other action under
18 this subsection. A partnership may create a fund of any nature,
19 which may, but need not be, under the control of a trustee, or
20 otherwise secure or insure in any manner its indemnification
21 obligations, whether arising under this section or otherwise.

22 (l) Grounds.--Indemnification under subsection (k) may be
23 granted for any action taken and may be made whether or not the
24 partnership would have the power to indemnify the person under
25 any other provision of law except as provided in section 8415(c)
26 (13) and whether or not the indemnified liability arises or
27 arose from any threatened, pending or completed action by or in
28 the right of the partnership. Indemnification under subsection
29 (k) is declared to be consistent with the public policy of this
30 Commonwealth.

1 § 8442. Becoming a partner.

2 (a) Upon formation.--Upon formation of a partnership, a
3 person becomes a partner under section 8422(a) (relating to
4 formation of partnership).

5 (b) After formation.--After formation of a partnership, a
6 person becomes a partner:

7 (1) as provided in the partnership agreement;

8 (2) as a result of a transaction effective under Chapter
9 3 (relating to entity transactions); or

10 (3) with the affirmative vote or consent of all the
11 partners.

12 (c) Noneconomic partners.--A person may become a partner
13 without:

14 (1) acquiring a transferable interest; or

15 (2) making or being obligated to make a contribution to
16 the partnership.

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

19 § 8443. Form of contribution.

20 A contribution may consist of:

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

23 (2) an agreement to transfer property to, perform
24 services for or provide another benefit to the partnership;
25 or

26 (3) any combination of items listed in paragraphs (1)
27 and (2).

28 § 8444. Liability for contribution.

29 (a) Obligation not excused.--A person's obligation to make a
30 contribution to a partnership is not excused by the person's

1 death, disability, termination or other inability to perform
2 personally.

3 (b) Substitute payment.--If a person does not fulfill an
4 obligation to make a contribution other than money, the person
5 is obligated, at the option of the partnership, to contribute
6 money equal to the value, as stated in the records of the
7 partnership, of the part of the contribution which has not been
8 made.

9 (c) Compromise of obligation.--The obligation of a person to
10 make a contribution may be compromised only by the affirmative
11 vote or consent of all the partners. If a creditor of a limited
12 liability partnership extends credit or otherwise acts in
13 reliance on an obligation described under subsection (a) without
14 knowledge or notice of a compromise under this subsection, the
15 creditor may enforce the obligation.

16 § 8445. Sharing of and right to distribution before
17 dissolution.

18 (a) Distributions before dissolution.--Any distribution made
19 by a partnership before its dissolution and winding up shall be
20 in equal shares among partners and persons dissociated as
21 partners whose interests in the partnership have not been
22 purchased under section 8471 (relating to purchase of interest
23 of person dissociated as partner), except to the extent
24 necessary to comply with a transfer effective under section 8453
25 (relating to transfer of transferable interest) or charging
26 order in effect under section 8454 (relating to charging order).

27 (b) No right to distribution.--Subject to section 8471, a
28 person has a right to a distribution before the dissolution and
29 winding up of a partnership only if the partnership decides to
30 make an interim distribution.

1 (c) Form of distribution.--A person does not have a right to
2 demand or receive a distribution from a partnership in any form
3 other than money. Except as provided in section 8486 (relating
4 to disposition of assets in winding up and required
5 contributions), a partnership may distribute an asset in kind
6 only if each part of the asset is fungible with each other part
7 and each person receives a percentage of the asset equal in
8 value to the person's share of distributions.

9 (d) Status as creditor.--If a partner or transferee becomes
10 entitled to receive a distribution, the partner or transferee
11 has the status of, and is entitled to all remedies available to,
12 a creditor of the partnership with respect to the distribution.
13 The partnership's obligation to make a distribution is subject
14 to offset for any amount owed to the partnership by the partner
15 or a person dissociated as partner on whose account the
16 distribution is made.

17 § 8446. Rights to information.

18 (a) Location of records.--A partnership shall keep its books
19 and records, if any, at its principal office.

20 (b) Right to inspection.--On reasonable notice, a partner
21 may inspect and copy during regular business hours, at a
22 reasonable location specified by the partnership, any record
23 maintained by the partnership regarding the partnership's
24 business, financial condition and other circumstances, to the
25 extent the information is material to the partner's rights and
26 duties under the partnership agreement or this title.

27 (c) Required information.--The partnership shall furnish to
28 each partner:

29 (1) without demand, any information concerning the
30 partnership's business, financial condition and other

1 circumstances which the partnership knows and is material to
2 the proper exercise of the partner's rights and duties under
3 the partnership agreement or this title, except to the extent
4 the partnership can establish that it reasonably believes the
5 member already knows the information; and

6 (2) on demand, any other information concerning the
7 partnership's business, financial condition and other
8 circumstances, except to the extent the demand or the
9 information demanded is unreasonable or otherwise improper
10 under the circumstances.

11 (d) Duty of partners.--The duty to furnish information under
12 subsection (c) also applies to each partner to the extent the
13 partner knows any of the information described in subsection
14 (c).

15 (e) Rights after dissociation.--Subject to subsection (j),
16 within 10 days after receipt by a partnership of a demand made
17 in record form, a person dissociated as a partner may have
18 access to information to which the person was entitled while a
19 partner if:

20 (1) the information pertains to the period during which
21 the person was a partner;

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

23 (3) the person satisfies the requirements imposed on a
24 partner by subsection (b).

25 (f) Partnership response to demand.--Within 10 days after
26 receiving a demand under subsection (e), the partnership shall,
27 in record form, inform the person that made the demand of:

28 (1) the information that the partnership will provide in
29 response to the demand and when and where the partnership
30 will provide the information; and

1 (2) the partnership's reasons for declining, if the
2 partnership declines to provide any demanded information.

3 (g) Costs of copying.--A partnership may charge a person
4 that makes a demand under this section the reasonable costs of
5 copying, limited to the costs of labor and material.

6 (h) Exercise of rights.--A partner or person dissociated as
7 a partner may exercise the rights under this section through an
8 agent or, in the case of an incapacitated person, a guardian.
9 Any restriction or condition imposed by the partnership
10 agreement or under subsection (j) applies both to the agent or
11 guardian and to the partner or person dissociated as a partner.

12 (i) No rights of transferee.--Subject to section 8455
13 (relating to power of personal representative of deceased
14 partner), the rights under this section do not extend to a
15 person as transferee.

16 (j) Reasonable restrictions permitted.--In addition to any
17 restriction or condition stated in its partnership agreement, a
18 partnership, as a matter within the ordinary course of its
19 business, may impose reasonable restrictions and conditions on
20 access to and use of information to be furnished under this
21 section, including designating information confidential and
22 imposing nondisclosure and safeguarding obligations on the
23 recipient. In a dispute concerning the reasonableness of a
24 restriction under this subsection, the partnership has the
25 burden of proving reasonableness.

26 (k) Cross reference.--See section 8415 (relating to contents
27 of partnership agreement).

28 § 8447. Standards of conduct for partners.

29 (a) General rule.--A partner owes to the partnership and the
30 other partners the duties of loyalty and care stated in

1 subsections (b) and (c).

2 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
3 partner includes the duties:

4 (1) to account to the partnership and hold as trustee
5 for it any property, profit or benefit derived by the
6 partner:

7 (i) in the conduct or winding up of the
8 partnership's business;

9 (ii) from a use by the partner of the partnership's
10 property; or

11 (iii) from the appropriation of a partnership
12 opportunity;

13 (2) to refrain from dealing with the partnership in the
14 conduct or winding up of the partnership business as or on
15 behalf of a person having an interest adverse to the
16 partnership; and

17 (3) to refrain from competing with the partnership in
18 the conduct of the partnership's business before the
19 dissolution of the partnership.

20 (c) Duty of care.--The duty of care of a partner in the
21 conduct or winding up of the partnership business is to refrain
22 from engaging in gross negligence, recklessness, willful
23 misconduct or a knowing violation of law.

24 (d) Good faith and fair dealing.--A partner shall discharge
25 the duties and obligations under this title or under the
26 partnership agreement and exercise any rights consistent with
27 the contractual obligation of good faith and fair dealing.

28 (e) Self-serving conduct.--A partner does not violate a duty
29 or obligation under this title or under the partnership
30 agreement solely because the partner's conduct furthers the

1 partner's own interest.

2 (f) Authorization or ratification.--All the partners may
3 authorize or ratify, after disclosure of all material facts, a
4 specific act or transaction that otherwise would violate the
5 duty of loyalty of a partner.

6 (g) Fairness as a defense.--It is a defense to a claim under
7 subsection (b) (2) and any comparable claim in equity or at
8 common law that the transaction was fair to the partnership at
9 the time it was authorized or ratified under subsection (f).

10 (h) Rights and obligations in approved transaction.--If a
11 partner enters into a transaction with the partnership which
12 otherwise would be prohibited under subsection (b) (2), but the
13 transaction is authorized or ratified as provided under
14 subsection (f) or the partnership agreement, the partner's
15 rights and obligations arising from the transaction are the same
16 as those of a person that is not a partner.

17 (i) Cross reference.--See section 8415 (relating to contents
18 of partnership agreement).

19 § 8448. Actions by partnership and partners.

20 (a) Action by partnership.--A partnership may maintain an
21 action against a partner for either of the following that causes
22 or threatens harm to the partnership:

23 (1) a breach of the partnership agreement; or

24 (2) the violation of a duty to the partnership.

25 (b) Action by partner.--A partner may maintain an action
26 against the partnership or another partner, with or without an
27 accounting as to partnership business, to enforce the partner's
28 rights and protect the partner's interests, including rights and
29 interests under the partnership agreement or this title or
30 arising independently of the partnership relationship.

1 (c) Claims not revived.--A right to an accounting on
2 dissolution and winding up does not revive a claim barred by
3 law.

4 (d) Cross reference.--See section 8415(c)(12) (relating to
5 contents of partnership agreement).
6 § 8449. Continuation of partnership beyond definite term or
7 particular undertaking.

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

14 (b) Presumed agreement to continue partnership.--If the
15 partners, or those partners who habitually acted in the business
16 during the term or undertaking, continue the business without
17 any settlement or liquidation of the partnership, they are
18 presumed to have agreed that the partnership will continue.

19 SUBCHAPTER E

20 TRANSFERABLE INTERESTS AND RIGHTS

21 OF TRANSFEREES AND CREDITORS

22 Sec.

23 8451. Partner not co-owner of partnership property.

24 8452. Nature of transferable interest.

25 8453. Transfer of transferable interest.

26 8454. Charging order.

27 8455. Power of personal representative of deceased partner.

28 § 8451. Partner not co-owner of partnership property.

29 A partner is not a co-owner of partnership property and has
30 no interest in partnership property which can be transferred,

1 either voluntarily or involuntarily.

2 § 8452. Nature of transferable interest.

3 (a) Personal property.--A transferable interest is personal
4 property.

5 (b) Only right that may be transferred.--A person may not
6 transfer to a person not a partner any rights in a partnership
7 other than a transferable interest.

8 § 8453. Transfer of transferable interest.

9 (a) General rule.--A transfer, in whole or in part, of a
10 transferable interest:

11 (1) is permissible;

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

15 (3) subject to section 8455 (relating to power of
16 personal representative of deceased partner), does not
17 entitle the transferee to:

18 (i) participate in the management or conduct of the
19 partnership's business; or

20 (ii) except as provided in subsection (c), have
21 access to records or other information concerning the
22 partnership's business.

23 (b) Rights of transferee.--A transferee has the right to:

24 (1) receive, in accordance with the terms of the
25 transfer:

26 (i) distributions to which the transferor would
27 otherwise be entitled; and

28 (ii) allocations of income, gain, loss, deduction or
29 credit or similar item which would otherwise be made to
30 the transferor; and

1 (2) seek under section 8481 (a) (5) (relating to events
2 causing dissolution) a judicial determination that it is
3 equitable to wind up the partnership business.

4 (c) Right to account on dissolution.--In a dissolution and
5 winding up of a partnership, a transferee is entitled to an
6 account of the partnership's transactions only from the date of
7 dissolution.

8 (d) Recognition of transferee's rights.--A partnership need
9 not give effect to a transferee's rights under this section
10 until the partnership knows or has notice of the transfer.

11 (e) Transfer restrictions.--A transfer of a transferable
12 interest in violation of a restriction on transfer contained in
13 the partnership agreement is ineffective if the intended
14 transferee has knowledge or notice of the restriction at the
15 time of transfer.

16 (f) Rights retained by transferor.--Except as provided in
17 section 8461(4) (ii) (relating to events causing dissociation),
18 if a partner transfers a transferable interest, the transferor
19 retains the rights of a partner other than the transferable
20 interest transferred and retains all the duties and obligations
21 of a partner.

22 § 8454. Charging order.

23 (a) General rule.--On application by a judgment creditor of
24 a partner or transferee, a court may enter a charging order
25 against the transferable interest of the judgment debtor for the
26 unsatisfied amount of the judgment. A charging order constitutes
27 a lien on a judgment debtor's transferable interest and requires
28 the partnership to pay over to the person to which the charging
29 order was issued any distribution that otherwise would be paid
30 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. The purchaser at the
13 foreclosure sale obtains only the transferable interest, does
14 not thereby become a partner and is subject to section 8453
15 (relating to transfer of transferable interest).

16 (d) Satisfaction of judgment.--At any time before
17 foreclosure under subsection (c), the partner or transferee
18 whose transferable interest is subject to a charging order under
19 subsection (a) may extinguish the charging order by satisfying
20 the judgment and filing a certified copy of the satisfaction
21 with the court that issued the charging order.

22 (e) Purchase of rights.--At any time before foreclosure
23 under subsection (c), a partnership or one or more partners
24 whose transferable interests are not subject to the charging
25 order may pay to the judgment creditor the full amount due under
26 the judgment and thereby succeed to the rights of the judgment
27 creditor, including the charging order.

28 (f) Exemption laws preserved.--This chapter shall not
29 deprive any partner or transferee of the benefit of any
30 exemption law applicable to the transferable interest of the

1 partner or transferee.

2 (g) Exclusive remedy.--This section provides the exclusive
3 remedy by which a person seeking, in the capacity of a judgment
4 creditor, to enforce a judgment against a partner or transferee
5 may satisfy the judgment from the judgment debtor's transferable
6 interest.

7 § 8455. Power of personal representative of deceased partner.

8 If a partner dies, the deceased partner's personal
9 representative may exercise:

10 (1) the rights of a transferee provided in section
11 8453(c) (relating to transfer of transferable interest); and

12 (2) for purposes of settling the estate, the rights the
13 deceased partner had under section 8446 (relating to rights
14 to information).

15 SUBCHAPTER F

16 DISSOCIATION

17 Sec.

18 8461. Events causing dissociation.

19 8462. Power to dissociate as partner and wrongful dissociation.

20 8463. Effects of dissociation.

21 § 8461. Events causing dissociation.

22 A person is dissociated as a partner when any of the
23 following occurs:

24 (1) The partnership knows or has notice of the person's
25 express will to withdraw as a partner, except that, if the
26 person has specified a withdrawal date later than the date
27 the partnership knew or had notice, on that later date.

28 (2) An event stated in the partnership agreement as
29 causing the person's dissociation occurs.

30 (3) The person is expelled as a partner pursuant to the

1 partnership agreement.

2 (4) The person is expelled as a partner by the
3 affirmative vote or consent of all the other partners if:

4 (i) it is unlawful to carry on the partnership
5 business with the person as a partner;

6 (ii) there has been a transfer of all of the
7 person's transferable interest in the partnership, other
8 than:

9 (A) a transfer for security purposes; or

10 (B) a charging order in effect under section
11 8454 (relating to charging order) which has not been
12 foreclosed;

13 (iii) the person is an entity and:

14 (A) the partnership notifies the person that the
15 person will be expelled as a partner because:

16 (I) the person has filed a certificate of
17 dissolution or the equivalent;

18 (II) the person has been administratively
19 dissolved;

20 (III) the person's charter or the equivalent
21 has been revoked; or

22 (IV) the person's right to conduct business
23 has been suspended by the person's jurisdiction
24 of formation; and

25 (B) within 90 days after the notification:

26 (I) the certificate of dissolution or the
27 equivalent has not been withdrawn, rescinded or
28 revoked;

29 (II) the person has not been reinstated;

30 (III) the person's charter or the equivalent

1 has not been reinstated; or
2 (IV) the person's right to conduct business
3 has not been reinstated; or
4 (iv) the person is an unincorporated entity that has
5 been dissolved and whose activities and affairs are being
6 wound up.
7 (5) On application by the partnership or another
8 partner, the person is expelled as a partner by judicial
9 order because the person:
10 (i) has engaged or is engaging in wrongful conduct
11 that has affected adversely and materially, or will
12 affect adversely and materially, the partnership's
13 business;
14 (ii) has committed willfully or persistently, or is
15 committing willfully or persistently, a material breach
16 of the partnership agreement or a duty or obligation
17 under section 8447 (relating to standards of conduct for
18 partners); or
19 (iii) has engaged or is engaging in conduct relating
20 to the partnership's business which makes it not
21 reasonably practicable to carry on the business with the
22 person as a partner.
23 (6) The person:
24 (i) becomes a debtor in bankruptcy;
25 (ii) makes an assignment for the benefit of
26 creditors; or
27 (iii) seeks, consents to or acquiesces in the
28 appointment of a trustee, receiver or liquidator of the
29 person or of all or substantially all the person's
30 property.

1 (7) In the case of an individual:

2 (i) the individual dies;

3 (ii) a guardian for the individual is appointed; or

4 (iii) a court orders that the individual has

5 otherwise become incapable of performing the individual's
6 duties as a partner under this title or the partnership
7 agreement.

8 (8) In the case of a person that is a testamentary or
9 inter vivos trust or is acting as a partner by virtue of
10 being a trustee of such a trust, the trust's entire
11 transferable interest in the partnership is distributed.

12 (9) In the case of a person that is an estate or is
13 acting as a partner by virtue of being a personal
14 representative of an estate, the estate's entire transferable
15 interest in the partnership is distributed.

16 (10) In the case of a person that is not an individual,
17 the existence of the person terminates.

18 (11) The partnership participates in a merger under
19 Chapter 3 (relating to entity transactions) and:

20 (i) the partnership is not the surviving entity; or

21 (ii) otherwise as a result of the merger, the person
22 ceases to be a partner.

23 (12) The partnership participates in an interest
24 exchange under Chapter 3 and, as a result of the interest
25 exchange, the person ceases to be a partner.

26 (13) The partnership participates in a conversion under
27 Chapter 3.

28 (14) The partnership participates in a division under
29 Chapter 3 and:

30 (i) the partnership is not a resulting association;

1 or
2 (ii) as a result of the division, the person ceases
3 to be a partner.

4 (15) The partnership participates in a domestication
5 under Chapter 3 and, as a result of the domestication, the
6 person ceases to be a partner.

7 (16) The partnership dissolves and completes winding up.
8 § 8462. Power to dissociate as partner and wrongful
9 dissociation.

10 (a) Power to dissociate.--A person has the power to
11 dissociate as a partner at any time, rightfully or wrongfully,
12 by withdrawing as a partner by express will under section
13 8461(1) (relating to events causing dissociation).

14 (b) Wrongful dissociation.--A person's dissociation as a
15 partner is wrongful only if the dissociation:

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

18 (2) in the case of a partnership for a definite term or
19 particular undertaking, occurs before the expiration of the
20 term or the completion of the undertaking and:

21 (i) the person withdraws as a partner by express
22 will, unless the withdrawal follows within 90 days after
23 another person's dissociation by death or otherwise under
24 section 8461(6), (7), (8), (9) or (10) or wrongful
25 dissociation under this subsection;

26 (ii) the person is expelled as a partner by judicial
27 order under section 8461(5);

28 (iii) the person is dissociated under section
29 8461(6); or

30 (iv) in the case of a person that is not a trust

1 other than a business or statutory trust, an estate or an
2 individual, the person is expelled or otherwise
3 dissociated because it willfully dissolved or terminated.

4 (c) Damages for wrongful dissociation.--A person that
5 wrongfully dissociates as a partner is liable to the partnership
6 and to the other partners for damages caused by the
7 dissociation. The liability is in addition to any debt,
8 obligation or other liability of the partner to the partnership
9 or the other partners.

10 (d) Cross reference.--See section 8415(c)(14) (relating to
11 contents of partnership agreement).

12 § 8463. Effects of dissociation.

13 (a) Effects on partnership.--If a person's dissociation
14 results in a dissolution and winding up of the partnership
15 business, Subchapter H (relating to dissolution and winding up)
16 applies; otherwise, Subchapter G (relating to dissociation as
17 partner if business not wound up) applies.

18 (b) Effects on person dissociated as partner.--If a person
19 is dissociated as a partner:

20 (1) The person's right to participate in the management
21 and conduct of the partnership's business terminates, except
22 as provided under section 8482(c) (relating to winding up and
23 filing of optional certificates).

24 (2) The person's duties and obligations under section
25 8447 (relating to standards of conduct for partners) end with
26 regard to matters arising and events occurring after the
27 person's dissociation, except to the extent the partner
28 participates in winding up the partnership's business under
29 section 8482.

30 (3) Any transferable interest owned by the person in the

1 person's capacity as a general partner immediately before
2 dissociation that is not subsequently purchased from the
3 person or canceled or exchanged in a transaction under
4 Chapter 3 (relating to entity transactions) is owned by the
5 person solely as a transferee.

6 (c) Existing obligations not discharged.--A person's
7 dissociation does not of itself discharge the person from any
8 debt, obligation or other liability to the partnership or the
9 other partners which the person incurred while a partner.

10 SUBCHAPTER G

11 DISSOCIATION AS PARTNER

12 IF BUSINESS NOT WOUND UP

13 Sec.

14 8471. Purchase of interest of person dissociated as partner.

15 8472. Power to bind and liability of person dissociated as
16 partner.

17 8473. Liability of person dissociated as partner to other
18 persons.

19 8474. Certificate of dissociation.

20 8475. Continued use of partnership name.

21 § 8471. Purchase of interest of person dissociated as partner.

22 (a) Right to buyout.--If a person is dissociated as a
23 partner without the dissociation resulting in a dissolution and
24 winding up of the partnership business under section 8481
25 (relating to events causing dissolution), the partnership shall
26 cause the person's interest in the partnership to be purchased
27 for a buyout price determined under subsection (b).

28 (b) Buyout price.--The buyout price of the interest of a
29 person dissociated as a partner is the amount that would have
30 been distributable to the person under section 8486(b) (relating

1 to disposition of assets in winding up and required
2 contributions) if, on the date of dissociation, the assets of
3 the partnership were sold and the partnership were wound up,
4 with the sale price equal to the greater of:

5 (1) the liquidation value; or

6 (2) the value based on a sale of the entire business as
7 a going concern without the person.

8 (c) Interest and offsets.--Interest accrues on the buyout
9 price from the date of dissociation to the date of payment,
10 except that damages for wrongful dissociation under section
11 8462(b) (relating to power to dissociate as partner and wrongful
12 dissociation) and all other amounts owing, whether or not
13 presently due, from the person dissociated as a partner to the
14 partnership must be offset against the buyout price.

15 (d) Indemnification.--A partnership shall defend, indemnify
16 and hold harmless a person dissociated as a partner whose
17 interest is being purchased against all partnership liabilities,
18 whether incurred before or after the dissociation, except
19 liabilities incurred by an act of the person under section 8472
20 (relating to power to bind and liability of person dissociated
21 as partner).

22 (e) Payment of partnership's estimate.--If an agreement for
23 the purchase of the interest of a person dissociated as a
24 partner is not reached within 120 days after a demand in record
25 form for payment, the partnership shall pay, or cause to be
26 paid, in money to the person the amount the partnership
27 estimates to be the buyout price and accrued interest, reduced
28 by any offsets and accrued interest under subsection (c).

29 (f) Buyout of deferred payment.--If a deferred payment is
30 authorized under subsection (h), the partnership may tender an

1 offer in record form to pay the amount it estimates to be the
2 buyout price and accrued interest, reduced by any offsets under
3 subsection (c), stating the time of payment, the amount and type
4 of security for payment and the other terms and conditions of
5 the obligation.

6 (g) Information accompanying payment.--The payment or tender
7 required by subsection (e) or (f) must be accompanied by the
8 following:

9 (1) a statement of partnership assets and liabilities as
10 of the date of dissociation;

11 (2) the latest available partnership balance sheet and
12 income statement, if any;

13 (3) an explanation of how the estimated amount of the
14 payment was calculated; and

15 (4) notice in record form that the payment is in full
16 satisfaction of the obligation to purchase unless, within 120
17 days after the notice, the person dissociated as a partner
18 commences an action to determine the buyout price, any
19 offsets under subsection (c) or other terms of the obligation
20 to purchase.

21 (h) Deferred payment on wrongful dissociation.--A person
22 that wrongfully dissociates as a partner before the expiration
23 of a definite term or the completion of a particular undertaking
24 is not entitled to payment of any part of the buyout price until
25 the expiration of the term or completion of the undertaking,
26 unless the person establishes to the satisfaction of the court
27 that earlier payment will not cause undue hardship to the
28 business of the partnership. A deferred payment must be
29 adequately secured and bear interest.

30 (i) Right to bring action.--A person dissociated as a

1 partner may maintain an action against the partnership, under
2 section 8448(b) (relating to actions by partnership and
3 partners), to determine the buyout price of that person's
4 interest, any offsets under subsection (c) or other terms of the
5 obligation to purchase. The action must be commenced within 120
6 days after the partnership has tendered payment or an offer to
7 pay or within one year after demand in record form for payment
8 if no payment or offer to pay is tendered. The court shall
9 determine the buyout price of the person's interest, any offset
10 due under subsection (c), and accrued interest, and enter
11 judgment for any additional payment or refund. If deferred
12 payment is authorized under subsection (h), the court shall also
13 determine the security for payment and other terms of the
14 obligation to purchase. The court may assess reasonable attorney
15 fees and the fees and expenses of appraisers or other experts
16 for a party to the action, in amounts the court finds equitable,
17 against a party that the court finds acted arbitrarily,
18 vexatiously or not in good faith. The finding may be based on
19 the partnership's failure to tender payment or an offer to pay
20 or to comply with subsection (g).

21 § 8472. Power to bind and liability of person dissociated as
22 partner.

23 (a) When partnership bound.--After a person is dissociated
24 as a partner without the dissociation resulting in a dissolution
25 and winding up of the partnership business and before the
26 partnership is merged or divided out of existence, converted or
27 domesticated under Chapter 3 (relating to entity transaction),
28 or dissolved, the partnership is bound by an act of the person
29 only if:

30 (1) the act would have bound the partnership under

1 section 8431 (relating to partner agent of partnership)
2 before dissociation; and

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

5 (i) less than two years have passed since the
6 dissociation; and

7 (ii) the other party does not know or have notice of
8 the dissociation and reasonably believes that the person
9 is a partner.

10 (b) Liability of person dissociated as partner.--If a
11 partnership is bound under subsection (a), the person
12 dissociated as a partner which caused the partnership to be
13 bound is liable:

14 (1) to the partnership for any damage caused to the
15 partnership arising from the obligation incurred under
16 subsection (a); and

17 (2) if a partner or another person dissociated as a
18 partner is liable for the obligation, to the partner or other
19 person for any damage caused to the partner or other person
20 arising from the liability.

21 § 8473. Liability of person dissociated as partner to other
22 persons.

23 (a) General rule.--Except as provided in subsection (b), a
24 person dissociated as a partner is not liable for a partnership
25 obligation incurred after dissociation.

26 (b) Exception.--A person that is dissociated as a partner is
27 liable on a transaction entered into by the partnership after
28 the dissociation only if:

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

30 (2) at the time the other party enters into the

1 transaction:

2 (i) less than two years have passed since the
3 dissociation; and

4 (ii) the other party does not have knowledge or
5 notice of the dissociation and reasonably believes that
6 the person is a partner.

7 (c) Constructive release by creditor.--A person dissociated
8 as a partner is released from liability for a debt, obligation
9 or other liability of the partnership if the partnership's
10 creditor, with knowledge or notice of the person's dissociation
11 but without the person's consent, agrees to a material
12 alteration in the nature or time of payment of the debt,
13 obligation or other liability. The release from liability under
14 this subsection applies whether the liability arises directly or
15 indirectly, by way of contribution or otherwise, but only if the
16 liability arises solely by reason of having been a partner.
17 § 8474. Certificate of dissociation.

18 (a) Right to file certificate.--A person dissociated as a
19 partner or the partnership may deliver to the department for
20 filing a certificate of dissociation stating:

21 (1) the name of the partnership;

22 (2) if the partnership is a limited liability
23 partnership, subject to section 109 (relating to name of
24 commercial registered office provider in lieu of registered
25 address), the address, including street and number, if any,
26 of its registered office; and

27 (3) the name of the person and that the person has
28 dissociated from the partnership.

29 (b) Effect of certificate.--A certificate of dissociation is
30 a limitation on the authority of a person dissociated as a

1 partner for the purposes of section 8433(d) and (e) (relating to
2 certificate of partnership authority).

3 (c) 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 8413(d)(2) (relating to knowledge and notice).

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

11 § 8475. Continued use of partnership name.

12 Continued use of a partnership name, or the name of a person
13 dissociated as a partner as part of the partnership name, by
14 partners continuing the business does not of itself make the
15 person dissociated as a partner liable for an obligation of the
16 partners or the partnership continuing the business.

17 SUBCHAPTER H

18 DISSOLUTION AND WINDING UP

19 Sec.

20 8481. Events causing dissolution.

21 8482. Winding up and filing of optional certificates.

22 8483. Rescinding dissolution.

23 8484. Power to bind partnership after dissolution.

24 8485. Liability after dissolution.

25 8486. Disposition of assets in winding up and required
26 contributions.

27 § 8481. Events causing dissolution.

28 (a) General rule.--A partnership is dissolved, and its
29 business shall be wound up, upon the occurrence of any of the
30 following:

1 (1) In a partnership at will, the partnership knows or
2 has notice of a person's express will to withdraw as a
3 partner, other than a partner that has dissociated under
4 section 8461(2), (3), (4), (5), (6), (7), (8), (9) or (10)
5 (relating to events causing dissociation), except that, if
6 the person has specified a withdrawal date later than the
7 date the partnership knew or had notice, on the later date.

8 (2) In a partnership for a definite term or particular
9 undertaking:

10 (i) within 90 days after a person's dissociation by
11 death or otherwise under section 8461(6), (7), (8), (9)
12 or (10) or wrongful dissociation under section 8462(b)
13 (relating to power to dissociate as partner and wrongful
14 dissociation), the affirmative vote or consent of at
15 least half of the remaining partners to wind up the
16 partnership business, for which purpose a person's
17 rightful dissociation under section 8462(b)(2)(i)
18 constitutes the expression of that partner's expression
19 of consent to wind up the partnership business;

20 (ii) the affirmative vote or consent of all the
21 partners to wind up the partnership business; or

22 (iii) the expiration of the term or the completion
23 of the undertaking.

24 (3) An event or circumstance that the partnership
25 agreement states causes dissolution.

26 (4) On application by a partner, the entry by the court
27 of an order dissolving the partnership on the grounds that:

28 (i) the conduct of all or substantially all the
29 partnership's business is unlawful;

30 (ii) the economic purpose of the partnership is

1 likely to be unreasonably frustrated;

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

6 (iv) it is otherwise not reasonably practicable to
7 carry on the partnership business in conformity with the
8 partnership agreement.

9 (5) On application by a transferee, the entry by the
10 court of an order dissolving the partnership on the grounds
11 that it is equitable to wind up the partnership business:

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

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

20 (6) The passage of 90 consecutive days during which the
21 partnership does not have at least two partners.

22 (b) Cross reference.--See section 8415(c)(16) (relating to
23 contents of partnership agreement).

24 § 8482. Winding up and filing of optional certificates.

25 (a) General rule.--A dissolved partnership shall wind up its
26 business and, except as provided in section 8483 (relating to
27 rescinding dissolution), the partnership continues after
28 dissolution only for the purpose of winding up.

29 (b) Conduct of winding up.--In winding up its business, the
30 partnership:

1 (1) shall discharge the partnership's debts, obligations
2 and other liabilities, settle and close the partnership's
3 business, and marshal and distribute the assets of the
4 partnership; and

5 (2) may:

6 (i) deliver to the department for filing a
7 certificate of dissolution stating:

8 (A) the name of the partnership;

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

14 (C) that the partnership is dissolved;

15 (ii) preserve the partnership business and property
16 as a going concern for a reasonable time;

17 (iii) prosecute and defend actions and proceedings,
18 whether civil, criminal or administrative;

19 (iv) transfer the partnership's property;

20 (v) settle disputes by mediation or arbitration;

21 (vi) deliver to the department for filing the
22 certificates, if any, required by section 139 (relating
23 to tax clearance of certain fundamental transactions) and
24 a certificate of termination stating:

25 (A) the name of the partnership;

26 (B) if the partnership is a limited liability
27 partnership, subject to section 109, the address,
28 including street and number, if any, of its
29 registered office; and

30 (C) that the partnership is terminated; and

1 (vii) perform other acts necessary or appropriate to
2 the winding up.

3 (c) Participation after dissociation.--A person whose
4 dissociation as a partner resulted in dissolution may
5 participate in winding up as if still a partner, unless the
6 dissociation was wrongful.

7 (d) Conduct of winding up when no partner.--If a dissolved
8 partnership does not have a partner and no person has the right
9 to participate in winding up under subsection (c), the personal
10 representative or guardian of the last person to have been a
11 partner may wind up the partnership's business. If the personal
12 representative or guardian does not exercise that right, a
13 person to wind up the partnership's business may be appointed by
14 the affirmative vote or consent of transferees owning a majority
15 of the rights to receive distributions at the time the consent
16 is to be effective. A person appointed under this subsection has
17 the powers of a partner under section 8484 (relating to power to
18 bind partnership after dissolution) but is not liable for the
19 debts, obligations and other liabilities of the partnership
20 solely by reason of having or exercising those powers or
21 otherwise acting to wind up the partnership's business.

22 (e) Judicial supervision.--On the application of any partner
23 or person entitled under subsection (c) to participate in
24 winding up, a court may order judicial supervision of the
25 winding up of a dissolved partnership, including the appointment
26 of a person to wind up the partnership's business, if:

27 (1) the partnership does not have a partner and within a
28 reasonable time following the dissolution no person has been
29 appointed under subsection (d); or

30 (2) the applicant establishes other good cause.

1 (f) 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 8415(c)(17) (relating to contents of partnership
8 agreement).

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

10 § 8483. Rescinding dissolution.

11 (a) General rule.--A partnership may rescind its
12 dissolution, unless a certificate of termination applicable to
13 the partnership is effective or the court has entered an order
14 under section 8481(a)(4) or (5) (relating to events causing
15 dissolution) dissolving the partnership.

16 (b) Procedure.--Rescinding dissolution under this section
17 requires:

18 (1) the affirmative vote or consent of each partner; and

19 (2) if the partnership has delivered to the department
20 for filing a certificate of dissolution and:

21 (i) the certificate of dissolution has not become
22 effective, delivery to the department for filing of a
23 statement of abandonment under section 141 (relating to
24 abandonment of filing before effectiveness) applicable to
25 the certificate of dissolution; or

26 (ii) the certificate of dissolution has become
27 effective, the delivery to the department for filing of a
28 certificate of rescission stating:

29 (A) the name of the partnership;

30 (B) if the partnership was a limited liability

1 partnership immediately before the filing of the
2 certificate of dissolution, subject to section 109
3 (relating to name of commercial registered office
4 provider in lieu of registered address), the address,
5 including street and number, if any, of its
6 registered office; and

7 (C) that dissolution has been rescinded under
8 this section.

9 (c) Effects of rescission.--If a partnership rescinds its
10 dissolution:

11 (1) the partnership resumes carrying on its business as
12 if dissolution had never occurred;

13 (2) subject to paragraph (3), any liability incurred by
14 the partnership after the dissolution and before the
15 rescission is effective is determined as if dissolution had
16 never occurred; and

17 (3) the rights of a third party arising out of conduct
18 in reliance on the dissolution before the third party knew or
19 had notice of the rescission may not be adversely affected.

20 (d) Cross references.--See:

21 Section 134 (relating to docketing statement).

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

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

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

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) (relating to dissociation as general
26 partner) shall not apply.

27 (4) Section 8663(5) shall not apply and the court has
28 the same power to expel a general partner as the court had
29 immediately before [the Legislative Reference Bureau shall
30 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), the certificate is not
18 notice of any other fact.

19 (d) Constructive notice.--A person not a partner is deemed
20 to have notice of:

21 (1) another person's dissociation as a general partner
22 90 days after an amendment to the certificate of limited
23 partnership which states that the other person has
24 dissociated becomes effective or 90 days after a certificate
25 of dissociation pertaining to the other person becomes
26 effective, whichever occurs first;

27 (2) a limited partnership's:

28 (i) dissolution 90 days after an amendment to the
29 certificate of limited partnership stating that the
30 limited partnership is dissolved is effective;

1 (ii) termination 90 days after a certificate of
2 termination under section 8682(b)(2)(vi) (relating to
3 winding up and filing of optional certificates) is
4 effective; and

5 (iii) participation in a merger, interest exchange,
6 conversion, division or domestication, 90 days after a
7 statement of merger, interest exchange, conversion,
8 division or domestication under Chapter 3 (relating to
9 entity transactions) is effective.

10 (e) Notification.--Except as provided in section 113(b)
11 (relating to delivery of document), a person notifies another
12 person of a fact by taking steps reasonably required to inform
13 the other person in ordinary course, whether or not those steps
14 cause the other person to know the fact.

15 (f) Effect of partner's knowledge or notice.--A general
16 partner's knowledge or notice of a fact relating to the limited
17 partnership is effective immediately as knowledge of or notice
18 to the partnership, except in the case of a fraud on the
19 partnership committed by or with the consent of the general
20 partner. A limited partner's knowledge or notice of a fact
21 relating to the partnership is not effective as knowledge of or
22 notice to the partnership.

23 § 8614. Governing law.

24 (a) General rule.--The laws of this Commonwealth govern:

25 (1) the internal affairs of a limited partnership; and

26 (2) the liability of a partner as partner for the debts,
27 obligations or other liabilities of a limited partnership.

28 (b) Cross reference.--See section 8615(c)(6) (relating to
29 contents of partnership agreement).

30 § 8615. Contents of partnership agreement.

1 (a) Scope of partnership agreement.--Except as provided
2 under subsections (c) and (d), the partnership agreement
3 governs:

4 (1) relations among the partners as partners and between
5 the partners and the limited partnership;

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

8 (3) the activities and affairs of the partnership and
9 the conduct of those activities and affairs;

10 (4) the means and conditions for amending the
11 partnership agreement; and

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

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

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

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

21 (2) Vary the right of a partner to approve a merger,
22 interest exchange, conversion, division or domestication
23 under section 333(a)(2) (relating to approval of merger),
24 343(a)(2) (relating to approval of interest exchange), 353(a)
25 (2) (relating to approval of conversion), 363(a)(2) (relating
26 to approval of division) or 373(a)(2) (relating to approval
27 of domestication).

28 (3) Vary the required contents of a plan of merger under
29 section 332(a) (relating to plan of merger), plan of interest
30 exchange under section 342(a) (relating to plan of interest

1 exchange), plan of conversion under section 352(a) (relating
2 to plan of conversion), plan of division under section 362(a)
3 (relating to plan of division) or plan of domestication under
4 section 372(a) (relating to plan of domestication).

5 (4) Vary a provision of Chapter 81 (relating to general
6 provisions) or 82 (relating to limited liability partnerships
7 and limited liability limited partnerships).

8 (5) Vary the provisions of section 8611(b), (c), (d) and
9 (e) (relating to short title and application of chapter).

10 (6) Vary the law applicable under section 8614 (relating
11 to governing law).

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

14 (i) registered offices; or

15 (ii) the department, including provisions pertaining
16 to records authorized or required to be delivered to the
17 department for filing under this title.

18 (8) Vary a limited partnership's capacity under section
19 8620(d) (relating to characteristics of limited partnership)
20 to sue and be sued in its own name.

21 (9) Vary a provision of section 8620(e).

22 (10) Eliminate the duty of loyalty provided for in
23 section 8649(b)(1)(i) or (ii) or (2) (relating to standards
24 of conduct for general partners) or the duty of care, except
25 as provided in subsection (d).

26 (11) Vary the contractual obligation of good faith and
27 fair dealing under sections 8635(a) (relating to limited
28 duties of limited partners) and 8649(d), except as provided
29 in subsection (d).

30 (12) Provide indemnification against, or relieve or

1 exonerate a person from, liability for an action that has
2 been determined by a court to constitute recklessness,
3 willful misconduct or a knowing violation of law.

4 (13) Vary the information required under section 8618
5 (relating to required information) or unreasonably restrict
6 the duties and rights under section 8634 (relating to limited
7 partner rights to information) or 8647 (relating to general
8 partner rights to information), except as provided under
9 subsection (d).

10 (14) Vary the power of a person to dissociate as a
11 general partner under section 8664(a) (relating to power to
12 dissociate as general partner and wrongful dissociation),
13 except to require that the notice under section 8663(1)
14 (relating to dissociation as general partner) be in record
15 form.

16 (15) Vary the causes of dissolution specified in section
17 8681(a)(6) (relating to events causing dissolution).

18 (16) Vary the requirement to wind up the partnership's
19 activities and affairs as specified in section 8682(a), (b)
20 (1) and (d) (relating to winding up and filing of optional
21 certificates).

22 (17) Unreasonably restrict the right of a partner to
23 maintain an action under Subchapter I (relating to actions by
24 partners).

25 (18) Vary the provisions of section 8695 (relating to
26 special litigation committee), except that the partnership
27 agreement may provide that the partnership may not have a
28 special litigation committee.

29 (19) Except as provided in section 8617(b) (relating to
30 amendment and effect of partnership agreement), restrict the

1 rights under this title of a person other than a partner.

2 (d) Rules.--Subject to subsection (c)(12), the following
3 rules apply:

4 (1) The partnership agreement may:

5 (i) specify the method by which a specific act or
6 transaction that would otherwise violate the duty of
7 loyalty may be authorized or ratified by one or more
8 disinterested and independent persons after full
9 disclosure of all material facts;

10 (ii) alter the prohibition in section 8654(a)(2)
11 (relating to limitations on distributions) so that the
12 prohibition requires only that the partnership's total
13 assets not be less than the sum of its total liabilities;
14 and

15 (iii) impose reasonable restrictions on the
16 availability and use of information obtained under
17 section 8618, 8634 or 8647 and may define appropriate
18 remedies, including liquidated damages, for a breach of
19 any reasonable restriction on use.

20 (2) To the extent the partnership agreement expressly
21 relieves a partner of a responsibility that the partner would
22 otherwise have under this title and imposes the
23 responsibility on one or more other partners, the agreement
24 also may eliminate or limit any fiduciary duty of the partner
25 relieved of the responsibility which would have pertained to
26 the responsibility.

27 (3) If not manifestly unreasonable, the partnership
28 agreement may:

29 (i) alter the aspects of the duty of loyalty stated
30 in section 8649(b)(1)(i) or (ii) or (2);

- (ii) identify specific types or categories of activities that do not violate the duty of loyalty;
- (iii) alter the duty of care; and
- (iv) alter or eliminate any other fiduciary duty.

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

The court:

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

(2) may invalidate the term only if, in light of the purposes, activities and affairs of the limited partnership, it is readily apparent that:

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

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

§ 8616. Application of partnership agreement.

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

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

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

(d) Cross reference.--See section 8621 (relating to formation of limited partnership and certificate of limited partnership).

1 § 8617. Amendment and effect of partnership agreement.

2 (a) Approval of amendments.--A partnership agreement may
3 specify that its amendment requires the approval of a person
4 that is not a party to the agreement or the satisfaction of a
5 condition. An amendment is ineffective if its adoption does not
6 include the required approval or satisfy the specified
7 condition.

8 (b) Obligations to nonpartners.--The obligations of a
9 limited partnership and its partners to a person in the person's
10 capacity as a transferee or person dissociated as a partner are
11 governed by the partnership agreement. Except as provided in
12 section 8653(d) (relating to sharing of and right to
13 distributions before dissolution) or in a court order issued
14 under section 8673(b) (2) (relating to charging order) to
15 effectuate a charging order, an amendment to the partnership
16 agreement made after a person becomes a transferee or is
17 dissociated as a partner:

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

22 (2) is not effective to the extent the amendment imposes
23 a new debt, obligation or other liability on the transferee
24 or person dissociated as a partner.

25 (c) Provisions in filed documents.--If a document delivered
26 by a limited partnership to the department for filing becomes
27 effective and contains a provision that would be ineffective
28 under section 8615(c) or (d) (3) (relating to contents of
29 partnership agreement) if contained in the partnership
30 agreement, the provision is ineffective in the document.

1 (d) Conflicts with partnership agreement.--Subject to
2 subsection (c):

3 (1) If a provision of the certificate of limited
4 partnership conflicts with a provision of the partnership
5 agreement, the provision of the certificate prevails.

6 (2) If a document other than its certificate of limited
7 partnership that has been delivered by a limited partnership
8 to the department for filing becomes effective and conflicts
9 with a provision of the partnership agreement:

10 (i) the agreement prevails as to partners, persons
11 dissociated as partners and transferees; and

12 (ii) the document prevails as to other persons to
13 the extent they reasonably rely on the document.

14 (e) Prohibition of oral amendments.--If a provision of a
15 partnership agreement in record form provides that the
16 partnership agreement cannot be amended, modified or rescinded
17 except in record form, an oral agreement, amendment,
18 modification or rescission shall not be enforceable.

19 § 8618. Required information.

20 (a) General rule.--A limited partnership shall maintain at
21 its principal office the following information:

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

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

1 (3) A copy of any filed certificate or statement of
2 merger, interest exchange, conversion, division or
3 domestication.

4 (4) A copy of the partnership's Federal, State and local
5 income tax returns and reports, if any, for the three most
6 recent years.

7 (5) A copy of any provisions of the partnership
8 agreement in record form and any amendment made in record
9 form to any partnership agreement.

10 (6) A copy of any financial statement of the partnership
11 for the three most recent years.

12 (7) A copy of any record made by the partnership during
13 the past three years of any consent given by or vote taken of
14 any partner under this title or the partnership agreement.

15 (8) Unless contained in a provision of the partnership
16 agreement in record form, a record stating:

17 (i) a description and statement of the agreed value
18 of contributions other than money made and agreed to be
19 made by each partner;

20 (ii) the times at which, or events on the happening
21 of which, any additional contributions agreed to be made
22 by each partner are to be made;

23 (iii) for any person that is both a general partner
24 and a limited partner, a specification of what
25 transferable interest the person owns in each capacity;
26 and

27 (iv) any events upon the happening of which the
28 partnership is to be dissolved and its activities and
29 affairs wound up.

30 (b) Cross reference.--See section 8615 (relating to contents

1 of partnership agreement).

2 § 8619. Dual capacity.

3 A person may be both a general partner and a limited
4 partner. A person that is both a general and limited partner has
5 the rights, powers, duties and obligations provided by this
6 title and the partnership agreement in each of those
7 capacities. When the person acts as a general partner, the
8 person is subject to the obligations, duties and restrictions
9 under this title and the partnership agreement for general
10 partners. When the person acts as a limited partner, the person
11 is subject to the obligations, duties and restrictions under
12 this title and the partnership agreement for limited partners.

13 § 8620. Characteristics of limited partnership.

14 (a) Separate entity.--A limited partnership is an entity
15 distinct from its partners. A limited partnership is the same
16 entity regardless of whether:

17 (1) its certificate of limited partnership states that
18 the limited partnership is a limited liability limited
19 partnership; or

20 (2) it has a statement of registration in effect under
21 section 8201 (relating to scope).

22 (b) Purpose.--A limited partnership may have any lawful
23 purpose, regardless of whether the purpose is for profit. See
24 section 8102 (relating to interchangeability of partnership,
25 limited liability company and corporate forms of organization).

26 (c) Duration.--A limited partnership has perpetual duration.

27 (d) Powers.--A limited partnership has the capacity to sue
28 and be sued in its own name and the power to do all things
29 necessary or convenient to carry on its activities and affairs.

30 (e) Restrictions on nonprofit limited partnerships.--If a

1 limited partnership has a purpose that is not for profit:

2 (1) Its purpose must be stated in the certificate of
3 limited partnership.

4 (2) The partnership shall not distribute any part of its
5 income or profits to its partners, but it may pay
6 compensation in a reasonable amount to those persons for
7 services rendered.

8 (3) The partnership may confer benefits on partners or
9 nonpartners in conformity with its purposes, may repay
10 capital contributions and may redeem evidences of
11 indebtedness, except when the partnership is currently
12 insolvent or would thereby be made insolvent or rendered
13 unable to carry on its purposes, or when the fair value of
14 the assets of the partnership remaining after the conferring
15 of benefits, payment or redemption would be insufficient to
16 meet its liabilities. The partnership may make distributions
17 of money or property to partners upon dissolution or final
18 liquidation as permitted by this chapter.

19 (4) If the partnership is organized for a charitable
20 purpose, it may take, receive and hold real and personal
21 property as may be given, devised to, or otherwise vested in
22 the partnership, in trust, for the purpose or purposes set
23 forth in its certificate of limited partnership. The general
24 partners shall, as trustees of the property, be held to the
25 same degree of responsibility and accountability as other
26 trustees, unless:

27 (i) a lesser degree or a particular degree of
28 responsibility and accountability is prescribed in the
29 trust instrument; or

30 (ii) the general partners are under the control of

1 the limited partners or third persons who retain the
2 right to direct, and do direct, the actions of the
3 general partners as to the use of the trust property from
4 time to time.

5 (5) Property of the partnership committed to charitable
6 purposes shall not, by any proceeding under Chapter 3
7 (relating to entity transactions) or otherwise, be diverted
8 from the objects to which it was donated, granted or devised,
9 unless and until the partnership obtains from the court an
10 order under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying
11 the disposition of the property.

12 (f) Cross references.--See sections 8611(d) (relating to
13 short title and application of chapter) and 8615 (relating to
14 contents of partnership agreement).

15 SUBCHAPTER B

16 FORMATION AND FILINGS

17 Sec.

18 8621. Formation of limited partnership and certificate of
19 limited partnership.

20 8622. Amendment or restatement of certificate of limited
21 partnership.

22 8623. Signing of filed documents.

23 8624. Liability of general partner for false or missing
24 information in filed document.

25 8625. Registered office.

26 § 8621. Formation of limited partnership and certificate of
27 limited partnership.

28 (a) Formation.--To form a limited partnership, a person must
29 deliver a certificate of limited partnership to the department
30 for filing.

1 (b) Required contents of certificate.--A certificate of
2 limited partnership must state:

3 (1) the name of the limited partnership, which must
4 comply with Subchapter A of Chapter 2 (relating to names);

5 (2) subject to section 109 (relating to name of
6 commercial registered office provider in lieu of registered
7 address), the address, including street and number, if any,
8 of the partnership's registered office; and

9 (3) the name and address of each general partner.

10 (c) Optional contents of certificate.--A certificate of
11 limited partnership may contain statements as to matters other
12 than those required under subsection (b), but may not vary or
13 otherwise affect the provisions specified in section 8615(c) and
14 (d) (relating to contents of partnership agreement) in a manner
15 inconsistent with that section.

16 (d) Time of formation.--A limited partnership is formed
17 when:

18 (1) the certificate of limited partnership becomes
19 effective;

20 (2) at least two persons have become partners;

21 (3) at least one person has become a general partner;

22 and

23 (4) at least one person has become a limited partner.

24 (e) Cross references.--See:

25 Section 134 (relating to docketing statement).

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

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

30 Section 8620 (relating to characteristics of limited

1 partnership).

2 Section 8623 (relating to signing of filed documents).

3 § 8622. Amendment or restatement of certificate of limited
4 partnership.

5 (a) General rule.--A certificate of limited partnership may
6 be amended or restated at any time.

7 (b) Required contents of certificate of amendment.--To amend
8 its certificate of limited partnership, a limited partnership
9 must deliver to the department for filing a certificate of
10 amendment that states:

11 (1) the name of the partnership;

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

13 (3) subject to section 109 (relating to name of
14 commercial registered office provider in lieu of registered
15 address), the address, including street and number, if any,
16 of its registered office; and

17 (4) the amendment.

18 (c) Restatement.--To restate its certificate of limited
19 partnership, a limited partnership must deliver to the
20 department for filing a certificate of amendment that:

21 (1) is designated as a restatement; and

22 (2) includes a statement that the restated certificate
23 supersedes the original certificate and all amendments.

24 (d) Required amendments.--A limited partnership shall
25 promptly deliver to the department for filing an amendment to
26 its certificate of limited partnership to reflect:

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

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

29 or

30 (3) the appointment of a person to wind up the

1 partnership's activities and affairs under section 8682(c) or
2 (d) (relating to winding up and filing of optional
3 certificates).

4 (e) Obligation to correct.--If a general partner knows that
5 any information in a filed certificate of limited partnership is
6 inaccurate, the general partner shall promptly:

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

8 (2) if appropriate, deliver to the department for
9 filing:

10 (i) a certificate of change of registered office
11 under section 8625 (relating to registered office);

12 (ii) a statement of correction under section 138
13 (relating to statement of correction); or

14 (iii) a statement of abandonment under section 141
15 (relating to abandonment of filing before effectiveness).

16 (f) 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 8623 (relating to signing of filed documents).

23 § 8623. Signing of filed documents.

24 (a) Required signatures.--A document delivered to the
25 department for filing under this title relating to a limited
26 partnership must be signed as follows:

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

29 (2) An amendment to the certificate of limited
30 partnership deleting a statement that the limited partnership

1 is a limited liability limited partnership must be signed by
2 all general partners listed in the certificate.

3 (3) An amendment to the certificate of limited
4 partnership designating as general partner a person admitted
5 under section 8681(a)(3)(ii) (relating to events causing
6 dissolution) following the dissociation of a limited
7 partnership's last general partner must be signed by that
8 person.

9 (4) An amendment to the certificate of limited
10 partnership required by section 8682(c) (relating to winding
11 up and filing of optional certificates) following the
12 appointment of a person to wind up the dissolved limited
13 partnership's activities and affairs must be signed by that
14 person.

15 (5) Any other amendment to the certificate of limited
16 partnership must be signed by:

17 (i) at least one general partner listed in the
18 certificate;

19 (ii) each person designated in the amendment as a
20 new general partner; and

21 (iii) each person that the amendment indicates has
22 dissociated as a general partner, unless:

23 (A) the person is deceased or a guardian has
24 been appointed for the person and the amendment so
25 states; or

26 (B) the person has previously delivered to the
27 department for filing a certificate of dissociation.

28 (6) A restated certificate of limited partnership must
29 be signed by at least one general partner listed in the
30 certificate, and, to the extent the restated certificate

1 effects a change under any other paragraph of this
2 subsection, the certificate must be signed in a manner that
3 satisfies that paragraph.

4 (7) A certificate of termination must be signed by all
5 general partners listed in the certificate of limited
6 partnership or, if the certificate of a dissolved limited
7 partnership lists no general partners, by the person
8 appointed under section 8682(c) or (d) to wind up the
9 dissolved limited partnership's activities and affairs.

10 (8) Any other document delivered by a limited
11 partnership to the department for filing must be signed by at
12 least one general partner listed in the certificate of
13 limited partnership.

14 (9) A statement by a person under section 8665(a)(3)
15 (relating to effects of dissociation as general partner)
16 stating that the person has dissociated as a general partner
17 must be signed by that person.

18 (10) A certificate of negation by a person under section
19 8636 (relating to person erroneously believing self to be
20 limited partner) must be signed by that person.

21 (11) Any other document delivered on behalf of a person
22 to the department for filing must be signed by that person.

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

25 § 8624. Liability of general partner for false or missing
26 information in filed document.

27 (a) General rule.--If a document delivered to the department
28 for filing under this title and filed by the department contains
29 a materially false statement or fails to state a material fact
30 required to be stated, a person that suffers loss by reasonable

1 reliance on the statement or failure to state a material fact
2 may recover damages for the loss from a general partner if:

3 (1) the document was delivered for filing on behalf of
4 the limited partnership; and

5 (2) the general partner knew or had notice there was
6 false or missing information in the document for a reasonably
7 sufficient time before the document was relied upon so that,
8 before the reliance, the general partner reasonably could
9 have:

10 (i) effected an amendment under section 8622
11 (relating to amendment or restatement of certificate of
12 limited partnership);

13 (ii) filed a petition under section 144 (relating to
14 signing and filing pursuant to judicial order); or

15 (iii) delivered to the department for filing:

16 (A) a certificate of change of registered office
17 under section 8625 (relating to registered office);

18 (B) a statement of correction under section 138
19 (relating to statement of correction); or

20 (C) a statement of abandonment under section 141
21 (relating to abandonment of filing before
22 effectiveness).

23 (b) Cross references.--See sections 142 (relating to effect
24 of signing filings) and 143 (relating to liability for
25 inaccurate information in filing).

26 § 8625. Registered office.

27 (a) General rule.--Every limited partnership shall have and
28 continuously maintain in this Commonwealth a registered office
29 which may, but need not, be the same as its place of business.

30 (b) Change of registered office.--After formation, a change

1 in the location of the registered office may be effected at any
2 time by the limited partnership. Before the change becomes
3 effective, the limited partnership shall amend its certificate
4 of limited partnership under the provisions of this chapter to
5 reflect the change in location, or shall deliver to the
6 department for filing a certificate of change of registered
7 office setting forth:

8 (1) The name of the limited partnership.

9 (2) The address, including street and number, if any, of
10 its then registered office.

11 (3) The address, including street and number, if any, to
12 which the registered office is to be changed.

13 (c) Alternative procedure.--A limited partnership may
14 satisfy the requirements of this chapter concerning the
15 maintenance of a registered office in this Commonwealth by
16 setting forth in any document filed by the department under any
17 provision of this title that permits or requires the statement
18 of the address of its then registered office, in lieu of that
19 address, the statement authorized by section 109(a) (relating to
20 name of commercial registered office provider in lieu of
21 registered address).

22 (d) Cross references.--See:

23 Section 108 (relating to change in location or status of
24 registered office provided by agent).

25 Section 134 (relating to docketing statement).

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

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

30 Section 8615(c)(6) (relating to contents of partnership

1 agreement).

2 Section 8623 (relating to signing of filed documents).

3 SUBCHAPTER C

4 LIMITED PARTNERS

5 Sec.

6 8631. Becoming a limited partner.

7 8632. No agency power of limited partner as limited partner.

8 8633. No liability as limited partner for limited partnership
9 obligations.

10 8634. Limited partner rights to information.

11 8635. Limited duties of limited partners.

12 8636. Person erroneously believing self to be limited partner.

13 § 8631. Becoming a limited partner.

14 (a) Upon formation.--Upon formation of a limited
15 partnership, a person becomes a limited partner as agreed among
16 the persons that are to be the initial partners.

17 (b) After formation.--After formation, a person becomes a
18 limited partner:

19 (1) as provided in the partnership agreement;

20 (2) as the result of a transaction effective under
21 Chapter 3 (relating to entity transactions);

22 (3) with the affirmative vote or consent of all the
23 partners; or

24 (4) as provided in section 8681(a)(4) or (5) (relating
25 to events causing dissolution).

26 (c) Noneconomic limited partners.--A person may become a
27 limited partner without:

28 (1) acquiring a transferable interest; or

29 (2) making or being obligated to make a contribution to
30 the limited partnership.

1 (d) Nature of interest.--The interest of a limited partner
2 in a limited partnership is personal property.

3 § 8632. No agency power of limited partner as limited partner.

4 (a) General rule.--A limited partner is not an agent of a
5 limited partnership solely by reason of being a limited partner.

6 (b) Creation of partnership liability.--A person's status as
7 a limited partner does not prevent or restrict law other than
8 this chapter from imposing liability on a limited partnership
9 because of the person's conduct.

10 § 8633. No liability as limited partner for limited partnership
11 obligations.

12 A debt, obligation or other liability of a limited
13 partnership is not the debt, obligation or other liability of a
14 limited partner. A limited partner is not personally liable,
15 directly or indirectly, by way of contribution or otherwise, for
16 a debt, obligation or other liability of the partnership solely
17 by reason of being or acting as a limited partner, even if the
18 limited partner participates in the management and control of
19 the partnership. This subsection applies regardless of the
20 dissolution, winding up or termination of the partnership.

21 § 8634. Limited partner rights to information.

22 (a) Right to required information.--Within 10 days after
23 receipt by a limited partnership of a demand made in record
24 form, a limited partner may inspect and copy required
25 information during regular business hours in the partnership's
26 principal office. The limited partner need not have any
27 particular purpose for seeking the information.

28 (b) Right to other information.--During regular business
29 hours and at a reasonable location specified by the limited
30 partnership, a limited partner may inspect and copy information,

1 other than the required information, regarding the activities,
2 affairs, financial condition and other circumstances of the
3 partnership if:

4 (1) the limited partner seeks the information for a
5 purpose reasonably related to the partner's interest as a
6 limited partner;

7 (2) the limited partner makes a demand in record form
8 received by the partnership, describing with reasonable
9 particularity the information sought and the purpose for
10 seeking the information; and

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

13 (c) Rights of person dissociated as limited partner.--

14 Subject to subsection (h), on demand made in record form
15 received by a limited partnership, a person dissociated as a
16 limited partner may have access to information to which the
17 person was entitled while a limited partner if:

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

20 (2) in seeking the information the person complies with
21 section 8635(a) (relating to limited duties of limited
22 partners) as if still a limited partner; and

23 (3) the person satisfies the requirements imposed on a
24 limited partner by subsection (b).

25 (d) Required response to demand.--Within 10 days after
26 receiving a demand under subsection (b) or (c), the limited
27 partnership shall inform in record form the person that made the
28 demand of:

29 (1) what information the partnership will provide in
30 response to the demand and when and where the partnership

1 will provide the information; and

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

4 (e) Copying costs.--A limited partnership may charge a
5 person that makes a demand under this section the reasonable
6 costs of copying, limited to the costs of labor and materials.

7 (f) Rights of agent or guardian.--A limited partner or
8 person dissociated as a limited partner may exercise the rights
9 under this section through an agent or, in the case of an
10 individual under legal disability, a guardian. Any restriction
11 or condition imposed by the partnership agreement or under
12 subsection (h) applies both to the agent or guardian and to the
13 limited partner or person dissociated as a limited partner.

14 (g) No rights of transferee.--Subject to section 8674
15 (relating to power of personal representative of deceased
16 partner), the rights under this section do not extend to a
17 person as transferee.

18 (h) Limitations on access.--In addition to any restriction
19 or condition stated in its partnership agreement, a limited
20 partnership, as a matter within the ordinary course of its
21 activities and affairs, may impose reasonable restrictions and
22 conditions on access to and use of information to be furnished
23 under this section, including designating information
24 confidential and imposing nondisclosure and safeguarding
25 obligations on the recipient. In a dispute concerning the
26 reasonableness of a restriction under this subsection, the
27 partnership has the burden of proving reasonableness.

28 (i) Cross reference.--See section 8615 (relating to contents
29 of partnership agreement).

30 § 8635. Limited duties of limited partners.

1 (a) Good faith and fair dealing.--A limited partner shall
2 discharge any duties to the limited partnership and the other
3 partners under the partnership agreement and exercise any rights
4 under this title or the partnership agreement consistently with
5 the contractual obligation of good faith and fair dealing.

6 (b) No other duties.--Except as provided under subsection
7 (a), a limited partner does not have any duty to the limited
8 partnership or to any other partner solely by reason of acting
9 as a limited partner.

10 (c) Transactions with limited partnership.--If a limited
11 partner enters into a transaction with a limited partnership,
12 the limited partner's rights and obligations arising from the
13 transaction are the same as those of a person that is not a
14 partner.

15 (d) Cross reference.--See section 8615(c)(11) (relating to
16 contents of partnership agreement).
17 § 8636. Person erroneously believing self to be limited
18 partner.

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

27 (1) causes an appropriate certificate of limited
28 partnership, amendment or statement of correction to be
29 signed and delivered to the department for filing;

30 (2) if a certificate of limited partnership is on file

1 in the department, withdraws from future participation as an
2 owner in the enterprise by delivering to the department for
3 filing a certificate of negation under this section stating:

4 (i) the name of the limited partnership;

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 partnership's registered office;

9 (iii) the name of the person delivering the
10 certificate to the department for filing; and

11 (iv) that the person is not a general partner; or

12 (3) files a certificate of denial under section 8434
13 (relating to certificate of denial) as if the enterprise were
14 a general partnership.

15 (b) Liability before correction.--A person that makes an
16 investment described in subsection (a) is liable to the same
17 extent as a general partner to any third party that enters into
18 a transaction with the enterprise, believing in good faith that
19 the person is a general partner, before the department files a
20 certificate of negation, certificate of limited partnership,
21 amendment or statement of correction to show that the person is
22 not a general partner.

23 (c) Right to withdraw.--If a person makes a diligent effort
24 in good faith to comply with subsection (a)(1) and is unable to
25 cause the appropriate certificate of limited partnership,
26 amendment or statement of correction to be signed and delivered
27 to the department for filing, the person has the right to
28 withdraw from the enterprise under subsection (a)(2) even if the
29 withdrawal would otherwise breach an agreement with others that
30 are or have agreed to become co-owners of the enterprise.

1 (d) 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 8623 (relating to signing of filed documents).

8 SUBCHAPTER D

9 GENERAL PARTNERS

10 Sec.

11 8641. Becoming a general partner.

12 8642. General partner agent of limited partnership.

13 8643. Limited partnership liable for general partner's
14 actionable conduct.

15 8644. General partner's liability.

16 8645. Actions by and against partnership and partners.

17 8646. Management rights.

18 8647. General partner rights to information.

19 8648. Reimbursement, indemnification, advancement and
20 insurance.

21 8649. Standards of conduct for general partners.

22 § 8641. Becoming a general partner.

23 (a) Admission on formation.--On formation of a limited
24 partnership, a person becomes a general partner as agreed among
25 the persons that are to be the initial partners.

26 (b) Admission after formation.--After formation of a limited
27 partnership, a person becomes a general partner:

28 (1) as provided in the partnership agreement;

29 (2) as the result of a transaction effective under

30 Chapter 3 (relating to entity transactions);

1 (3) with the affirmative vote or consent of all the
2 partners; or

3 (4) under section 8681(a)(3)(ii) or (5) (relating to
4 events causing dissolution) following the dissociation of a
5 limited partnership's last general partner.

6 (c) Noneconomic general partners.--A person may become a
7 general partner without:

8 (1) acquiring a transferable interest; or

9 (2) making or being obligated to make a contribution to
10 the partnership.

11 (d) Nature of interest.--The interest of a general partner
12 in a limited partnership is personal property.

13 § 8642. General partner agent of limited partnership.

14 (a) General rule.--Each general partner is an agent of the
15 limited partnership for the purposes of its activities and
16 affairs. An act of a general partner, including the signing of a
17 document in record form in the partnership's name, for
18 apparently carrying on in the ordinary course the partnership's
19 activities and affairs, or activities and affairs of the kind
20 carried on by the partnership, binds the partnership, unless the
21 general partner did not have authority to act for the
22 partnership in the particular matter and the person with which
23 the general partner was dealing knew or had notice that the
24 general partner lacked authority.

25 (b) Act outside of ordinary course.--An act of a general
26 partner which is not apparently for carrying on in the ordinary
27 course the limited partnership's activities and affairs, or
28 activities and affairs of the kind carried on by the
29 partnership, binds the partnership only if the partner had
30 actual authority to take the action.

1 § 8643. Limited partnership liable for general partner's
2 actionable conduct.

3 (a) General rule.--A limited partnership is liable for loss
4 or injury caused to a person or for a penalty incurred as a
5 result of a wrongful act, or other actionable conduct, of a
6 general partner acting in the ordinary course of activities and
7 affairs of the partnership or with the actual or apparent
8 authority of the partnership.

9 (b) Misapplication of property.--If, in the course of a
10 limited partnership's activities and affairs or while acting
11 with actual or apparent authority of the partnership, a general
12 partner receives or causes the partnership to receive money or
13 property of a person not a partner, and the money or property is
14 misapplied by a general partner, the partnership is liable for
15 the loss.

16 § 8644. General partner's liability.

17 (a) General rule.--Except as provided under subsection (b)
18 or section 8204 (relating to limitation on liability of
19 partners), all general partners are liable jointly and severally
20 for all debts, obligations and other liabilities of the limited
21 partnership unless otherwise agreed by the claimant or provided
22 by law.

23 (b) Preexisting obligations.--A person that becomes a
24 general partner is not personally liable for a debt, obligation
25 or other liability of the limited partnership incurred before
26 the person became a general partner.

27 § 8645. Actions by and against partnership and partners.

28 (a) General partner as party.--To the extent not
29 inconsistent with section 8644 (relating to general partner's
30 liability), a general partner may be joined in an action against

1 the limited partnership or named in a separate action.

2 (b) Judgment against partnership only.--A judgment against a
3 partnership:

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

5 (2) except as set forth in subsection (c), may not be
6 satisfied from a partner's assets.

7 (c) Judgment against partnership and partner.--If there is a
8 judgment against a partnership and a partner on the same claim,
9 the judgment creditor may levy execution against the assets of
10 the partner if both of the following paragraphs apply:

11 (1) The partner is personally liable for the claim under
12 section 8644.

13 (2) One of the following subparagraphs applies:

14 (i) A writ of execution on the judgment against the
15 partnership has been returned unsatisfied in whole or in
16 part.

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

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

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

22 (A) partnership assets subject to execution are
23 clearly insufficient to satisfy the judgment;

24 (B) exhaustion of partnership assets is
25 excessively burdensome; or

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

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

30 § 8646. Management rights.

1 (a) General rule.--Each general partner has equal rights in
2 the management and conduct of the limited partnership's
3 activities and affairs. Except as provided in this title, any
4 matter relating to the activities and affairs of the partnership
5 is decided exclusively by the general partner or, if there is
6 more than one general partner, by a majority of the general
7 partners.

8 (b) Actions requiring unanimous approval.--The affirmative
9 vote or consent of all the partners is required to:

10 (1) amend the partnership agreement;

11 (2) amend the certificate of limited partnership to
12 delete a statement that the limited partnership is a limited
13 liability limited partnership; and

14 (3) sell, lease, exchange, or otherwise dispose of all,
15 or substantially all, of the limited partnership's property,
16 with or without the goodwill, other than in the usual and
17 regular course of the partnership's activities and affairs.

18 (c) Reimbursement of advance.--A limited partnership shall
19 reimburse a general partner for an advance to the partnership
20 beyond the amount of capital the general partner agreed to
21 contribute.

22 (d) Status of advance.--A payment or advance made by a
23 general partner which gives rise to an obligation of the limited
24 partnership under subsection (c) or section 8648(a) (relating to
25 reimbursement, indemnification, advancement and insurance)
26 constitutes a loan to the partnership which accrues interest
27 from the date of the payment or advance.

28 (e) No right to remuneration.--A general partner is not
29 entitled to remuneration for services performed for the limited
30 partnership.

1 (f) Cross reference.--See section 324 (relating to approval
2 by limited partnership).

3 § 8647. General partner rights to information.

4 (a) Right to required information.--A general partner may
5 inspect and copy required information during regular business
6 hours in the limited partnership's principal office, without
7 having any particular purpose for seeking the information.

8 (b) Right to other information.--On reasonable notice, a
9 general partner may inspect and copy during regular business
10 hours, at a reasonable location specified by the limited
11 partnership, any record maintained by the partnership regarding
12 the partnership's activities, affairs, financial condition and
13 other circumstances, to the extent the information is material
14 to the general partner's rights and duties under the partnership
15 agreement or this title.

16 (c) Obligation of limited partnership.--A limited
17 partnership shall furnish to each general partner:

18 (1) without demand, any information concerning the
19 partnership's activities, affairs, financial condition and
20 other circumstances which the partnership knows and is
21 material to the proper exercise of the general partner's
22 rights and duties under the partnership agreement or this
23 title, except to the extent the partnership can establish
24 that it reasonably believes the general partner already knows
25 the information; and

26 (2) on demand, any other information concerning the
27 partnership's activities, affairs, financial condition and
28 other circumstances, except to the extent the demand or the
29 information demanded is unreasonable or otherwise improper
30 under the circumstances.

1 (d) Obligation of general partner.--The duty to furnish
2 information under subsection (c) also applies to each general
3 partner to the extent the general partner knows any of the
4 information described in subsection (b).

5 (e) Rights of person dissociated as general partner.--
6 Subject to subsection (j), within 10 days after receipt by a
7 limited partnership of a demand made in record form, a person
8 dissociated as a general partner may have access to the
9 information and records described under subsections (a) and (b)
10 at the locations specified under subsections (a) and (b) if:

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

13 (2) in seeking the information or record the person
14 complies with section 8649(d) (relating to standards of
15 conduct for general partners) as if still a general partner;
16 and

17 (3) all of the following apply:

18 (i) the person seeks the information for a purpose
19 reasonably related to the partner's interest as a former
20 general partner;

21 (ii) the person makes a demand in record form
22 received by the partnership, describing with reasonable
23 particularity the information sought and the purpose for
24 seeking the information; and

25 (iii) the information sought is directly connected
26 to the person's purpose.

27 (f) Required response to demand.--Within 10 days after
28 receiving a demand under subsection (e), the limited partnership
29 shall, in record form, inform the person that made the demand
30 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 (g) Copying costs.--A limited partnership may charge a
7 person that makes a demand under this section the reasonable
8 costs of copying.

9 (h) Rights of agent or guardian.--A general partner or
10 person dissociated as a general 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 (j) applies both to the agent or guardian and to the
15 general partner or person dissociated as a general partner.

16 (i) No rights of transferee.--The rights under this section
17 do not extend to a person as transferee, except that if:

18 (1) a general partner dies, section 8674 (relating to
19 power of personal representative of deceased partner)
20 applies; and

21 (2) an individual dissociates as a general partner under
22 section 8663(7)(ii) or (iii) (relating to dissociation as
23 general partner), the personal representative of the
24 individual may exercise the rights under subsection (d) of a
25 person dissociated as a general partner.

26 (j) Limitations on access.--In addition to any restriction
27 or condition stated in its partnership agreement, a limited
28 partnership, as a matter within the ordinary course of its
29 activities and affairs, may impose reasonable restrictions and
30 conditions on access to and use of information to be furnished

1 under this section, including designating information
2 confidential and imposing nondisclosure and safeguarding
3 obligations on the recipient. In a dispute concerning the
4 reasonableness of a restriction under this subsection, the
5 partnership has the burden of proving reasonableness.

6 (k) Cross reference.--See section 8615 (relating to contents
7 of partnership agreement).

8 § 8648. Reimbursement, indemnification, advancement and
9 insurance.

10 (a) Reimbursement.--A limited partnership shall reimburse a
11 general partner for any payment made by the general partner in
12 the course of the general partner's activities on behalf of the
13 partnership, if the general partner complied with sections 8646
14 (relating to management rights), 8649 (relating to standards of
15 conduct for general partners) and 8654 (relating to limitations
16 on distributions) in making the payment.

17 (b) Indemnification.--A limited partnership shall indemnify
18 and hold harmless a person with respect to any claim or demand
19 against the person and any debt, obligation or other liability
20 incurred by the person by reason of the person's former or
21 present capacity as a general partner, if the claim, demand,
22 debt, obligation or other liability does not arise from the
23 person's breach of section 8646, 8649 or 8654.

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

1 indemnified.

2 (d) Insurance.--A limited partnership may purchase and
3 maintain insurance on behalf of a general partner against
4 liability asserted against or incurred by the general partner in
5 that capacity or arising from that status even if, under section
6 8615(c)(11) (relating to contents of partnership agreement), the
7 partnership agreement could not eliminate or limit the person's
8 liability to the partnership for the conduct giving rise to the
9 liability.

10 (e) Non-exclusivity.--The rights provided under subsections
11 (a), (b), (c) and (d) shall not be deemed exclusive of any other
12 rights to which a person seeking reimbursement, indemnification,
13 advancement of expenses or insurance may be entitled under the
14 partnership agreement, vote of partners, contract or otherwise,
15 both as to action in his official capacity and as to action in
16 another capacity while holding that position. Section 8649(f)
17 shall be applicable to a vote, contract or other action under
18 this subsection. A limited partnership may create a fund of any
19 nature, which may, but need not be, under the control of a
20 trustee, or otherwise secure or insure in any manner its
21 indemnification obligations, whether arising under this section
22 or otherwise.

23 (f) Grounds.--Indemnification under subsection (e) may be
24 granted for any action taken and may be made whether or not the
25 limited partnership would have the power to indemnify the person
26 under any other provision of law except as provided in section
27 8615(c)(11) and whether or not the indemnified liability arises
28 or arose from any threatened, pending or completed action by or
29 in the right of the partnership. Indemnification under
30 subsection (e) is declared to be consistent with the public

1 policy of the Commonwealth.

2 § 8649. Standards of conduct for general partners.

3 (a) General rule.--A general partner owes to the limited
4 partnership and, subject to section 8691 (relating to direct
5 action by partner), the other partners the duties of loyalty and
6 care stated in subsections (b) and (c).

7 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
8 general partner includes the duties:

9 (1) to account to the limited partnership and hold as
10 trustee for it any property, profit or benefit derived by the
11 general partner:

12 (i) in the conduct or winding up of the
13 partnership's activities and affairs;

14 (ii) from a use by the general partner of the
15 partnership's property; or

16 (iii) from the appropriation of a partnership
17 opportunity;

18 (2) to refrain from dealing with the partnership in the
19 conduct or winding up of the partnership's activities and
20 affairs as or on behalf of a person having an interest
21 adverse to the partnership; and

22 (3) to refrain from competing with the partnership in
23 the conduct or winding up of the partnership's activities and
24 affairs.

25 (c) Duty of care.--The duty of care of a general partner in
26 the conduct or winding up of the limited partnership's
27 activities and affairs is to refrain from engaging in grossly
28 negligent or reckless conduct, willful or intentional misconduct
29 or knowing violation of law.

30 (d) Good faith and fair dealing.--A general partner shall

1 discharge the duties and obligations under this title or under
2 the partnership agreement and exercise any rights consistent
3 with the contractual obligation of good faith and fair dealing.

4 (e) Self-serving conduct.--A general partner does not
5 violate a duty or obligation under this title or under the
6 partnership agreement solely because the general partner's
7 conduct furthers the general partner's own interest.

8 (f) Authorization or ratification.--All the partners of a
9 limited partnership may authorize or ratify, after full
10 disclosure of all material facts, a specific act or transaction
11 that otherwise would violate the duty of loyalty of a general
12 partner.

13 (g) Fairness as a defense.--It is a defense to a claim under
14 subsection (b) (2) and any comparable claim in equity or at
15 common law that the transaction was fair to the limited
16 partnership at the time it is authorized or ratified under
17 subsection (f).

18 (h) Rights and obligations in approved transactions.--If a
19 general partner enters into a transaction with the limited
20 partnership which otherwise would be prohibited by subsection
21 (b) (2) and the transaction is authorized or ratified as provided
22 in subsection (f) or the partnership agreement, the general
23 partner's rights and obligations arising from the transaction
24 are the same as those of a person that is not a general partner.

25 (i) Cross reference.--See section 8615 (relating to contents
26 of partnership agreement).

27 SUBCHAPTER E

28 CONTRIBUTIONS AND DISTRIBUTIONS

29 Sec.

30 8651. Form of contribution.

1 8652. Liability for contribution.

2 8653. Sharing of and right to distributions before dissolution.

3 8654. Limitations on distributions.

4 8655. Liability for improper distributions.

5 § 8651. Form of contribution.

6 A contribution may consist of:

7 (1) property transferred to, services performed for or
8 another benefit provided to the limited partnership;

9 (2) an agreement to transfer property to, perform
10 services for or provide another benefit to the partnership;
11 or

12 (3) any combination of items listed in paragraphs (1)
13 and (2).

14 § 8652. Liability for contribution.

15 (a) Obligation not excused.--A person's obligation to make a
16 contribution to a limited partnership is not excused by the
17 person's death, disability, termination or other inability to
18 perform personally.

19 (b) Substitute payment.--If a person does not fulfill an
20 obligation to make a contribution other than money, the person
21 is obligated at the option of the limited partnership to
22 contribute money equal to the value, as stated in the required
23 information, of the part of the contribution which has not been
24 made.

25 (c) Compromise of obligation.--The obligation of a person to
26 make a contribution may be compromised only by the affirmative
27 vote or consent of all the partners. If a creditor of a limited
28 partnership extends credit or otherwise acts in reliance on an
29 obligation described in subsection (a) without knowledge or
30 notice of a compromise under this subsection, the creditor may

1 enforce the obligation.

2 § 8653. Sharing of and right to distributions before
3 dissolution.

4 (a) General rule.--Any distribution made by a limited
5 partnership before its dissolution and winding up must be shared
6 among the partners and persons dissociated as partners on the
7 basis of the value, as stated in the required information when
8 the limited partnership decides to make the distribution, of the
9 contributions the limited partnership has received from each
10 partner, except to the extent necessary to comply with a
11 transfer effective under section 8672 (relating to transfer of
12 transferable interest) or charging order in effect under section
13 8673 (relating to charging order).

14 (b) No entitlement to distribution.--A person has a right to
15 a distribution before the dissolution and winding up of a
16 limited partnership only if the partnership decides to make an
17 interim distribution. A person's dissociation does not entitle
18 the person to a distribution.

19 (c) Distribution in kind.--A person does not have a right to
20 demand or receive a distribution from a limited partnership in
21 any form other than money. Except as provided under section
22 8690(f) (relating to disposition of assets in winding up and
23 required contributions), a partnership may distribute an asset
24 in kind only if each part of the asset is fungible with each
25 other part and each person receives a percentage of the asset
26 equal in value to the person's share of distributions.

27 (d) Status as creditor.--If a partner or transferee becomes
28 entitled to receive a distribution, the partner or transferee
29 has the status of, and is entitled to all remedies available to,
30 a creditor of the limited partnership with respect to the

1 distribution, except that the partnership's obligation to make a
2 distribution is subject to offset for any amount owed to the
3 partnership by the partner or a person dissociated as a partner
4 on whose account the distribution is made.

5 § 8654. Limitations on distributions.

6 (a) General rule.--A limited partnership may not make a
7 distribution, including a distribution under section 8690
8 (relating to disposition of assets in winding up and required
9 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 activities and affairs; 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 limited partnership may base a
21 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 by subsection (a)(2), the limited
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 limited partnership
16 when it authorizes the distribution if the distribution
17 occurs within 125 days of the earlier of the date so
18 specified or the date 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
21 described in paragraph (1) of the definition of "distribution"
22 in section 8612 (relating to definitions), the distribution is
23 deemed to occur as of the earlier of the date money or other
24 property is transferred or debt is incurred by the limited
25 partnership or the date the person entitled to the distribution
26 ceases to own the interest or right being acquired by the
27 partnership in return for the distribution.

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

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

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

13 (h) Distributions in winding up.--In measuring the effect of
14 a distribution under section 8690, the liabilities of a
15 dissolved limited partnership do not include any claim that has
16 been barred under section 8686 (relating to known claims against
17 dissolved limited partnership) or 8687 (relating to other claims
18 against dissolved limited partnership), or for which security
19 has been provided under section 8688 (relating to court
20 proceedings).

21 (i) Cross references.--See sections 8615(d)(1)(ii) (relating
22 to contents of partnership agreement) and 8649 (relating to
23 standards of conduct for general partners).

24 § 8655. Liability for improper distributions.

25 (a) General rule.--If a general partner consents to a
26 distribution made in violation of section 8654 (relating to
27 limitations on distributions) and in consenting to the
28 distribution fails to comply with section 8649 (relating to
29 standards of conduct for general partners), the general partner
30 is personally liable to the limited partnership for the amount

1 of the distribution which exceeds the amount that could have
2 been distributed without the violation of section 8654.

3 (b) Recipients.--A person that receives a distribution
4 knowing that the distribution violated section 8654 is
5 personally liable to the limited partnership but only to the
6 extent that the distribution received by the person exceeded the
7 amount that could have been properly paid under section 8654.

8 (c) Contribution.--A general partner against which an action
9 is commenced because the general partner is liable under
10 subsection (a) may:

11 (1) join any other person that is liable under
12 subsection (a) or otherwise seek to enforce a right of
13 contribution from the person; and

14 (2) join any person that received a distribution in
15 violation of subsection (b) or otherwise seek to enforce a
16 right of contribution from the person in the amount the
17 person received in violation of subsection (b).

18 (d) Statute of repose.--An action under this section is
19 barred unless commenced within two years after the distribution.

20 SUBCHAPTER F

21 DISSOCIATION

22 Sec.

23 8661. Dissociation as limited partner.

24 8662. Effects of dissociation as limited partner.

25 8663. Dissociation as general partner.

26 8664. Power to dissociate as general partner and wrongful
27 dissociation.

28 8665. Effects of dissociation as general partner.

29 8666. Power to bind and liability of person dissociated as
30 general partner.

1 8667. Liability of person dissociated as general partner to
2 other persons.

3 § 8661. Dissociation as limited partner.

4 (a) No right to dissociate.--A person does not have a right
5 to dissociate as a limited partner before the completion of the
6 winding up of the limited partnership.

7 (b) Events causing dissociation.--A person is dissociated as
8 a limited partner when any of the following apply:

9 (1) The limited partnership knows or has notice of the
10 person's express will to withdraw as a limited partner
11 rightfully or wrongfully, except that, if the person has
12 specified a withdrawal date later than the date the
13 partnership knew or had notice, on that later date.

14 (2) An event stated in the partnership agreement as
15 causing the person's dissociation as a limited partner
16 occurs.

17 (3) The person is expelled as a limited partner pursuant
18 to the partnership agreement.

19 (4) The person is expelled as a limited partner by the
20 affirmative vote or consent of all the other partners if:

21 (i) it is unlawful to carry on the partnership's
22 activities and affairs with the person as a limited
23 partner;

24 (ii) there has been a transfer of all the person's
25 transferable interest in the partnership, other than:

26 (A) a transfer for security purposes; or

27 (B) a charging order in effect under section
28 8673 (relating to charging order) which has not been
29 foreclosed;

30 (iii) the person is an entity and:

1 (A) the partnership notifies the person that it
2 will be expelled as a limited partner because:

3 (I) the person has filed a certificate of
4 dissolution or the equivalent;

5 (II) the person has been administratively
6 dissolved;

7 (III) the person's charter or the equivalent
8 has been revoked; or

9 (IV) the person's right to conduct business
10 has been suspended by the person's jurisdiction
11 of formation; and

12 (B) within 90 days after the notification:

13 (I) the certificate of dissolution or the
14 equivalent has not been withdrawn, rescinded or
15 revoked;

16 (II) the person has not been reinstated;

17 (III) the person's charter or the equivalent
18 has not been reinstated; or

19 (IV) the person's right to conduct business
20 has not been reinstated; or

21 (iv) the person is an unincorporated entity that has
22 been dissolved and whose activities and affairs are being
23 wound up.

24 (5) On application by the partnership or a partner in a
25 direct action under section 8691 (relating to direct action
26 by partner), the person is expelled as a limited partner by
27 judicial order because the person:

28 (i) has engaged or is engaging in wrongful conduct
29 that has affected adversely and materially, or will
30 affect adversely and materially, the partnership's

1 activities and affairs;

2 (ii) has committed willfully or persistently, or is
3 committing willfully or persistently, a material breach
4 of the partnership agreement or the contractual
5 obligation of good faith and fair dealing under section
6 8635(a) (relating to limited duties of limited partners);
7 or

8 (iii) has engaged or is engaging in conduct relating
9 to the partnership's activities and affairs which makes
10 it not reasonably practicable to carry on the activities
11 and affairs with the person as a limited partner.

12 (6) In the case of an individual, the individual dies.

13 (7) In the case of a person that is a testamentary or
14 inter vivos trust or is acting as a limited partner by virtue
15 of being a trustee of such a trust, the trust's entire
16 transferable interest in the limited partnership is
17 distributed.

18 (8) In the case of a person that is an estate or is
19 acting as a limited partner by virtue of being a personal
20 representative of an estate, the estate's entire transferable
21 interest in the limited partnership is distributed.

22 (9) In the case of a person that is not an individual,
23 the existence of the person terminates.

24 (10) The partnership participates in a merger under
25 Chapter 3 (relating to entity transactions) and:

26 (i) the partnership is not the surviving entity; or

27 (ii) otherwise as a result of the merger, the person
28 ceases to be a limited partner.

29 (11) The partnership participates in an interest
30 exchange under Chapter 3 and, as a result of the interest

1 exchange, the person ceases to be a limited partner.

2 (12) The partnership participates in a conversion under
3 Chapter 3.

4 (13) The partnership participates in a division under
5 Chapter 3 and:

6 (i) the partnership is not a resulting association;
7 or

8 (ii) as a result of the division, the person ceases
9 to be a partner.

10 (14) The partnership participates in a domestication
11 under Chapter 3 and, as a result of the domestication, the
12 person ceases to be a limited partner.

13 (15) The partnership dissolves and completes winding up.

14 (c) Cross reference.--See section 8611(d) (relating to short
15 title and application of chapter).

16 § 8662. Effects of dissociation as limited partner.

17 (a) General rule.--If a person is dissociated as a limited
18 partner:

19 (1) subject to section 8674 (relating to power of
20 personal representative of deceased partner), the person does
21 not have further rights as a limited partner;

22 (2) the person's contractual obligation of good faith
23 and fair dealing as a limited partner under section 8635(a)
24 (relating to limited duties of limited partners) ends with
25 regard to matters arising and events occurring after the
26 person's dissociation except as provided in section 8634(c)
27 (relating to limited partner rights to information); and

28 (3) subject to section 8674 and Chapter 3 (relating to
29 entity transactions), any transferable interest owned by the
30 person in the person's capacity as a limited partner

1 immediately before dissociation is owned by the person solely
2 as a transferee.

3 (b) Existing obligations not discharged.--A person's
4 dissociation as a limited partner does not of itself discharge
5 the person from any debt, obligation or other liability to the
6 limited partnership or the other partners which the person
7 incurred while a limited partner.

8 (c) Cross reference.--See section 8611(d) (relating to short
9 title and application of chapter).

10 § 8663. Dissociation as general partner.

11 (a) General rule.--A person is dissociated as a general
12 partner when any of the following occurs:

13 (1) The limited partnership knows or has notice of the
14 person's express will to withdraw as a general partner
15 rightfully or wrongfully, except that, if the person has
16 specified a withdrawal date later than the date the
17 partnership knew or had notice, on that later date.

18 (2) An event stated in the partnership agreement as
19 causing the person's dissociation as a general partner
20 occurs.

21 (3) The person is expelled as a general partner pursuant
22 to the partnership agreement.

23 (4) The person is expelled as a general partner by the
24 affirmative vote or consent of all the other partners if:

25 (i) it is unlawful to carry on the partnership's
26 activities and affairs with the person as a general
27 partner;

28 (ii) there has been a transfer of all the person's
29 transferable interest in the partnership, other than:

30 (A) a transfer for security purposes; or

1 (B) a charging order in effect under section
2 8673 (relating to charging order) which has not been
3 foreclosed;

4 (iii) the person is an entity and:

5 (A) the partnership notifies the person that it
6 will be expelled as a general partner because:

7 (I) the person has filed a certificate of
8 dissolution or the equivalent;

9 (II) the person has been administratively
10 dissolved;

11 (III) the person's charter or the equivalent
12 has been revoked; or

13 (IV) the person's right to conduct business
14 has been suspended by the person's jurisdiction
15 of formation; and

16 (B) within 90 days after the notification:

17 (I) the certificate of dissolution or the
18 equivalent has not been withdrawn, rescinded or
19 revoked;

20 (II) the person has not been reinstated;

21 (III) the person's charter or the equivalent
22 has not been reinstated; or

23 (IV) the person's right to conduct business
24 has not been reinstated; or

25 (iv) the person is an unincorporated entity that has
26 been dissolved and whose activities and affairs are being
27 wound up.

28 (5) On application by the partnership or a partner in a
29 direct action under section 8691 (relating to direct action
30 by partner), the person is expelled as a general partner by

1 judicial order because the person:

2 (i) has engaged or is engaging in wrongful conduct
3 that has affected adversely and materially, or will
4 affect adversely and materially, the partnership's
5 activities and affairs;

6 (ii) has committed willfully or persistently, or is
7 committing willfully or persistently, a material breach
8 of the partnership agreement or a duty or obligation
9 under section 8649 (relating to standards of conduct for
10 general partners); or

11 (iii) has engaged or is engaging in conduct relating
12 to the partnership's activities and affairs which makes
13 it not reasonably practicable to carry on the activities
14 and affairs of the partnership with the person as a
15 general partner.

16 (6) The person:

17 (i) becomes a debtor in bankruptcy;

18 (ii) executes an assignment for the benefit of
19 creditors; or

20 (iii) seeks, consents to or acquiesces in the
21 appointment of a trustee, receiver or liquidator of the
22 person or of all or substantially all the person's
23 property.

24 (7) In the case of an individual:

25 (i) the individual dies;

26 (ii) a guardian for the individual is appointed; or

27 (iii) a court orders that the individual has
28 otherwise become incapable of performing the individual's
29 duties as a general partner under this title or the
30 partnership agreement.

1 (8) In the case of a person that is a testamentary or
2 inter vivos trust or is acting as a general partner by virtue
3 of being a trustee of the trust, the trust's entire
4 transferable interest in the limited partnership is
5 distributed.

6 (9) In the case of a person that is an estate or is
7 acting as a general partner by virtue of being a personal
8 representative of an estate, the estate's entire transferable
9 interest in the limited partnership is distributed.

10 (10) In the case of a person that is not an individual,
11 the existence of the person terminates.

12 (11) The partnership participates in a merger under
13 Chapter 3 (relating to entity transactions) and:

14 (i) the partnership is not the surviving entity; or

15 (ii) otherwise as a result of the merger, the person
16 ceases to be a general partner.

17 (12) The partnership participates in an interest
18 exchange under Chapter 3 and, as a result of the interest
19 exchange, the person ceases to be a general partner.

20 (13) The partnership participates in a conversion under
21 Chapter 3.

22 (14) The partnership participates in a division under
23 Chapter 3 and:

24 (i) the partnership is not a resulting association;

25 or

26 (ii) as a result of the division, the person ceases
27 to be a partner.

28 (15) The partnership participates in a domestication
29 under Chapter 3 and, as a result of the domestication, the
30 person ceases to be a general partner.

1 (16) The partnership dissolves and completes winding up.

2 (b) Cross reference.--See section 8611(d) (relating to short
3 title and application of chapter).

4 § 8664. Power to dissociate as general partner and wrongful
5 dissociation.

6 (a) Power to dissociate.--A person has the power to
7 dissociate as a general partner at any time, rightfully or
8 wrongfully, by withdrawing as a general partner by express will
9 under section 8663(1) (relating to dissociation as general
10 partner).

11 (b) Wrongful dissociation.--A person's dissociation as a
12 general partner is wrongful only if the dissociation:

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

15 (2) occurs before the completion of the winding up of
16 the limited partnership, and:

17 (i) the person withdraws as a general partner by
18 express will;

19 (ii) the person is expelled as a general partner by
20 judicial order under section 8663(5);

21 (iii) the person is dissociated as a general partner
22 under section 8663(6); or

23 (iv) the person is expelled or otherwise dissociated
24 as a general partner because its existence terminated,
25 except that this subparagraph does not apply to a person
26 that is:

27 (A) a trust that is not a business or statutory
28 trust;

29 (B) an estate; or

30 (C) an individual.

1 (c) Damages for wrongful dissociation.--A person that
2 wrongfully dissociates as a general partner is liable to the
3 limited partnership and, subject to section 8691 (relating to
4 direct action by partner), to the other partners for damages
5 caused by the dissociation. The liability is in addition to any
6 debt, obligation or other liability of the general partner to
7 the partnership or the other partners.

8 (d) Cross reference.--See section 8615 (relating to contents
9 of partnership agreement).

10 § 8665. Effects of dissociation as general partner.

11 (a) General rule.--If a person is dissociated as a general
12 partner:

13 (1) The person's right to participate as a general
14 partner in the management and conduct of the limited
15 partnership's activities and affairs terminates.

16 (2) The person's duties and obligations as a general
17 partner under section 8649 (relating to standards of conduct
18 for general partners) end with regard to matters arising and
19 events occurring after the person's dissociation except as
20 provided in section 8647(e)(2) (relating to general partner
21 rights to information).

22 (3) The person may deliver to the department for filing
23 a certificate of dissociation stating:

24 (i) the name of the partnership;

25 (ii) subject to section 109 (relating to name of
26 commercial registered office provider in lieu of
27 registered address), the address, including street and
28 number, if any, of the registered office of the
29 partnership; and

30 (iii) the name of the person and that the person has

1 dissociated as a general partner.

2 (4) At the request of the limited partnership, the
3 person shall sign an amendment to the certificate of limited
4 partnership which states that the person has dissociated as a
5 general partner.

6 (5) Subject to section 8674 (relating to power of
7 personal representative of deceased partner) and Chapter 3
8 (relating to entity transactions), any transferable interest
9 owned by the person in the person's capacity as a general
10 partner immediately before dissociation is owned by the
11 person solely as a transferee.

12 (b) Existing obligations not discharged.--A person's
13 dissociation as a general partner does not of itself discharge
14 the person from any debt, obligation or other liability to the
15 limited partnership or the other partners which the person
16 incurred while a general partner.

17 (c) 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 § 8666. Power to bind and liability of person dissociated as
25 general partner.

26 (a) Power to bind.--After a person is dissociated as a
27 general partner and before the limited partnership is merged or
28 divided out of existence, converted or domesticated under
29 Chapter 3 (relating to entity transactions) or dissolved, the
30 partnership is bound by an act of the person only if:

1 (1) the act would have bound the partnership under
2 section 8642 (relating to general partner agent of limited
3 partnership) before the dissociation; and

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

6 (i) less than two years have passed since the
7 dissociation; and

8 (ii) the other party does not know or have notice of
9 the dissociation and reasonably believes that the person
10 is a general partner.

11 (b) Liability.--If a limited partnership is bound under
12 subsection (a), the person dissociated as a general partner
13 which caused the partnership to be bound is liable:

14 (1) to the partnership for any damage caused to the
15 partnership arising from the obligation incurred under
16 subsection (a); and

17 (2) if a general partner or another person dissociated
18 as a general partner is liable for the obligation, to the
19 general partner or other person for any damage caused to the
20 general partner or other person arising from the liability.

21 § 8667. Liability of person dissociated as general partner to
22 other persons.

23 (a) General rule.--A person's dissociation as a general
24 partner does not of itself discharge the person's liability as a
25 general partner for a debt, obligation or other liability of the
26 limited partnership incurred before dissociation. Except as
27 provided in subsections (b) and (c), the person is not liable
28 for a partnership obligation incurred after dissociation.

29 (b) Obligations incurred after dissolution.--A person whose
30 dissociation as a general partner results in a dissolution and

1 winding up of the limited partnership's activities and affairs
2 is liable on an obligation incurred by the partnership under
3 section 8685 (relating to general partner liability after
4 dissolution) to the same extent as a general partner under
5 section 8644 (relating to general partner's liability).

6 (c) When partnership not dissolved.--A person that is
7 dissociated as a general partner without the dissociation
8 resulting in a dissolution and winding up of the limited
9 partnership's activities and affairs is liable on a transaction
10 entered into by the partnership after the dissociation only if a
11 general partner would be liable on the transaction, but at the
12 time the other party enters into the transaction:

13 (1) less than two years have passed since the
14 dissociation; and

15 (2) the other party does not have knowledge or notice of
16 the dissociation and reasonably believes that the person is a
17 general partner.

18 (d) Constructive release by creditor.--A person dissociated
19 as a general partner is released from liability for a debt,
20 obligation or other liability of the limited partnership if the
21 partnership's creditor, with knowledge or notice of the person's
22 dissociation as a general partner and without the person's
23 consent, agrees to a material alteration in the nature or time
24 of payment of the debt, obligation or other liability. The
25 release from liability under this subsection applies whether the
26 liability arises directly or indirectly, by way of contribution
27 or otherwise, but only if the liability arises solely by reason
28 of having been a general partner.

29 SUBCHAPTER G

30 TRANSFERABLE INTERESTS AND RIGHTS

1 OF TRANSFEREES AND CREDITORS

2 Sec.

3 8671. Nature of transferable interest.

4 8672. Transfer of transferable interest.

5 8673. Charging order.

6 8674. Power of personal representative of deceased partner.

7 § 8671. Nature of transferable interest.

8 (a) Personal property.--A transferable interest is personal
9 property.

10 (b) Only right that may be transferred.--A person may not
11 transfer to a person not a partner any rights in a limited
12 partnership other than a transferable interest.

13 § 8672. Transfer of transferable interest.

14 (a) General rule.--A transfer, in whole or in part, of a
15 transferable interest:

16 (1) is permissible;

17 (2) does not by itself cause the dissociation of the
18 transferor as a partner or a dissolution and winding up of
19 the limited partnership's activities and affairs; and

20 (3) subject to section 8674 (relating to power of
21 personal representative of deceased partner), does not
22 entitle the transferee to:

23 (i) participate in the management or conduct of the
24 partnership's activities and affairs; or

25 (ii) except as provided under subsection (c), have
26 access to required information, records or other
27 information concerning the partnership's activities and
28 affairs.

29 (b) Right to distributions.--A transferee has the right to
30 receive, in accordance with the transfer, distributions to which

1 the transferor would otherwise be entitled.

2 (c) Right to account on dissolution.--In a dissolution and
3 winding up of a limited partnership, a transferee is entitled to
4 an account of the partnership's transactions only from the date
5 of dissolution.

6 (d) Certificate of interest.--A transferable interest may be
7 evidenced by a certificate of the interest issued by a limited
8 partnership in record form, and, subject to this section, the
9 interest represented by the certificate may be transferred by a
10 transfer of the certificate.

11 (e) Recognition of transferee's rights.--A limited
12 partnership need not give effect to a transferee's rights under
13 this section until the partnership knows or has notice of the
14 transfer.

15 (f) Transfer restrictions.--A transfer of a transferable
16 interest in violation of a restriction on transfer contained in
17 the partnership agreement is ineffective if the intended
18 transferee has knowledge or notice of the restriction at the
19 time of transfer.

20 (g) Rights retained by transferor.--Except as provided under
21 sections 8661(b)(4)(ii) (relating to dissociation as limited
22 partner) and 8663(a)(4)(ii) (relating to dissociation as general
23 partner), if a general or limited partner transfers a
24 transferable interest, the transferor retains the rights of a
25 general or limited partner other than the transferable interest
26 transferred and retains all the duties and obligations of a
27 general or limited partner.

28 § 8673. Charging order.

29 (a) General rule.--On application by a judgment creditor of
30 a partner or transferee, a court may enter a charging order

1 against the transferable interest of the judgment debtor for the
2 unsatisfied amount of the judgment. A charging order constitutes
3 a lien on a judgment debtor's transferable interest and requires
4 the limited partnership to pay over to the person to which the
5 charging order was issued any distribution that otherwise would
6 be paid to the judgment debtor.

7 (b) Available relief.--To the extent necessary to effectuate
8 the collection of distributions pursuant to a charging order in
9 effect under subsection (a), the court may:

10 (1) appoint a receiver of the distributions subject to
11 the charging order, with the power to make all inquiries the
12 judgment debtor might have made; and

13 (2) make all other orders necessary to give effect to
14 the charging order.

15 (c) Foreclosure.--Upon a showing that distributions under a
16 charging order will not pay the judgment debt within a
17 reasonable time, the court may foreclose the lien and order the
18 sale of the transferable interest. The purchaser at the
19 foreclosure sale obtains only the transferable interest, does
20 not thereby become a partner and is subject to section 8672
21 (relating to transfer of transferable interest).

22 (d) Satisfaction of judgment.--At any time before
23 foreclosure under subsection (c), the partner or transferee
24 whose transferable interest is subject to a charging order under
25 subsection (a) may extinguish the charging order by satisfying
26 the judgment and filing a certified copy of the satisfaction
27 with the court that issued the charging order.

28 (e) Purchase of rights.--At any time before foreclosure
29 under subsection (c), a limited partnership or one or more
30 partners whose transferable interests are not subject to the

1 charging order may pay to the judgment creditor the full amount
2 due under the judgment and thereby succeed to the rights of the
3 judgment creditor, including the charging order.

4 (f) Exemption laws preserved.--This chapter shall not
5 deprive any partner or transferee of the benefit of any
6 exemption law applicable to the transferable interest of the
7 partner or transferee.

8 (g) Exclusive remedy.--This section provides the exclusive
9 remedy by which a person seeking, in the capacity of a judgment
10 creditor, to enforce a judgment against a partner or transferee
11 may satisfy the judgment from the judgment debtor's transferable
12 interest.

13 § 8674. Power of personal representative of deceased partner.

14 If a partner dies, the personal representative of the
15 deceased partner may exercise:

16 (1) the rights of a transferee provided in section
17 8672(c) (relating to transfer of transferable interest); and

18 (2) for the purposes of settling the estate, the rights
19 of a current limited partner under section 8634 (relating to
20 limited partner rights to information).

21 SUBCHAPTER H

22 DISSOLUTION AND WINDING UP

23 Sec.

24 8681. Events causing dissolution.

25 8681.1. Voluntary termination by partners.

26 8682. Winding up and filing of optional certificates.

27 8683. Rescinding dissolution.

28 8684. Power to bind partnership after dissolution.

29 8685. General partner liability after dissolution.

30 8686. Known claims against dissolved limited partnership.

1 8687. Other claims against dissolved limited partnership.

2 8688. Court proceedings.

3 8689. General partner liability when claim against limited
4 partnership barred.

5 8690. Disposition of assets in winding up and required
6 contributions.

7 § 8681. Events causing dissolution.

8 (a) General rule.--A limited partnership is dissolved, and
9 its activities and affairs must be wound up, upon the occurrence
10 of any of the following:

11 (1) an event or circumstance that the partnership
12 agreement states causes dissolution;

13 (2) the affirmative vote or consent of all general
14 partners and of limited partners owning a majority of the
15 rights to receive distributions as limited partners at the
16 time the vote or consent is to be effective;

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

19 (i) if the partnership has at least one remaining
20 general partner, the affirmative vote or consent to
21 dissolve the partnership within 90 days after the
22 dissociation by partners owning a majority of the rights
23 to receive distributions as partners at the time the vote
24 or consent is to be effective; or

25 (ii) if the partnership does not have a remaining
26 general partner, the passage of 180 days after the
27 dissociation, unless before the end of the period:

28 (A) consent to continue the activities and
29 affairs of the partnership and admit at least one
30 general partner is given by limited partners owning a

1 majority of the rights to receive distributions as
2 limited partners at the time the consent is to be
3 effective; and

4 (B) at least one person is admitted as a general
5 partner in accordance with the consent;

6 (4) the passage of 90 consecutive days after the
7 dissociation of the partnership's last limited partner,
8 unless before the end of the period the partnership admits at
9 least one limited partner;

10 (5) the passage of 90 consecutive days during which the
11 partnership has only one partner, unless before the end of
12 the period:

13 (i) the partnership admits at least one person as a
14 partner;

15 (ii) if the previously sole remaining partner is
16 only a general partner, the partnership admits a person
17 as a limited partner; and

18 (iii) if the previously sole remaining partner is
19 only a limited partner, the partnership admits a person
20 as a general partner; or

21 (6) on application by a partner, the entry by the court
22 of an order dissolving the partnership on the grounds that:

23 (i) the conduct of all or substantially all the
24 partnership's activities and affairs is unlawful;

25 (ii) it is not reasonably practicable to carry on
26 the partnership's activities and affairs in conformity
27 with the certificate of limited partnership and
28 partnership agreement; or

29 (iii) the general partners have acted, are acting or
30 will act in a manner that is illegal or fraudulent.

1 (b) Multiple deadlines.--If an event occurs that imposes a
2 deadline on a limited partnership under subsection (a) and
3 before the partnership has met the requirements of the deadline,
4 another event occurs that imposes a different deadline on the
5 partnership under subsection (a):

6 (1) the occurrence of the second event does not affect
7 the deadline caused by the first event; and

8 (2) the partnership's meeting of the requirements of the
9 first deadline does not extend the second deadline.

10 (c) Cross references.--See sections 8611(d) (relating to
11 short title and application of chapter) and 8615(c) (15)
12 (relating to contents of partnership agreement).

13 § 8681.1. Voluntary termination by partners.

14 (a) General rule.--The general partners of a limited
15 partnership that has not commenced business may effect the
16 termination of the partnership by delivering to the department
17 for filing a certificate of termination signed by a majority of
18 the general partners and stating:

19 (1) the name of the partnership;

20 (2) subject to section 109 (relating to name of
21 commercial registered office provider in lieu of registered
22 address), the address, including street and number, if any,
23 of the registered office of the partnership;

24 (3) that the partnership has not commenced business;

25 (4) that the amounts, if any, actually paid in as
26 contributions, less any part disbursed for necessary
27 expenses, have been returned to those entitled to the return
28 of the amounts;

29 (5) that all liabilities of the partnership have been
30 discharged or that adequate provision has been made for those

1 liabilities; and

2 (6) that a majority of the general partners elect that
3 the partnership be terminated.

4 (b) Effect.--Upon the filing of the certificate of
5 termination, the existence of the limited partnership shall
6 cease.

7 (c) Cross references.--See:

8 Section 134 (relating to docketing statement).

9 Section 135 (relating to requirements to be met by filed
10 documents).

11 Section 136(c) (relating to processing of documents by
12 Department of State).

13 Section 8623 (relating to signing of filed documents).

14 § 8682. Winding up and filing of optional certificates.

15 (a) General rule.--A dissolved limited partnership shall
16 wind up its activities and affairs and, except as provided
17 under section 8683 (relating to rescinding dissolution), the
18 partnership continues after dissolution only for the purpose of
19 winding up.

20 (b) Conduct of winding up.--In winding up its activities and
21 affairs, the limited partnership:

22 (1) shall discharge the partnership's debts, obligations
23 and other liabilities, settle and close the partnership's
24 activities and affairs, and marshal and distribute the assets
25 of the partnership; and

26 (2) may:

27 (i) amend its certificate of limited partnership to
28 state that the partnership is dissolved;

29 (ii) preserve the partnership activities, affairs
30 and property as a going concern for a reasonable time;

1 (iii) prosecute, defend and settle actions and
2 proceedings, whether civil, criminal or administrative;

3 (iv) transfer the partnership's property;

4 (v) participate in, agree to participate in and
5 settle disputes by mediation, arbitration or alternative
6 dispute resolution proceedings;

7 (vi) deliver to the department for filing the
8 certificates, if any, required by section 139 (relating
9 to tax clearance of certain fundamental transactions) and
10 a certificate of termination stating:

11 (A) the name of the partnership;

12 (B) subject to section 109 (relating to name of
13 commercial registered office provider in lieu of
14 registered address), the address, including street
15 and number, if any, of its registered office; and

16 (C) that the partnership is terminated; and

17 (vii) perform other acts necessary or appropriate to
18 the winding up.

19 (c) Conduct of winding up when no general partner.--If a
20 dissolved limited partnership does not have a general partner, a
21 person to wind up the dissolved partnership's activities and
22 affairs may be appointed by the affirmative vote or consent of
23 limited partners owning a majority of the rights to receive
24 distributions as limited partners at the time the vote or
25 consent is to be effective. A person appointed under this
26 subsection:

27 (1) has the powers of a general partner under section
28 8684 (relating to power to bind partnership after
29 dissolution) but is not liable for the debts, obligations and
30 other liabilities of the partnership solely by reason of

1 having or exercising those powers or otherwise acting to wind
2 up the dissolved partnership's activities and affairs; and

3 (2) shall deliver promptly to the department for filing
4 an amendment to the partnership's certificate of limited
5 partnership stating:

6 (i) that the partnership does not have a general
7 partner;

8 (ii) the name and address of the person; and

9 (iii) that the person has been appointed under this
10 subsection to wind up the partnership.

11 (d) Judicial supervision.--On the application of a partner
12 or person entitled under subsection (c) to participate in
13 winding up, the court may order judicial supervision of the
14 winding up of a dissolved limited partnership, including the
15 appointment of a person to wind up the partnership's activities
16 and affairs, if:

17 (1) the partnership does not have a general partner and
18 within a reasonable time following the dissolution no person
19 has been appointed under subsection (c); or

20 (2) the applicant establishes other good cause.

21 (e) Cross references.--See:

22 Section 134 (relating to docketing statement).

23 Section 135 (relating to requirements to be met by filed
24 documents).

25 Section 136(c) (relating to processing of documents by
26 Department of State).

27 Section 8615(c)(16) (relating to contents of partnership
28 agreement).

29 Section 8623 (relating to signing of filed documents).

30 § 8683. Rescinding dissolution.

1 (a) General rule.--A limited partnership may rescind its
2 dissolution, unless a certificate of termination applicable to
3 the partnership is effective or the court has entered an order
4 under section 8681(a)(6) (relating to events causing
5 dissolution) dissolving the partnership.

6 (b) Procedure.--Rescinding dissolution under this section
7 requires:

8 (1) the affirmative vote or consent of each partner; and

9 (2) if the limited partnership has delivered to the
10 department for filing an amendment to the certificate of
11 limited partnership stating that the partnership is dissolved
12 and:

13 (i) the amendment has not become effective, delivery
14 to the department for filing of a statement of
15 abandonment under section 141 (relating to abandonment of
16 filing before effectiveness) applicable to the amendment;
17 or

18 (ii) the amendment has become effective, the
19 delivery to the department for filing of an amendment to
20 the certificate of limited partnership stating that
21 dissolution has been rescinded under this section.

22 (c) Effects of rescission.--If a limited partnership
23 rescinds its dissolution:

24 (1) the partnership resumes carrying on its activities
25 and affairs as if dissolution had never occurred;

26 (2) subject to paragraph (3), any liability incurred by
27 the partnership after the dissolution and before the
28 rescission is effective is determined as if dissolution had
29 never occurred; and

30 (3) the rights of a third party arising out of conduct

1 in reliance on the dissolution before the third party knew or
2 had notice of the rescission may not be adversely affected.

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 § 8684. Power to bind partnership after dissolution.

11 (a) Power of general partner.--A limited partnership is
12 bound by a general partner's act after dissolution which:

13 (1) is appropriate for winding up the partnership's
14 activities and affairs; or

15 (2) would have bound the partnership under section 8642
16 (relating to general partner agent of limited partnership)
17 before dissolution if, at the time the other party enters
18 into the transaction, the other party does not know or have
19 notice of the dissolution.

20 (b) Power of person dissociated as general partner.--A
21 person dissociated as a general partner binds a limited
22 partnership through an act occurring after dissolution if:

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

25 (i) less than two years have passed since the
26 dissociation; and

27 (ii) the other party does not know or have notice of
28 the dissociation and reasonably believes that the person
29 is a general partner; and

30 (2) the act:

1 (i) is appropriate for winding up the partnership's
2 activities and affairs; or

3 (ii) would have bound the partnership under section
4 8642 before dissolution and at the time the other party
5 enters into the transaction, the other party does not
6 know or have notice of the dissolution.

7 § 8685. General partner liability after dissolution.

8 (a) Liability of general partner.--If a general partner
9 having knowledge of the dissolution causes a limited partnership
10 to incur an obligation under section 8684(a) (relating to power
11 to bind partnership after dissolution) by an act that is not
12 appropriate for winding up the partnership's activities and
13 affairs, the general partner is liable:

14 (1) to the partnership for any damage caused to the
15 partnership arising from the obligation; and

16 (2) if another general partner or a person dissociated
17 as a general partner is liable for the obligation, to that
18 other general partner or person for any damage caused to that
19 other general partner or person arising from the liability.

20 (b) Liability of person dissociated as general partner.--If
21 a person dissociated as a general partner causes a limited
22 partnership to incur an obligation under section 8684(b), the
23 person is liable:

24 (1) to the partnership for any damage caused to the
25 partnership arising from the obligation; and

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

30 § 8686. Known claims against dissolved limited partnership.

1 (a) General rule.--Except as provided under subsection (d),
2 a dissolved limited partnership may give notice of a known claim
3 under subsection (b), which has the effect provided in
4 subsection (c).

5 (b) Required notice.--A dissolved limited partnership may
6 notify in record form its known claimants of the dissolution.
7 The notice must:

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

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

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

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

17 (5) unless the partnership has been throughout its
18 existence a limited liability limited partnership, state that
19 the barring of a claim against the partnership will also bar
20 any corresponding claim against any general partner or person
21 dissociated as a general partner which is based on section
22 8644 (relating to general partner's liability).

23 (c) Claims barred.--A claim against a dissolved limited
24 partnership is barred if the requirements of subsection (b) are
25 met and:

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

28 (2) if the claim is timely received but rejected by the
29 partnership:

30 (i) the partnership causes the claimant to receive a

1 notice in record form stating that the claim is rejected
2 and will be barred unless the claimant commences an
3 action against the partnership to enforce the claim
4 within 90 days after the claimant receives the notice;
5 and

6 (ii) the claimant fails to commence the required
7 action no later than 90 days after the claimant receives
8 the notice.

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

12 § 8687. Other claims against dissolved limited partnership.

13 (a) Permissive notice.--A dissolved limited partnership may
14 publish notice of its dissolution and request persons having
15 claims against the partnership to present them in accordance
16 with the notice.

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

18 (1) be officially published one time;

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

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

25 (4) unless the partnership has been throughout its
26 existence a limited liability limited partnership, state that
27 the barring of a claim against the partnership will also bar
28 any corresponding claim against any general partner or person
29 dissociated as a general partner which is based on section
30 8644 (relating to general partner's liability).

1 (c) Claims barred.--If a dissolved limited partnership
2 publishes a notice in accordance with subsection (b), the claim
3 of each of the following claimants is barred unless the claimant
4 commences an action to enforce the claim against the partnership
5 within two years after the publication date of the notice:

6 (1) a claimant that did not receive notice in record
7 form under section 8686 (relating to known claims against
8 dissolved limited partnership);

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

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

13 (d) Claims not barred.--A claim not barred under this
14 section or section 8686 may be enforced:

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

17 (2) except as provided under section 8688 (relating to
18 court proceedings), if assets of the partnership have been
19 distributed after dissolution, against a partner or
20 transferee to the extent of that person's proportionate share
21 of the claim or of the partnership's assets distributed to
22 the partner or transferee after dissolution, whichever is
23 less, except that a person's total liability for all claims
24 under this paragraph may not exceed the total amount of
25 assets distributed to the person after dissolution; and

26 (3) against any person liable on the claim under
27 sections 8644 and 8667 (relating to liability of person
28 dissociated as general partner to other persons).

29 § 8688. Court proceedings.

30 (a) Determination of security.--A dissolved limited

1 partnership that has officially published a notice under section
2 8687 (relating to other claims against dissolved limited
3 partnership) may file an application with the court of common
4 pleas embracing the county where the partnership's principal
5 office is located or, if the principal office is not located in
6 this Commonwealth, where its registered office is or was last
7 located, for a determination of the amount and form of security
8 to be provided for payment of claims that are reasonably
9 expected to arise after the date of dissolution based on facts
10 known to the partnership and:

11 (1) at the time of the application:

12 (i) are contingent; or

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

14 (2) are based on an event occurring after the date of
15 dissolution.

16 (b) When security not required.--Security is not required
17 for any claim that is or is reasonably anticipated to be barred
18 under section 8687.

19 (c) Notice.--Within 10 days after the filing of an
20 application under subsection (a), the dissolved limited
21 partnership shall give notice of the proceeding to each claimant
22 holding a contingent claim known to the partnership.

23 (d) Guardian ad litem.--In a proceeding brought under this
24 section, the court may appoint a guardian ad litem to represent
25 all claimants whose identities are unknown. The reasonable fees
26 and expenses of the guardian, including all reasonable expert
27 witness fees, must be paid by the dissolved limited partnership.

28 (e) Effect on contingent claims.--A dissolved limited
29 partnership that provides security in the amount and form
30 ordered by the court under subsection (a) satisfies the

1 partnership's obligations with respect to claims that are
2 contingent, have not been made known to the partnership or are
3 based on an event occurring after the date of dissolution. The
4 claims may not be enforced against a partner or transferee on
5 account of assets received in liquidation.

6 § 8689. General partner liability when claim against limited
7 partnership barred.

8 If a claim against a dissolved limited partnership is barred
9 under section 8686 (relating to known claims against dissolved
10 limited partnership), 8687 (relating to other claims against
11 dissolved limited partnership) or 8688 (relating to court
12 proceedings), any corresponding claim under section 8644
13 (relating to general partner's liability) or 8667 (relating to
14 liability of person dissociated as general partner to other
15 persons) is also barred.

16 § 8690. Disposition of assets in winding up and required
17 contributions.

18 (a) Creditors.--In winding up its activities and affairs, a
19 limited partnership shall apply its assets, including the
20 contributions required by this section, to discharge the
21 partnership's obligations to creditors, including partners that
22 are creditors.

23 (b) Surplus.--After a limited partnership complies with
24 subsection (a), any surplus shall be distributed in the
25 following order, subject to any charging order in effect under
26 section 8673 (relating to charging order):

27 (1) to each owner of a transferable interest that
28 reflects contributions made and not previously returned, an
29 amount equal to the value of the unreturned contributions;
30 and

1 (2) among owners of transferable interests in proportion
2 to their respective rights to share in distributions
3 immediately before the dissolution of the partnership.

4 (c) Insufficient assets.--If a limited partnership's assets
5 are insufficient to satisfy all of its obligations under
6 subsection (a), with respect to each unsatisfied obligation
7 incurred when the partnership was not a limited liability
8 limited partnership, the following rules apply:

9 (1) Each person that was a general partner when the
10 obligation was incurred and that has not been released from
11 the obligation under section 8667 (relating to liability of
12 person dissociated as general partner to other persons) shall
13 contribute to the partnership for the purpose of enabling the
14 partnership to satisfy the obligation. The contribution due
15 from each of those persons is in proportion to the right to
16 receive distributions in the capacity of a general partner in
17 effect for each of those persons when the obligation was
18 incurred.

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

29 (3) If a person does not make the additional
30 contribution required by paragraph (2), further additional

1 contributions are determined and due in the same manner as
2 provided in that paragraph.

3 (d) Recovery of additional contributions.--A person that
4 makes an additional contribution under subsection (c)(2) or (3)
5 may recover from any person whose failure to contribute under
6 subsection (c)(1) or (2) necessitated the additional
7 contribution. A person may not recover under this subsection
8 more than the amount additionally contributed. A person's
9 liability under this subsection may not exceed the amount the
10 person failed to contribute.

11 (e) Distribution when surplus insufficient.--If a limited
12 partnership does not have sufficient surplus to comply with
13 subsection (b)(1), any surplus must be distributed among the
14 owners of transferable interests in proportion to the value of
15 the respective unreturned contributions.

16 (f) Form of payment.--All distributions made under
17 subsections (b) and (c) must be paid in money.

18 SUBCHAPTER I

19 ACTIONS BY PARTNERS

20 Sec.

21 8691. Direct action by partner.

22 8692. Derivative action.

23 8693. Proper plaintiff.

24 8694. Pleading.

25 8695. Special litigation committee.

26 8696. Proceeds and expenses.

27 § 8691. Direct action by partner.

28 (a) General rule.--Subject to subsection (b), a partner may
29 maintain a direct action against another partner or the limited
30 partnership, with or without an accounting as to the

1 partnership's activities and affairs, to enforce the partner's
2 rights and protect the partner's interests, including rights and
3 interests under the partnership agreement or this title or
4 arising independently of the partnership relationship.

5 (b) Required injury.--A partner maintaining a direct action
6 under this section must plead and prove an actual or threatened
7 injury that is not solely the result of an injury suffered or
8 threatened to be suffered by the limited partnership.

9 (c) Claims not revived.--A right to an accounting on a
10 dissolution and winding up does not revive a claim barred by
11 law.

12 (d) Cross reference.--See section 8615(c)(17) (relating to
13 contents of partnership agreement).
14 § 8692. Derivative action.

15 (a) General rule.--Subject to subsection (b), a partner may
16 maintain a derivative action to enforce a right of a limited
17 partnership only if:

18 (1) the partner first makes a demand on the general
19 partners, requesting that they cause the partnership to bring
20 an action to enforce the right, unless demand is excused
21 under subsection (b); and

22 (2) both:

23 (i) a special litigation committee is not appointed
24 under section 8695 (relating to special litigation
25 committee); and

26 (ii) the general partners do not bring the action
27 within a reasonable time.

28 (b) Prior demand excused.--

29 (1) A demand under subsection (a)(1) is excused only if
30 the partner makes a specific showing that irreparable harm to

1 the limited partnership would otherwise result.

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

4 (c) Contents of demand.--A demand under this section shall
5 give notice with reasonable specificity of the essential facts
6 relied upon to support each of the claims made in the demand.

7 (d) Additional claims.--If a derivative action is commenced
8 after a demand has been made under this section and includes a
9 claim that was not fairly subsumed under the demand, a new
10 demand must be made with respect to that claim.

11 (e) Statute of limitations.--The making of a demand tolls
12 any applicable statute of limitations with respect to a claim
13 asserted in the demand until the later of the date:

14 (1) the partner making the demand is notified either:

15 (i) that the general partners have decided not to
16 bring an action and not to appoint a special litigation
17 committee; or

18 (ii) of the determination under section 8695(e) of a
19 special litigation committee that has been appointed as
20 provided in section 8695; or

21 (2) the court determines under section 8695(f) either
22 to:

23 (i) enforce the determination of the special
24 litigation committee; or

25 (ii) allow the action to continue under the control
26 of the plaintiff.

27 (f) Cross reference.--See section 8615(c)(17) (relating to
28 contents of partnership agreement).

29 § 8693. Proper plaintiff.

30 (a) General rule.--A derivative action to enforce a right of

1 a limited partnership may be maintained only by a person that is
2 a partner at the time the action is commenced and:

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

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

9 (b) Cross reference.--See section 8615(c)(12) (relating to
10 contents of partnership agreement).

11 § 8694. Pleading.

12 Except where demand is excused under section 8692(b)
13 (relating to derivative action), the complaint in a derivative
14 action must state with particularity the date and content of the
15 plaintiff's demand and the response to the demand by the general
16 partner.

17 § 8695. Special litigation committee.

18 (a) General rule.--If a limited partnership receives a
19 demand to bring an action to enforce a right of the partnership,
20 or if a derivative action is commenced before demand has been
21 made on the partnership, the partnership may appoint a special
22 litigation committee to investigate the claims asserted in the
23 demand or action and to determine on the basis of that
24 investigation whether pursuing any of the claims asserted is in
25 the best interests of the partnership.

26 (b) Discovery stay.--If the partnership appoints a special
27 litigation committee and an action is commenced before the
28 committee has made a determination under subsection (e):

29 (1) On motion by the committee made in the name of the
30 partnership, except for good cause shown, the court shall

1 stay discovery for the time reasonably necessary to permit
2 the committee to make its investigation.

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 action;

9 (2) are capable as a group of objective judgment in the
10 circumstances; and

11 (3) may, but need not, be general or limited partners.

12 (d) Appointment of committee.--A special litigation
13 committee may be appointed:

14 (1) by a majority of the general partners not named as
15 actual or potential parties in the demand or action; or

16 (2) if all general partners are named as actual or
17 potential parties in the demand or action, by a majority of
18 the general partners 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 limited partnership that:

22 (1) an action based on some or all of the claims
23 asserted in the demand not be brought by the partnership but
24 that the partnership 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 partnership;

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 limited partnership 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 partnership shall serve
17 each party with a copy of the determination and report. If
18 the partnership 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 partnership 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

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

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

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

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

13 (g) Cross reference.--See section 8615(c) (18) (relating to
14 contents of partnership agreement).

15 § 8696. Proceeds and expenses.

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

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

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

22 (b) Expenses.--If a derivative action is successful in whole
23 or in part, the court may award the plaintiff reasonable
24 expenses, including reasonable attorney fees and costs, from the
25 recovery of the limited partnership.

26 (c) Cross reference.--See section 8615(c) (13) (relating to
27 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, if a limited partnership, Chapter
2 [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 Creditors
- 2 F. Dissociation
- 3 G. Dissolution and Winding Up
- 4 H. Actions by Members

5 SUBCHAPTER A

6 GENERAL PROVISIONS

7 Sec.

8 8811. Short title and application of chapter.

9 8812. Definitions.

10 8813. Knowledge and notice.

11 8814. Governing law.

12 8815. Contents of operating agreement.

13 8816. Application of operating agreement.

14 8817. Amendment and effect of operating agreement.

15 8818. Characteristics of limited liability company.

16 8819. Powers.

17 § 8811. Short title and application of chapter.

18 (a) Short title.--This chapter may be cited as the
19 Pennsylvania Uniform Limited Liability Company Act of 2015.

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

22 (1) a limited liability company formed on or after [the
23 Legislative Reference Bureau shall insert here the effective
24 date of this chapter]; and

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

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) (relating to approval of conversion), 363(a)(2) (relating

1 to approval of division) or 373(a)(2) (relating to approval
2 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.

30 (11) Eliminate the duty of loyalty provided for in

1 section 8849.1(b)(1)(i) or (ii) or (2) (relating to standards
2 of conduct for members) or the duty of care of a member in a
3 member-managed company, except as provided in subsection (d).

4 (12) Eliminate the duty of loyalty provided for in
5 section 8849.2(b)(1)(i) or (ii) or (2) (relating to standards
6 of conduct for managers) or the duty of care of a manager,
7 except as provided in subsection (d).

8 (13) Vary the contractual obligation of good faith and
9 fair dealing under section 8849.1(d) or 8849.2(d), except as
10 provided in subsection (d).

11 (14) Restrict the duties and rights under section 8850
12 (relating to rights to information), except as provided in
13 subsection (d).

14 (15) Vary the causes of dissolution specified in section
15 8871(a)(4) (relating to events causing dissolution).

16 (16) Vary the requirement to wind up the company's
17 activities and affairs as specified in section 8872(a), (b)
18 (1), and (e) (relating to winding up and filing of optional
19 certificates).

20 (17) Unreasonably restrict the right of a member to
21 maintain an action under Subchapter H (relating to actions by
22 members).

23 (18) Vary the provisions of section 8885 (relating to
24 special litigation committee), except that the operating
25 agreement may provide that the company may not have a special
26 litigation committee.

27 (19) Except as provided in section 8817(b) (relating to
28 amendment and effect of operating agreement), restrict the
29 rights under this title of a person other than a member or
30 manager.

1 (d) Permitted terms.--Subject to subsection (c)(10), the
2 following rules apply:

3 (1) The operating agreement may:

4 (i) specify the method by which a specific act or
5 transaction that would otherwise violate the duty of
6 loyalty may be authorized or ratified by one or more
7 disinterested and independent persons after full
8 disclosure of all material facts;

9 (ii) alter the prohibition stated in section 8845(a)
10 (2) (relating to limitations on distributions) so that
11 the prohibition requires only that the company's total
12 assets not be less than the sum of its total liabilities;

13 and

14 (iii) impose reasonable restrictions on the
15 availability and use of information obtained under
16 section 8850 and may define appropriate remedies,
17 including liquidated damages, for a breach of any
18 reasonable restriction on use.

19 (2) To the extent the operating agreement of a member-
20 managed limited liability company expressly relieves a member
21 of a responsibility that the member would otherwise have
22 under this title and imposes the responsibility on one or
23 more other members, the operating agreement also may
24 eliminate or limit any fiduciary duty of the member relieved
25 of the responsibility that would have pertained to the
26 responsibility.

27 (3) If not manifestly unreasonable, the operating
28 agreement may:

29 (i) alter the aspects of the duty of loyalty stated
30 under section 8849.1(b)(1)(i) or (ii) or (2) or 8849.2(b)

1 (1) (i) or (ii) or (2);

2 (ii) prescribe the standards, if not manifestly
3 unreasonable, by which the performance of the contractual
4 obligation of good faith and fair dealing under section
5 8849.1(d) or 8849.2(d) is to be measured;

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

8 (iv) alter the duty of care; and

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

10 (e) Determination of manifest unreasonableness.--The court
11 shall decide as a matter of law whether a term of an operating
12 agreement is manifestly unreasonable under subsection (d) (3).

13 The court:

14 (1) shall make its determination as of the time the
15 challenged term became part of the operating agreement and by
16 considering only circumstances existing at that time; and

17 (2) may invalidate the term only if, in light of the
18 purposes, activities and affairs of the limited liability
19 company, it is readily apparent that:

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

21 (ii) the term is an unreasonable means to achieve
22 the term's objective.

23 § 8816. Application of operating agreement.

24 (a) Company bound.--A limited liability company is bound by
25 and may enforce the operating agreement, whether or not the
26 company has itself manifested assent to the agreement.

27 (b) Deemed assent.--A person that becomes a member of a
28 limited liability company is deemed to assent to the operating
29 agreement.

30 (c) Preformation agreement.--Two or more persons intending

1 to become the initial members of a limited liability company may
2 make an agreement providing that upon the formation of the
3 company the agreement will become the operating agreement. One
4 person intending to become the initial member of a limited
5 liability company may assent to terms providing that upon the
6 formation of the company the terms will become the operating
7 agreement.

8 § 8817. Amendment and effect of operating agreement.

9 (a) Approval of amendments.--An operating agreement may
10 specify that its amendment requires the approval of a person
11 that is not a party to the agreement or the satisfaction of a
12 condition. An amendment is ineffective if its adoption does not
13 include the required approval or satisfy the specified
14 condition. See section 8847(b)(6) and (c)(3)(iii) (relating to
15 management of limited liability company).

16 (b) Obligations to nonmembers.--The obligations of a limited
17 liability company and its members to a person in the person's
18 capacity as a transferee or a person dissociated as a member are
19 governed by the operating agreement. Except as provided in
20 section 8844(d) (relating to sharing of and right to
21 distributions before dissolution) or in a court order issued
22 under section 8853(b)(2) (relating to charging order) to
23 effectuate a charging order, an amendment to the operating
24 agreement made after a person becomes a transferee or is
25 dissociated as a member:

26 (1) is effective with regard to any debt, obligation or
27 other liability of the limited liability company or its
28 members to the person in the person's capacity as a
29 transferee or person dissociated as a member; 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 member.

3 (c) Provisions in filed documents.--If a document delivered
4 by a limited liability company to the department for filing
5 contains a provision that would be ineffective under section
6 8815(c) or (d) (3) (relating to contents of operating agreement)
7 if contained in the operating agreement, the provision is
8 ineffective in the document.

9 (d) Conflicts with operating agreement.--Subject to
10 subsection (c):

11 (1) If a provision of the certificate of organization
12 conflicts with a provision of the operating agreement, the
13 provision of the certificate prevails.

14 (2) If a document other than its certificate of
15 organization has been delivered by the company to the
16 department for filing and conflicts with a provision of the
17 operating agreement:

18 (i) the operating agreement prevails as to members,
19 dissociated members, transferees and managers; 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 an
23 operating agreement in record form provides that the operating
24 agreement cannot be amended, modified or rescinded except in
25 record form, an oral agreement, amendment, modification or
26 rescission shall not be enforceable.

27 § 8818. Characteristics of limited liability company.

28 (a) Separate entity.--A limited liability company is an
29 entity distinct from its member or members.

30 (b) Purpose.--A limited liability company may have any

1 lawful purpose, regardless of whether the purpose is for profit.
2 Nothing under this section shall prohibit the organization of an
3 insurance agency licensed in this Commonwealth as a limited
4 liability company. See section 8102 (relating to
5 interchangeability of partnership, limited liability company and
6 corporate forms of organization).

7 (c) Duration.--A limited liability company has perpetual
8 duration.

9 (d) Restrictions on nonprofit companies.--If a limited
10 liability company has a purpose that is not for profit:

11 (1) Its purpose must be stated in the certificate of
12 organization.

13 (2) The company shall not distribute any part of its
14 income or profits to its members, managers or officers,
15 except that it may pay compensation in a reasonable amount to
16 those persons for services rendered.

17 (3) The company may confer benefits on members or
18 nonmembers in conformity with its purposes, may repay capital
19 contributions and may redeem evidences of indebtedness,
20 except when the company is currently insolvent or would
21 thereby be made insolvent or rendered unable to carry on its
22 purposes, or when the fair value of the assets of the company
23 remaining after the conferring of benefits, payment or
24 redemption would be insufficient to meet its liabilities. The
25 company may make distributions of money or property to
26 members upon dissolution or final liquidation as permitted by
27 this chapter.

28 (4) If the company is organized for a charitable purpose
29 or purposes, it may take, receive and hold real and personal
30 property as may be given, devised to or otherwise vested in

1 the company, in trust, for the purpose or purposes set forth
2 in its certificate of organization. The members, if it is
3 member-managed, or the managers, if it is manager-managed,
4 shall, as trustees of the property, be held to the same
5 degree of responsibility and accountability as other
6 trustees, unless:

7 (i) a lesser degree or a particular degree of
8 responsibility and accountability is prescribed in the
9 trust instrument;

10 (ii) if the company is member-managed, the members
11 remain under the control of third persons who retain the
12 right to direct, and do direct, the actions of the
13 members as to the use of the trust property from time to
14 time; or

15 (iii) if the company is manager-managed, the
16 managers remain under the control of the members or third
17 persons who retain the right to direct, and do direct,
18 the actions of the managers as to the use of the trust
19 property from time to time.

20 (5) Property of the company committed to charitable
21 purposes shall not, by any proceeding under Chapter 3
22 (relating to entity transactions) or otherwise, be diverted
23 from the objects to which it was donated, granted or devised,
24 unless and until the company obtains from the court an order
25 under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying the
26 disposition of the property.

27 (e) Cross reference.--See section 8815(c)(7) (relating to
28 contents of operating agreement).

29 § 8819. Powers.

30 (a) General rule.--A limited liability company has the power

1 to do all things necessary or convenient to carry on its
2 activities and affairs.

3 (b) Capacity to sue and be sued.--A limited liability
4 company has the capacity to sue and be sued in its own name.

5 (c) Certain specifically authorized debt terms.--A limited
6 liability company shall be subject to section 1510 (relating to
7 certain specifically authorized debt terms) to the same extent
8 as if it were a business corporation.

9 (d) Cross references.--See sections 8102 (relating to
10 interchangeability of partnership, limited liability company and
11 corporate forms of organization) and 8815(c)(8) (relating to
12 contents of operating agreement).

13 SUBCHAPTER B

14 FORMATION AND FILINGS

15 Sec.

16 8821. Formation of limited liability company and certificate of
17 organization.

18 8822. Amendment or restatement of certificate of organization.

19 8823. Signing of filed documents.

20 8824. Liability of member, manager or other person for false or
21 missing information in filed document.

22 8825. Registered office.

23 § 8821. Formation of limited liability company and certificate
24 of organization.

25 (a) Formation.--One or more persons may act as organizers to
26 form a limited liability company by delivering to the department
27 for filing a certificate of organization.

28 (b) Required contents of certificate.--A certificate of
29 organization must state:

30 (1) the name of the limited liability company, which

1 must comply with Subchapter A of Chapter 2 (relating to
2 names); and

3 (2) subject to section 109 (relating to name of
4 commercial registered office provider in lieu of registered
5 address), the address, including street and number, if any,
6 of the company's registered office.

7 (c) Optional contents of certificate.--A certificate of
8 organization may contain statements as to matters other than
9 those required by subsection (b), but may not vary or otherwise
10 affect the provisions specified under section 8815(c) and (d)
11 (relating to contents of operating agreement) in a manner
12 inconsistent with that section.

13 (d) Substitute certificate of authority.--A statement in a
14 certificate of organization with respect to a matter described
15 in section 8832(a)(2) or (3) (relating to certificate of
16 authority) is effective as a certificate of authority and the
17 statement is subject to the provisions of section 8832 in the
18 same manner as a certificate of authority.

19 (e) Effect of certificate of organization.--A provision of
20 the certificate of organization shall be deemed to be a
21 provision of the operating agreement for purposes of any
22 provision of this title that refers to a rule as set forth in
23 the operating agreement.

24 (f) Time of formation.--A limited liability company is
25 formed when its certificate of organization becomes effective.

26 (g) Cross references.--See:

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 8818(d)(1) (relating to characteristics of
3 limited liability company).

4 Section 8823 (relating to signing of filed documents).

5 § 8822. Amendment or restatement of certificate of
6 organization.

7 (a) General rule.--A certificate of organization may be
8 amended or restated at any time.

9 (b) Required contents of certificate of amendment.--To amend
10 its certificate of organization, a limited liability company
11 must deliver to the department for filing a certificate of
12 amendment that states:

13 (1) the name of the company;

14 (2) the date of filing of its initial certificate of
15 organization;

16 (3) subject to section 109 (relating to name of
17 commercial registered office provider in lieu of registered
18 address), the address, including street and number, if any,
19 of its registered office; and

20 (4) the amendment.

21 (c) Restatement.--To restate its certificate of
22 organization, a limited liability company must deliver to the
23 department for filing a certificate of amendment that:

24 (1) is designated as a restatement; and

25 (2) includes a statement that the restated certificate
26 supersedes the original certificate and all previous
27 amendments.

28 (d) Obligation to correct.--If a member of a member-managed
29 limited liability company, or a manager of a manager-managed
30 limited liability company, knows that any information in a filed

1 certificate of organization is inaccurate, the member or manager
2 shall promptly:

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

4 (2) if appropriate, deliver to the department for filing
5 a statement of correction under section 138 (relating to
6 statement of correction) or a statement of abandonment under
7 section 141 (relating to abandonment of filing before
8 effectiveness).

9 (e) 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 8823 (relating to signing of filed documents).

16 § 8823. Signing of filed documents.

17 (a) Required signatures.--A document delivered to the
18 department for filing under this title relating to a limited
19 liability company must be signed as follows:

20 (1) Except as provided in paragraphs (2) and (3), a
21 document signed on behalf of a limited liability company must
22 be signed by a person authorized by the company.

23 (2) A company's initial certificate of organization must
24 be signed by each organizer.

25 (3) A document delivered on behalf of a dissolved
26 company that has no member must be signed by the person
27 winding up the company's activities and affairs under section
28 8872(c) (relating to winding up and filing of optional
29 certificates) or a person appointed under section 8872(d) to
30 wind up the activities and affairs.

1 (4) A certificate of denial by a person under section
2 8833 (relating to certificate of denial) must be signed by
3 that person.

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

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

8 § 8824. Liability of member, manager or other person for false
9 or missing information in filed document.

10 (a) General rule.--If a document delivered to the department
11 for filing under this title and filed by the department contains
12 a materially false statement or fails to state a material fact
13 required to be stated, a person that suffers loss by reasonable
14 reliance on the statement or failure to state a material fact
15 may recover damages for the loss from:

16 (1) a person that signed the document or caused another
17 to sign it on the person's behalf and knew there was false or
18 missing information in the document at the time it was
19 signed; and

20 (2) subject to subsection (b), a member of a member-
21 managed limited liability company or a manager of a manager-
22 managed limited liability company if:

23 (i) the document was delivered for filing on behalf
24 of the company; and

25 (ii) the member or manager knew or had notice there
26 was false or missing information for a reasonably
27 sufficient time before the document was relied upon so
28 that, before the reliance, the member or manager
29 reasonably could have:

30 (A) effected an amendment under section 8822

1 (relating to amendment or restatement of certificate
2 of organization);

3 (B) filed a petition under section 144 (relating
4 to signing and filing pursuant to judicial order); or

5 (C) delivered to the department for filing a
6 statement of correction under section 138 (relating
7 to statement of correction) or a statement of
8 withdrawal under section 141 (relating to abandonment
9 of filing before effectiveness).

10 (b) Substitute responsibility.--To the extent the operating
11 agreement of a member-managed limited liability company
12 expressly relieves a member of responsibility for maintaining
13 the accuracy of information contained in documents delivered on
14 behalf of the company to the department for filing under this
15 chapter and imposes that responsibility on one or more other
16 members, the liability stated under subsection (a)(2) applies to
17 those other members and not to the member that the operating
18 agreement relieves of the responsibility.

19 § 8825. Registered office.

20 (a) General rule.--Every limited liability company shall
21 have and continuously maintain in this Commonwealth a registered
22 office which may, but need not, be the same as its place of
23 business.

24 (b) Change of registered office.--After organization, a
25 change in the location of the registered office may be effected
26 at any time by the company. Before the change becomes effective,
27 the company shall amend its certificate of organization under
28 the provisions of this chapter to reflect the change in location
29 or shall file with the department a certificate of change of
30 registered office setting forth:

1 (1) The name of the company.

2 (2) The address, including street and number, if any, of
3 its then registered office.

4 (3) The address, including street and number, if any, to
5 which the registered office is to be changed.

6 (c) Alternative procedure.--A limited liability company may
7 satisfy the requirements of this chapter concerning the
8 maintenance of a registered office in this Commonwealth by
9 setting forth in any document filed in the department under any
10 provision of this chapter that permits or requires the statement
11 of the address of its then registered office, in lieu of that
12 address, the statement authorized under section 109(a) (relating
13 to name of commercial registered office provider in lieu of
14 registered address).

15 (d) Cross references.--See:

16 Section 108 (relating to change in location or status of
17 registered office provided by agent).

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 8815(c)(7) (relating to contents of operating
24 agreement).

25 Section 8823 (relating to signing of filed documents).

26 SUBCHAPTER C

27 RELATIONS OF MEMBERS AND MANAGERS

28 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

29 Sec.

30 8831. Status of member or manager as agent.

1 8832. Certificate of authority.

2 8833. Certificate of denial.

3 8834. Liability of members and managers.

4 8835. Taxation of limited liability companies.

5 § 8831. Status of member or manager as agent.

6 (a) No agency power of member as member.--A member is not an
7 agent of a limited liability company solely by reason of being a
8 member.

9 (b) Agency power of manager.--If the certificate of
10 organization states that the company is manager-managed, the act
11 of a manager for apparently carrying on in the usual way the
12 business of the company binds the company unless the manager so
13 acting has in fact no authority to act for the company in the
14 particular matter and the person with whom the manager is
15 dealing has knowledge of the fact that the manager does not have
16 that authority.

17 (c) Liability of company under other law.--A person's status
18 as a member or manager does not prevent or restrict law other
19 than this chapter from imposing liability on a limited liability
20 company because of the person's conduct.

21 § 8832. Certificate of authority.

22 (a) General rule.--A limited liability company may deliver
23 to the department for filing a certificate of authority signed
24 by the company. The certificate:

25 (1) must include the name of the company and, subject to
26 section 109 (relating to name of commercial registered office
27 provider in lieu of registered address), the address,
28 including street and number, if any, of its registered
29 office;

30 (2) with respect to any position that exists in or with

1 respect to the company, may state the authority, or
2 limitations on the authority, of all persons holding the
3 position to:

4 (i) transfer real property held in the name of the
5 company, including signing an instrument of transfer; or

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

8 (3) may state the authority, or limitations on the
9 authority, of a specific person 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.

14 (b) Amendment or cancellation.--To amend or cancel a
15 certificate of authority filed by the department, a limited
16 liability company must deliver to the department for filing an
17 amendment or cancellation that states:

18 (1) the name of the company;

19 (2) subject to section 109, the address, including
20 street and number, if any, of the company's registered
21 office;

22 (3) the date the certificate being affected became
23 effective; and

24 (4) the contents of the amendment or a statement that
25 the certificate is canceled.

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

27 (1) supersedes any inconsistent provision of the
28 certificate of organization in effect at the time the
29 certificate of authority becomes effective;

30 (2) affects only the power of a person to bind a limited

1 liability company with respect to persons that are not
2 members; and

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

5 (d) Certificate not evidence of knowledge or notice.--Except
6 as provided in subsections (e), (f), (g) and (h), a limitation
7 on the authority of a person or a position contained in an
8 effective certificate of authority is not by itself evidence of
9 knowledge or notice of the limitation by any person.

10 (e) Authority not pertaining to real property.--A grant of
11 authority not pertaining to transfers of real property and
12 contained in an effective certificate of authority is conclusive
13 in favor of a person that gives value in reliance on the grant,
14 except to the extent that when the person gives value:

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

16 (2) the certificate has been canceled or restrictively
17 amended under subsection (b); or

18 (3) a limitation on the grant is contained in another
19 certificate of authority that became effective after the
20 certificate containing the grant became effective.

21 (f) Authority to transfer real property.--An effective
22 certificate of authority or certificate of organization that
23 grants authority to transfer real property held in the name of a
24 limited liability company, a certified copy of which certificate
25 is recorded in the office of the recorder of deeds for the
26 county in which the property is located, is conclusive in favor
27 of a person that gives value in reliance on the grant without
28 knowledge to the contrary, except to the extent that when the
29 person gives value:

30 (1) the certificate has been canceled or restrictively

1 amended under subsection (b), and a certified copy of the
2 cancellation or restrictive amendment has been recorded in
3 the office of the recorder of deeds; or

4 (2) a limitation on the grant is contained in another
5 certificate of authority that became effective after the
6 certificate containing the grant became effective, and a
7 certified copy of the later-effective certificate is recorded
8 in the office of the recorder of deeds.

9 (g) Effect of recorded certificate.--If a certified copy of
10 an effective certificate containing a limitation on the
11 authority to transfer real property held in the name of a
12 limited liability company is recorded in the office of the
13 recorder of deeds for the county in which the real property is
14 located, all persons are deemed to know of the limitation.

15 (h) Effect of dissolution or termination of company.--An
16 effective certificate of dissolution does not cancel a filed
17 certificate of authority for the purposes of subsection (f) and
18 is a limitation on authority for the purposes of subsection
19 (g). An effective certificate of termination cancels a filed
20 certificate of authority.

21 (i) Automatic cancellation.--Unless earlier canceled, an
22 effective certificate of authority that names an individual as
23 having authority is canceled by operation of law five years
24 after the date on which the certificate, or its most recent
25 amendment, becomes effective. The cancellation operates without
26 need for any recording under subsection (f) or (g).

27 (j) Effect of certificate of denial.--An effective
28 certificate of denial:

29 (1) operates as a restrictive amendment under this
30 section and a certified copy may be recorded as provided in

1 subsection (f)(1) by the limited liability company or the
2 person that delivered the certificate of denial to the
3 department for filing;

4 (2) affects only the authority of a person to bind the
5 company with respect to persons that are not members; and

6 (3) supersedes any inconsistent provision of the
7 certificate of organization in effect at the time the
8 certificate of denial becomes effective.

9 (k) Foreign companies.--A foreign limited liability company
10 may deliver a certificate of authority to the department for
11 filing and may record a copy as provided in this section in the
12 same manner and with the same effect as if it were a domestic
13 company and regardless of whether the foreign company is
14 registered to do business in this Commonwealth under Chapter 4
15 (relating to foreign associations).

16 (l) 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 8823 (relating to signing of filed documents).

23 § 8833. Certificate of denial.

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

27 (1) states:

28 (i) the name of the limited liability company;

29 (ii) subject to section 109 (relating to name of
30 commercial registered office provider in lieu of

1 registered address), the address, including street and
2 number, if any, of the registered office of the company;
3 and

4 (iii) the date the certificate of authority to which
5 the certificate of denial pertains was filed; and

6 (2) denies the grant of authority.

7 (b) Cross references.--See:

8 Section 134 (relating to docketing statement).

9 Section 135 (relating to requirements to be met by filed
10 documents).

11 Section 136(c) (relating to processing of documents by
12 Department of State).

13 Section 8823 (relating to signing of filed documents).

14 Section 8832(j) (relating to certificate of authority).

15 § 8834. Liability of members and managers.

16 (a) General rule.--A debt, obligation or other liability of
17 a limited liability company is solely the debt, obligation or
18 other liability of the company. A member or manager is not
19 personally liable, directly or indirectly, by way of
20 contribution or otherwise, for a debt, obligation or other
21 liability of the company solely by reason of being or acting as
22 a member or manager. This subsection applies regardless of the
23 dissolution, winding up or termination of the company.

24 (b) Professional relationship unaffected.--Subsection (a)
25 shall not afford members of a professional company with greater
26 immunity than is available to the officers, shareholders,
27 employees or agents of a professional corporation. See section
28 2925 (relating to professional relationship retained).

29 (c) Disciplinary jurisdiction unaffected.--A professional
30 company shall be subject to the applicable rules and regulations

1 adopted by, and all the disciplinary powers of, the court,
2 department, board, commission or other government unit
3 regulating the profession in which the company is engaged. The
4 court, department, board or other government unit may require
5 that a company include in its certificate of organization or
6 operating agreement provisions that conform to any rule or
7 regulation promulgated before, on or after the effective date of
8 this section for the purpose of enforcing the ethics of a
9 profession. This chapter shall not affect or impair the
10 disciplinary powers of the court, department, board, commission
11 or other government unit over licensed persons or any law, rule
12 or regulation pertaining to the standards for professional
13 conduct of licensed persons or to the professional relationship
14 between any licensed person rendering professional services and
15 the person receiving professional services.

16 (d) Rendering professional services.--

17 (1) Except as provided by a statute, rule or regulation
18 applicable to a particular profession, a professional company
19 may lawfully render professional services only through
20 licensed persons. The company may employ persons not so
21 licensed except that those persons shall not render any
22 professional services rendered or to be rendered by it.

23 (2) Paragraph (1) shall not be interpreted to preclude
24 the use of clerks, secretaries, nurses, administrators,
25 bookkeepers, technicians and other assistants or
26 paraprofessionals who are not usually and ordinarily
27 considered by law, custom and practice to be rendering the
28 professional service or services for which the professional
29 company was organized nor to preclude the use of any other
30 person who performs all of the person's employment under the

1 direct supervision and control of a licensed person. A person
2 shall not under the guise of employment render professional
3 services unless duly licensed or admitted to practice as
4 required by law.

5 (3) Notwithstanding any other provision of law, a
6 professional company may charge for the professional services
7 rendered by it, may collect those charges and may compensate
8 those who render the professional services.

9 (e) Medical professional liability.--A professional company
10 shall be deemed to be a partnership for purposes of section 744
11 of the act of March 20, 2002 (P.L.154, No.13), known as the
12 Medical Care Availability and Reduction of Error (Mcare) Act.

13 (f) Cross reference.--See section 8105 (relating to
14 ownership of certain professional partnerships).
15 § 8835. Taxation of limited liability companies.

16 (a) General rule.--For the purposes of the imposition by the
17 Commonwealth of any tax or license fee on or with respect to any
18 income, property, privilege, transaction, subject or occupation,
19 other than the corporate net income tax, capital stock and
20 foreign franchise tax and personal income tax, a domestic or
21 foreign limited liability company shall be deemed to be a
22 corporation organized and existing under Part II (relating to
23 corporations), and a member of the company, as such, shall be
24 deemed to be a shareholder of a corporation.

25 (b) Financial institutions.--For purposes of the bank shares
26 tax and the mutual thrift institutions tax, a bank, bank and
27 trust company, trust company, savings bank, building and loan
28 association, savings and loan association or savings institution
29 that is a domestic or foreign limited liability company shall be
30 considered an "institution" as defined by Article VII or Article

1 XV of the Tax Reform Code of 1971.

2 (c) Political subdivisions.--Nothing in this section shall
3 impair or preempt the ability of a political subdivision to
4 levy, assess or collect any applicable taxes or license fees
5 authorized under the act of December 31, 1965 (P.L.1257,
6 No.511), known as The Local Tax Enabling Act, on any limited
7 liability company.

8 SUBCHAPTER D

9 RELATIONS OF MEMBERS TO EACH OTHER

10 AND TO LIMITED LIABILITY COMPANY

11 Sec.

12 8841. Becoming a member.

13 8842. Form of contribution.

14 8843. Liability for contributions.

15 8844. Sharing of and right to distributions before dissolution.

16 8845. Limitations on distributions.

17 8846. Liability for improper distributions.

18 8847. Management of limited liability company.

19 8848. Reimbursement, indemnification, advancement and
20 insurance.

21 8849. (Reserved).

22 8849.1. Standards of conduct for members.

23 8849.2. Standards of conduct for managers.

24 8850. Rights to information.

25 § 8841. Becoming a member.

26 (a) Single initial member.--If a limited liability company
27 is initially to have only one member, the person becomes a
28 member as agreed by that person and the organizer of the
29 company. That person and the organizer may be, but need not be,
30 different persons. If the initial member and the organizer are

1 different persons, the organizer acts on behalf of the initial
2 member.

3 (b) Multiple initial members.--If a limited liability
4 company is initially to have more than one member, those persons
5 become members as agreed by those persons and the organizer
6 before the formation of the company. The organizer acts on
7 behalf of the persons in forming the company and may be, but
8 need not be, one of the persons.

9 (c) Powers and authority of organizer.--Until a limited
10 liability company has its first member, the organizer is deemed
11 to be a manager of the company.

12 (d) Admission after formation.--After formation of a limited
13 liability company, a person becomes a member:

14 (1) by action of the organizer if the company does not
15 have any members;

16 (2) as provided in the operating agreement;

17 (3) as the result of a transaction effective under
18 Chapter 3 (relating to entity transactions);

19 (4) with the affirmative vote or consent of all the
20 members; or

21 (5) as provided in section 8871(a)(3) (relating to
22 events causing dissolution).

23 (e) Noneconomic members.--A person may become a member
24 without:

25 (1) acquiring a transferable interest; or

26 (2) making or being obligated to make a contribution to
27 the limited liability company.

28 (f) Nature of interest.--The interest of a member in a
29 limited liability company is personal property.

30 § 8842. Form of contribution.

1 A contribution may consist of:

2 (1) property transferred to, services performed for or
3 another benefit provided to the limited liability company;

4 (2) an agreement to transfer property to, perform
5 services for or provide another benefit to the company; or

6 (3) any combination of items listed in paragraphs (1)
7 and (2).

8 § 8843. Liability for contributions.

9 (a) Obligation not excused.--A person's obligation to make a
10 contribution to a limited liability company is not excused by
11 the person's death, disability, termination or other inability
12 to perform personally.

13 (b) Substitute payment.--If a person does not fulfill an
14 obligation to make a contribution other than money, the person
15 is obligated at the option of the limited liability company to
16 contribute money equal to the value, as stated in the records of
17 the company, of the part of the contribution which has not been
18 made.

19 (c) Compromise of obligation.--The obligation of a person to
20 make a contribution may be compromised only by the affirmative
21 vote or consent of all the members. If a creditor of a limited
22 liability company extends credit or otherwise acts in reliance
23 on an obligation described under subsection (a) without
24 knowledge or notice of a compromise under this subsection, the
25 creditor may enforce the obligation.

26 § 8844. Sharing of and right to distributions before
27 dissolution.

28 (a) General rule.--Any distribution made by a limited
29 liability company before its dissolution and winding up shall be
30 in equal shares among members and persons dissociated as

1 members, except to the extent necessary to comply with a
2 transfer effective under section 8852 (relating to transfer of
3 transferable interest) or charging order in effect under section
4 8853 (relating to charging order).

5 (b) No entitlement to distribution.--Except as provided
6 under subsection (e), a person has a right to a distribution
7 before the dissolution and winding up of a limited liability
8 company only if the company decides to make an interim
9 distribution.

10 (c) Distribution in kind.--A person does not have a right to
11 demand or receive a distribution from a limited liability
12 company in any form other than money. Except as provided in
13 section 8877(d) (relating to disposition of assets in winding
14 up), a limited liability company may distribute an asset in kind
15 only if each part of the asset is fungible with each other part
16 and each person receives a percentage of the asset equal in
17 value to the person's share of distributions.

18 (d) Status as creditor.--If a member or transferee becomes
19 entitled to receive a distribution, the member or transferee has
20 the status of, and is entitled to all remedies available to, a
21 creditor of the limited liability company with respect to the
22 distribution, except that the company's obligation to make a
23 distribution is subject to offset for any amount owed to the
24 company by the member or transferee on whose account the
25 distribution is made.

26 (e) Distribution upon an event of dissociation.--Upon the
27 effectiveness of a transaction under Chapter 3 (relating to
28 entity transactions) or an amendment of the certificate of
29 organization or operating agreement that results in either case
30 in an event of dissociation but does not result in the

1 dissolution of the limited liability company, the dissociating
2 member may elect in record form to receive in lieu of the
3 property that the person would be entitled to receive pursuant
4 to the terms of the transaction or amendment:

5 (1) any distribution to which the member is entitled
6 under the operating agreement on the terms provided in the
7 operating agreement; and

8 (2) within a reasonable time after dissociation, the
9 fair value of the interest of the member in the company as of
10 the date of dissociation based upon the right of the member
11 to share in distributions from the company.

12 § 8845. Limitations on distributions.

13 (a) General rule.--A limited liability company may not make
14 a distribution, including a distribution under section 8877
15 (relating to disposition of assets in winding up), if after the
16 distribution:

17 (1) the company would not be able to pay its debts as
18 they become due in the ordinary course of the company's
19 activities and affairs; or

20 (2) the company's total assets would be less than the
21 sum of its total liabilities plus the amount that would be
22 needed, if the company were to be dissolved and wound up at
23 the time of the distribution, to satisfy the preferential
24 rights upon dissolution and winding up of members and
25 transferees whose preferential rights are superior to the
26 rights of persons receiving the distribution.

27 (b) Valuation.--A limited liability company may base a
28 determination that a distribution is not prohibited under
29 subsection (a) (2) on:

30 (1) the book values of the assets and liabilities of the

1 company, as reflected on its books and records;

2 (2) a valuation that takes into consideration unrealized
3 appreciation and depreciation or other changes in value of
4 the assets and liabilities of the company;

5 (3) the current value of the assets and liabilities of
6 the company, either valued separately or valued in segments
7 or as an entirety as a going concern; or

8 (4) any other method that is reasonable in the
9 circumstances.

10 (c) Excluded liabilities.--In determining whether a
11 distribution is prohibited under subsection (a) (2), the company
12 need not consider obligations and liabilities unless they are
13 required to be reflected on a balance sheet, not including the
14 notes to the balance sheet, prepared on the basis of generally
15 accepted accounting principles, or such other accounting
16 practices and principles as are used generally by the company in
17 the maintenance of its books and records and as are reasonable
18 in the circumstances.

19 (d) Measuring date of distribution.--Except as provided in
20 subsection (e), the effect of a distribution under subsection
21 (a) is measured:

22 (1) as of the date specified by the company when it
23 authorizes the distribution if the distribution occurs within
24 125 days of the earlier of the date so specified or the date
25 of authorization; or

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

27 (e) Date of redemption.--In the case of a distribution
28 described under paragraph (1) of the definition of
29 "distribution" in section 8812 (relating to definitions), the
30 distribution is deemed to occur as of the earlier of the date

1 money or other property is transferred or debt is incurred by
2 the company or the date the person entitled to the distribution
3 ceases to own the interest or right being acquired by the
4 company in return for the distribution.

5 (f) Status of distribution debt.--The indebtedness of a
6 limited liability company to a member or transferee incurred by
7 reason of a distribution made in accordance with this section
8 shall be at least on a parity with the company's indebtedness to
9 its general, unsecured creditors, except to the extent
10 subordinated by agreement.

11 (g) Certain subordinated debt.--The indebtedness of a
12 limited liability company, including indebtedness issued as a
13 distribution, is not a liability for purposes of subsection (a)
14 if the terms of the indebtedness provide that payment of
15 principal and interest is made only if and to the extent that
16 payment of a distribution could then be made under this
17 section. If the indebtedness is issued as a distribution, each
18 payment of principal or interest is treated as a distribution,
19 the effect of which is measured on the date the payment is made.

20 (h) Distributions in winding up.--In measuring the effect of
21 a distribution under section 8877, the liabilities of a
22 dissolved limited liability company do not include any claim
23 that has been barred under section 8874 (relating to known
24 claims against dissolved limited liability company) or 8875
25 (relating to other claims against dissolved limited liability
26 company), or for which security has been provided under section
27 8876 (relating to court proceedings).

28 (i) Cross references.--See:

29 Section 8815(d)(1)(ii) (relating to contents of operating
30 agreement).

1 Section 8849.1 (relating to standards of conduct for
2 members).

3 Section 8849.2 (relating to standards of conduct for
4 managers).

5 § 8846. Liability for improper distributions.

6 (a) General rule.--Except as provided in subsection (b), if
7 a member of a member-managed limited liability company or
8 manager of a manager-managed limited liability company consents
9 to a distribution made in violation of section 8845 (relating to
10 limitations on distributions) and in consenting to the
11 distribution fails to comply with section 8849.1 (relating to
12 standards of conduct for members) or 8849.2 (relating to
13 standards of conduct for managers), the member or manager is
14 personally liable to the company for the amount of the
15 distribution which exceeds the amount that could have been
16 distributed without the violation of section 8845.

17 (b) Members without authority.--To the extent the operating
18 agreement of a member-managed limited liability company relieves
19 a member of the authority and responsibility to consent to
20 distributions and imposes that authority and responsibility on
21 one or more other members, the liability stated in subsection
22 (a) applies to the other members and not the member that the
23 operating agreement relieves of authority and responsibility.

24 (c) Recipients.--A person that receives a distribution
25 knowing that the distribution violated section 8845 is
26 personally liable to the limited liability company but only to
27 the extent that the distribution received by the person exceeded
28 the amount that could have been properly paid under section
29 8845.

30 (d) Contribution.--A person against which an action is

1 commenced because the person is liable under subsection (a) may:

2 (1) join any other person that is liable under
3 subsection (a) or otherwise seek to enforce a right of
4 contribution from the person; and

5 (2) join any person that is liable under subsection (c)
6 or otherwise seek to enforce a right of contribution from the
7 person in the amount the person is liable for under
8 subsection (c).

9 (e) Statute of repose.--An action under this section is
10 barred unless commenced within two years after the distribution.

11 § 8847. Management of limited liability company.

12 (a) Determination of management of company.--A limited
13 liability company is a member-managed limited liability company
14 unless the operating agreement:

15 (1) expressly provides that:

16 (i) the company is or will be manager-managed;

17 (ii) the company is or will be managed by managers;

18 or

19 (iii) management of the company is or will be vested
20 in managers; or

21 (2) includes words of similar import.

22 (b) Member-managed company.--In a member-managed limited
23 liability company, the following rules apply:

24 (1) Except as expressly provided in this title, the
25 management and conduct of the company are vested in the
26 members.

27 (2) Each member has equal rights in the management and
28 conduct of the company's activities and affairs.

29 (3) A difference arising among members as to a matter in
30 the ordinary course of the activities and affairs of the

1 company may be decided by a majority of the members.

2 (4) Except as provided under section 325 (relating to
3 approval by limited liability company) with respect to a
4 transaction under Chapter 3 (relating to entity
5 transactions), an act outside the ordinary course of the
6 activities and affairs of the company may be undertaken only
7 with the affirmative vote or consent of all members.

8 (5) Except as provided under section 8822(d) (relating
9 to amendment or restatement of certificate of organization),
10 the certificate of organization may be amended only with the
11 affirmative vote or consent of all members.

12 (6) The operating agreement may be amended only with the
13 affirmative vote or consent of all members.

14 (c) Manager-managed company.--In a manager-managed limited
15 liability company, the following rules apply:

16 (1) Except as expressly provided in this title, any
17 matter relating to the activities and affairs of the company
18 is decided exclusively by the manager, or, if there is more
19 than one manager, by a majority of the managers.

20 (2) Each manager has equal rights in the management and
21 conduct of the company's activities and affairs.

22 (3) The affirmative vote or consent of all members is
23 required:

24 (i) except as provided under section 325 with
25 respect to a transaction under Chapter 3, to undertake
26 any act outside the ordinary course of the company's
27 activities and affairs;

28 (ii) except as provided under section 8822(d), to
29 amend the certificate of organization; or

30 (iii) to amend the operating agreement.

1 (4) A manager may be chosen at any time by the
2 affirmative vote or consent of a majority of the members and
3 remains a manager until a successor has been chosen, unless
4 the manager at an earlier time resigns, is removed or dies,
5 or, in the case of a manager that is not an individual,
6 terminates. A manager may be removed at any time by the
7 affirmative vote or consent of a majority of the members
8 without notice or cause.

9 (5) A person need not be a member to be a manager,
10 except that the dissociation of a member that is also a
11 manager removes the person as a manager. If a person that is
12 both a manager and a member ceases to be a manager, that
13 cessation does not by itself dissociate the person as a
14 member.

15 (6) A person's ceasing to be a manager does not
16 discharge any debt, obligation or other liability to the
17 limited liability company or members which the person
18 incurred while a manager.

19 (d) Action by consent or proxy.--An action requiring the
20 vote or consent of members under this title may be taken without
21 a meeting and a member may appoint a proxy or other agent to
22 vote, consent or otherwise act for the member by signing an
23 appointing document in record form, personally or by the
24 member's agent.

25 (e) Effect of dissolution.--The dissolution of a limited
26 liability company does not affect the applicability of this
27 section, except that a person that wrongfully causes dissolution
28 of the company loses the right to participate in management as a
29 member and a manager.

30 (f) Reimbursement of advances.--A limited liability company

1 shall reimburse a member for an advance to the company beyond
2 the amount of capital the member agreed to contribute.

3 (g) Interest on advance.--A payment or advance made by a
4 member which gives rise to an obligation of the limited
5 liability company under subsection (f) or section 8848(a)
6 (relating to reimbursement, indemnification, advancement and
7 insurance) constitutes a loan to the company which accrues
8 interest from the date of the payment or advance.

9 (h) No remuneration for services.--A member is not entitled
10 to remuneration for services performed for a member-managed
11 limited liability company, except for reasonable compensation
12 for services rendered in winding up the activities of the
13 company.

14 (i) Increased vote requirements.--Whenever the certificate
15 of organization or operating agreement requires for the taking
16 of any action by the members or a class of members a specific
17 number or percentage of votes or consents, the provision of the
18 certificate or agreement setting forth that requirement shall
19 not be amended or repealed by any lesser number or percentage of
20 votes or consents of the members or the class of members. This
21 subsection does not apply to a provision setting forth the right
22 of members to act by unanimous consent in lieu of a meeting.

23 (j) Exception.--None of the following shall be considered an
24 amendment of the certificate of organization for purposes of the
25 voting rules in subsections (b) (6) and (c) (3) (iii):

26 (1) a restatement of all the operative provisions of the
27 certificate of organization without change;

28 (2) a change in the name or registered office of the
29 limited liability company; or

30 (3) any combination of the foregoing purposes.

1 (k) Approval of minor amendments.--Unless otherwise provided
2 in record form in the operating agreement, an amendment
3 described in subsection (j) may be made by the affirmative vote
4 or consent of a majority of the managers or, in the case of a
5 member-managed limited liability company, of a majority of the
6 members.

7 § 8848. Reimbursement, indemnification, advancement and
8 insurance.

9 (a) Reimbursement.--A limited liability company shall
10 reimburse a member of a member-managed company or manager of a
11 manager-managed company for any payment made by the member or in
12 the course of the member's or manager's activities on behalf of
13 the company, if the member or manager complied with the
14 applicable provisions of sections 8847 (relating to management
15 of limited liability company), 8849.1 (relating to standards of
16 conduct for members) and 8849.2 (relating to standards of
17 conduct for managers) in making the payment.

18 (b) Indemnification.--A limited liability company shall
19 indemnify and hold harmless a person with respect to any claim
20 or demand against the person and any debt, obligation or other
21 liability incurred by the person by reason of the person's
22 former or present capacity as a member or manager, if the claim,
23 demand, debt, obligation or other liability does not arise from
24 the person's breach of section 8845 (relating to limitations on
25 distributions), 8847, 8849.1 or 8849.2.

26 (c) Advancement.--In the ordinary course of its activities
27 and affairs, a limited liability company may advance reasonable
28 expenses, including attorney fees and costs, incurred by a
29 person in connection with a claim or demand against the person
30 by reason of the person's former or present capacity as a member

1 or manager, if the person promises to repay the company if the
2 person ultimately is determined not to be entitled to be
3 indemnified.

4 (d) Insurance.--A limited liability company may purchase and
5 maintain insurance on behalf of a member or manager of the
6 company against liability asserted against or incurred by the
7 member or manager in that capacity or arising from that status
8 even if, under section 8815(c) (8) (relating to contents of
9 operating agreement), the operating agreement could not provide
10 indemnification against the liability or eliminate or limit the
11 person's liability to the company for the conduct giving rise to
12 the liability.

13 (e) Nonexclusivity.--The rights provided by subsections (a),
14 (b), (c) and (d) shall not be deemed exclusive of any other
15 rights to which a person seeking reimbursement, indemnification,
16 advancement of expenses or insurance may be entitled under the
17 operating agreement, vote of members or disinterested managers,
18 contract or otherwise, both as to action in his official
19 capacity and as to action in another capacity while holding that
20 position. Sections 8849.1(f) and 8849.2(e) shall be applicable
21 to a vote, contract or other action under this subsection. A
22 limited liability company may create a fund of any nature, which
23 may, but need not be, under the control of a trustee, or
24 otherwise secure or insure in any manner its indemnification
25 obligations, whether arising under this section or otherwise.

26 (f) Grounds.--Indemnification under subsection (e) may be
27 granted for any action taken and may be made whether or not the
28 limited liability company would have the power to indemnify the
29 person under any other provision of law except as provided
30 under section 8815(c) (8) and whether or not the indemnified

1 liability arises or arose from any threatened, pending or
2 completed action by or in the right of the company.

3 Indemnification under subsection (e) is declared to be
4 consistent with the public policy of the Commonwealth.

5 § 8849. (Reserved).

6 § 8849.1. Standards of conduct for members.

7 (a) General rule.--A member of a member-managed limited
8 liability company owes to the company and, subject to section
9 8881(b) (relating to direct action by member), the other members
10 the duties of loyalty and care stated under subsections (b) and
11 (c).

12 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
13 member in a member-managed limited liability company includes
14 the duties:

15 (1) to account to the company and to hold as trustee for
16 it any property, profit or benefit derived by the member:

17 (i) in the conduct or winding up of the company's
18 activities and affairs;

19 (ii) from a use by the member of the company's
20 property; or

21 (iii) from the appropriation of a company
22 opportunity;

23 (2) to refrain from dealing with the company in the
24 conduct or winding up of the company's activities and affairs
25 as or on behalf of a person having an interest adverse to the
26 company; and

27 (3) to refrain from competing with the company in the
28 conduct of the company's activities and affairs before the
29 dissolution of the company.

30 (c) Duty of care.--The duty of care of a member of a member-

1 managed limited liability company in the conduct or winding up
2 of the company's activities and affairs is to refrain from
3 engaging in gross negligence, recklessness, willful misconduct
4 or knowing violation of law.

5 (d) Good faith and fair dealing.--A member shall discharge
6 the duties and obligations under this title or under the
7 operating agreement and exercise any rights consistent with the
8 contractual obligation of good faith and fair dealing.

9 (e) Self-serving conduct.--A member does not violate a duty
10 or obligation under this title or under the operating agreement
11 solely because the member's conduct furthers the member's own
12 interest.

13 (f) Authorization or ratification.--All the members of a
14 member-managed limited liability company may authorize or
15 ratify, after disclosure of all material facts, a specific act
16 or transaction that otherwise would violate the duty of loyalty
17 of a member.

18 (g) Fairness as a defense.--It is a defense to a claim under
19 subsection (b) (2) and any comparable claim in equity or at
20 common law that the transaction was fair to the limited
21 liability company at the time it is authorized or ratified under
22 subsection (f).

23 (h) Rights and obligations in approved transaction.--If a
24 member enters into a transaction with the limited liability
25 company which otherwise would be prohibited under subsection (b)
26 (2), and the transaction is authorized or ratified as provided
27 under subsection (f) or the operating agreement, the member's
28 rights and obligations arising from the transaction are the same
29 as those of a person that is not a member.

30 (i) Duties of members in manager-managed company.--Subject

1 to subsection (d), a member does not have any duty to a manager-
2 managed limited liability company or to any other member of the
3 company solely by reason of being or acting as a member.

4 (j) Cross reference.--See section 8815 (relating to contents
5 of operating agreement).

6 § 8849.2. Standards of conduct for managers.

7 (a) General rule.--A manager of a manager-managed limited
8 liability company owes to the company and, subject to section
9 8881(b) (relating to direct action by member), the members the
10 duties of loyalty and care stated under subsections (b) and (c).

11 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
12 manager in a manager-managed limited liability company includes
13 the duties:

14 (1) to account to the company and to hold as trustee for
15 it any property, profit or benefit derived by the manager:

16 (i) in the conduct or winding up of the company's
17 activities and affairs;

18 (ii) from a use by the manager of the company's
19 property; or

20 (iii) from the appropriation of a company
21 opportunity;

22 (2) to refrain from dealing with the company in the
23 conduct or winding up of the company's activities and affairs
24 as or on behalf of a person having an interest adverse to the
25 company; and

26 (3) to refrain from competing with the company in the
27 conduct of the company's activities and affairs until
28 completion of the winding up of the company.

29 (c) Duty of care.--The duty of care of a manager of a
30 manager-managed limited liability company in the conduct or

1 winding up of the company's activities and affairs is to refrain
2 from engaging in gross negligence, recklessness, willful
3 misconduct or knowing violation of law.

4 (d) Good faith and fair dealing.--A manager of a manager-
5 managed limited liability company shall discharge the duties and
6 obligations under this title or under the operating agreement
7 and exercise any rights consistently with the contractual
8 obligation of good faith and fair dealing.

9 (e) Ratification of breach of duty of loyalty.--All the
10 members, or a majority of disinterested managers, of a manager-
11 managed limited liability company may authorize or ratify, after
12 disclosure of all material facts, a specific act or transaction
13 by a manager that otherwise would violate the duty of loyalty.

14 (f) Fairness as a defense.--It is a defense to a claim under
15 subsection (b) (2) and any comparable claim in equity or at
16 common law that the transaction was fair to the limited
17 liability company.

18 (g) Manager's rights in approved transaction.--If a manager
19 enters into a transaction with the limited liability company
20 which otherwise would be prohibited by subsection (b) (2), and
21 the transaction is approved or ratified as provided by
22 subsection (e) or the operating agreement, the manager's rights
23 and obligations arising from the transaction are the same as
24 those of a person that is not a manager.

25 (h) Cross reference.--See section 8815 (relating to contents
26 of operating agreement).
27 § 8850. Rights to information.

28 (a) In member-managed company.--In a member-managed limited
29 liability company, the following rules apply:

30 (1) On reasonable notice, a member may inspect and copy

1 during regular business hours, at a reasonable location
2 specified by the company, any record maintained by the
3 company regarding the company's activities, affairs,
4 financial condition and other circumstances, to the extent
5 the information is material to the member's rights and duties
6 under the operating agreement or this chapter.

7 (2) The company shall furnish to each member:

8 (i) without demand, any information concerning the
9 company's activities, affairs, financial condition and
10 other circumstances which the company knows and is
11 material to the proper exercise of the member's rights
12 and duties under the operating agreement or this title,
13 except to the extent the company can establish that it
14 reasonably believes the member already knows the
15 information; and

16 (ii) on demand, any other information concerning the
17 company's activities, affairs, financial condition and
18 other circumstances, except to the extent the demand or
19 information demanded is unreasonable or otherwise
20 improper under the circumstances.

21 (3) The duty to furnish information under paragraph (2)
22 also applies to each member to the extent the member knows
23 any of the information described in paragraph (2).

24 (b) In manager-managed company.--In a manager-managed
25 limited liability company, the following rules apply:

26 (1) The informational rights stated in subsection (a)
27 and the duty stated in subsection (a)(3) apply to the
28 managers and not the members.

29 (2) During regular business hours and at a reasonable
30 location specified by the company, a member may inspect and

1 copy full information regarding the activities, affairs,
2 financial condition and other circumstances of the company as
3 is just and reasonable if:

4 (i) the member seeks the information for a purpose
5 reasonably related to the member's interest as a member;

6 (ii) the member makes a demand in record form
7 received by the company, describing with reasonable
8 particularity the information sought and the purpose for
9 seeking the information; and

10 (iii) the information sought is directly connected
11 to the member's purpose.

12 (3) Within 10 days after receiving a demand under
13 paragraph (2)(ii), the company shall, in record form, inform
14 the member that made the demand of:

15 (i) the information that the company will provide in
16 response to the demand and when and where the company
17 will provide the information; and

18 (ii) the company's reasons for declining, if the
19 company declines to provide any demanded information.

20 (c) Rights of person dissociated as member.--Subject to
21 subsection (h), within 10 days after receipt by a limited
22 liability company of a demand made in record form, a person
23 dissociated as a member may have access to information to which
24 the person was entitled while a member if:

25 (1) the information pertains to the period during which
26 the person was a member;

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

28 (3) the person satisfies the requirements imposed on a
29 member under subsection (b)(2).

30 (d) Response of company.--A limited liability company shall

1 respond to a demand made under subsection (c) in the manner
2 provided in subsection (b) (3).

3 (e) Copying costs.--A limited liability company may charge a
4 person that makes a demand under this section the reasonable
5 costs of copying, limited to the costs of labor and material.

6 (f) Rights of agent or guardian.--A member or person
7 dissociated as a member may exercise rights under this section
8 through an agent or, in the case of an individual under legal
9 disability, a guardian. Any restriction or condition imposed by
10 the operating agreement or under subsection (h) applies both to
11 the agent or guardian and the member or person dissociated as a
12 member.

13 (g) No rights of transferee.--Subject to section 8854
14 (relating to power of personal representative of deceased
15 member), the rights under this section do not extend to a person
16 as transferee.

17 (h) Limitations on access.--In addition to any restriction
18 or condition stated in the operating agreement, a limited
19 liability company, as a matter within the ordinary course of its
20 activities and affairs, may impose reasonable restrictions and
21 conditions on access to and use of information to be furnished
22 under this section, including designating information
23 confidential and imposing nondisclosure and safeguarding
24 obligations on the recipient. In a dispute concerning the
25 reasonableness of a restriction under this subsection, the
26 company has the burden of proving reasonableness.

27 (i) Cross reference.--See section 8815 (relating to contents
28 of operating agreement).

29 SUBCHAPTER E

30 TRANSFERABLE INTERESTS AND RIGHTS

1 OF TRANSFEREES AND CREDITORS

2 Sec.

3 8851. Nature of transferable interest.

4 8852. Transfer of transferable interest.

5 8853. Charging order.

6 8854. Power of personal representative of deceased member.

7 § 8851. Nature of transferable interest.

8 (a) Personal property.--A transferable interest is personal
9 property.

10 (b) Only right that may be transferred.--A person may not
11 transfer to a person not a member any rights in a limited
12 liability company other than a transferable interest.

13 § 8852. Transfer of transferable interest.

14 (a) General rule.--Subject to section 8853(f) (relating to
15 charging order), a transfer, in whole or in part, of a
16 transferable interest:

17 (1) is permissible;

18 (2) does not by itself cause the dissociation of the
19 transferor as a member or a dissolution and winding up of the
20 limited liability company's activities and affairs; and

21 (3) subject to section 8854 (relating to power of
22 personal representative of deceased member), does not entitle
23 the transferee to:

24 (i) participate in the management or conduct of the
25 company's activities and affairs; or

26 (ii) except as provided in subsection (c), have
27 access to records or other information concerning the
28 company's activities and affairs.

29 (b) Right to distributions.--A transferee has the right to
30 receive, in accordance with the transfer, distributions to which

1 the transferor would otherwise be entitled.

2 (c) Right to account on dissolution.--In a dissolution and
3 winding up of a limited liability company, a transferee is
4 entitled to an account of the company's transactions only from
5 the date of dissolution.

6 (d) Certificate of interest.--A transferable interest may be
7 evidenced by a certificate of the interest issued by the limited
8 liability company in record form and, subject to this section,
9 the interest represented by the certificate may be transferred
10 by a transfer of the certificate.

11 (e) Recognition of transferee's rights.--A limited liability
12 company need not give effect to a transferee's rights under this
13 section until the company knows or has notice of the transfer.

14 (f) Transfer restrictions.--A transfer of a transferable
15 interest in violation of a restriction on transfer contained in
16 the operating agreement is ineffective if the intended
17 transferee has knowledge or notice of the restriction at the
18 time of transfer.

19 (g) Rights retained by transferor.--Except as provided in
20 section 8861(5)(ii) (relating to events causing dissociation),
21 if a member transfers a transferable interest, the transferor
22 retains the rights of a member other than the transferable
23 interest transferred and retains all the duties and obligations
24 of a member.

25 § 8853. Charging order.

26 (a) General rule.--On application by a judgment creditor of
27 a member or transferee, a court may enter a charging order
28 against the transferable interest of the judgment debtor for the
29 unsatisfied amount of the judgment. Except as provided in
30 subsection (f), a charging order constitutes a lien on a

1 judgment debtor's transferable interest and requires the limited
2 liability company to pay over to the person to which the
3 charging order was issued any distribution that otherwise would
4 be paid to the judgment debtor.

5 (b) Available relief.--To the extent necessary to effectuate
6 the collection of distributions pursuant to a charging order in
7 effect under subsection (a), the court may:

8 (1) appoint a receiver of the distributions subject to
9 the charging order, with the power to make all inquiries the
10 judgment debtor might have made; and

11 (2) make all other orders necessary to give effect to
12 the charging order.

13 (c) Foreclosure.--Upon a showing that distributions under a
14 charging order will not pay the judgment debt within a
15 reasonable time, the court may foreclose the lien and order the
16 sale of the transferable interest. Except as provided in
17 subsection (f), the purchaser at the foreclosure sale only
18 obtains the transferable interest, does not thereby become a
19 member, and is subject to section 8852 (relating to transfer of
20 transferable interest).

21 (d) Satisfaction of judgment.--At any time before
22 foreclosure under subsection (c), the member or transferee whose
23 transferable interest is subject to a charging order under
24 subsection (a) may extinguish the charging order by satisfying
25 the judgment and filing a certified copy of the satisfaction
26 with the court that issued the charging order.

27 (e) Purchase of rights.--At any time before foreclosure
28 under subsection (c), a limited liability company or one or more
29 members whose transferable interests are not subject to the
30 charging order may pay to the judgment creditor the full amount

1 due under the judgment and thereby succeed to the rights of the
2 judgment creditor, including the charging order.

3 (f) Foreclosure against sole member.--If a court orders
4 foreclosure of a charging order lien against the sole member of
5 a limited liability company:

6 (1) the court shall confirm the sale;

7 (2) the purchaser at the sale obtains the member's
8 entire interest, not only the member's transferable interest;

9 (3) the purchaser thereby becomes a member; and

10 (4) the person whose interest was subject to the
11 foreclosed charging order is dissociated as a member.

12 (g) Exemption laws preserved.--This chapter shall not
13 deprive any member or transferee of the benefit of any exemption
14 laws applicable to the transferable interest of the member or
15 transferee.

16 (h) Exclusive remedy.--This section provides the exclusive
17 remedy by which a person seeking to enforce a judgment against a
18 member or transferee may, in the capacity of judgment creditor,
19 satisfy the judgment from the judgment debtor's transferable
20 interest.

21 § 8854. Power of personal representative of deceased member.

22 If a member dies, the deceased member's personal
23 representative may exercise:

24 (1) the rights of a transferee provided in section
25 8852(c) (relating to transfer of transferable interest); and

26 (2) for the purposes of settling the estate, the rights
27 the deceased member had under section 8850 (relating to
28 rights to information).

29 SUBCHAPTER F

30 DISSOCIATION

1 Sec.

2 8861. Events causing dissociation.

3 8862. Power to dissociate and wrongful dissociation.

4 8863. Effects of dissociation.

5 § 8861. Events causing dissociation.

6 A person is dissociated as a member when any of the following
7 occurs:

8 (1) The limited liability company knows or has notice of
9 the person's express will to withdraw as a member, except
10 that, if the person specified a withdrawal date later than
11 the date the company knew or had notice, on that later date.

12 (2) An event stated in the operating agreement as
13 causing the person's dissociation occurs.

14 (3) The person's entire interest is transferred in a
15 foreclosure sale under section 8853(f) (relating to charging
16 order).

17 (4) The person is expelled as a member pursuant to the
18 operating agreement.

19 (5) The person is expelled as a member by the
20 affirmative vote or consent of all the other members if:

21 (i) it is unlawful to carry on the company's
22 activities and affairs with the person as a member;

23 (ii) there has been a transfer of all the person's
24 transferable interest in the company, other than:

25 (A) a transfer for security purposes; or

26 (B) a charging order in effect under section
27 8853 which has not been foreclosed;

28 (iii) the person is an entity and:

29 (A) the company notifies the person that it will
30 be expelled as a member because:

1 (I) the person has filed a certificate of
2 dissolution or the equivalent;

3 (II) the person has been administratively
4 dissolved;

5 (III) the person's charter or its equivalent
6 has been revoked; or

7 (IV) the person's right to conduct business
8 has been suspended by the person's jurisdiction
9 of formation; and

10 (B) within 90 days after the notification:

11 (I) the certificate of dissolution or the
12 equivalent has not been withdrawn, rescinded or
13 revoked;

14 (II) the person has not been reinstated;

15 (III) the person's charter or the equivalent
16 has not been reinstated; or

17 (IV) the person's right to conduct business
18 has not been reinstated; or

19 (iv) the person is an unincorporated entity that has
20 been dissolved and whose activities and affairs are being
21 wound up.

22 (6) On application by the company or a member in a
23 direct action under section 8881 (relating to direct action
24 by member), the person is expelled as a member by judicial
25 order because the person:

26 (i) has engaged or is engaging in wrongful conduct
27 that has affected adversely and materially, or will
28 affect adversely and materially, the company's activities
29 and affairs;

30 (ii) has committed willfully or persistently, or is

1 committing willfully and persistently, a material breach
2 of the operating agreement or a duty or obligation under
3 section 8849.1 (relating to standards of conduct for
4 members); or

5 (iii) has engaged or is engaging in conduct relating
6 to the company's activities and affairs which makes it
7 not reasonably practicable to carry on the activities and
8 affairs with the person as a member.

9 (7) In the case of an individual:

10 (i) the individual dies; or

11 (ii) in a member-managed limited liability company:

12 (A) a guardian for the individual is appointed;

13 or

14 (B) a court orders that the individual has
15 otherwise become incapable of performing the
16 individual's duties as a member under this title or
17 the operating agreement.

18 (8) In a member-managed limited liability company, the
19 person:

20 (i) becomes a debtor in bankruptcy;

21 (ii) executes an assignment for the benefit of
22 creditors; or

23 (iii) seeks, consents to or acquiesces in the
24 appointment of a trustee, receiver or liquidator of the
25 person or of all or substantially all the person's
26 property.

27 (9) In the case of a person that is a testamentary or
28 inter vivos trust or is acting as a member by virtue of being
29 a trustee of such a trust, the trust's entire transferable
30 interest in the company is distributed.

1 (10) In the case of a person that is an estate or is
2 acting as a member by virtue of being a personal
3 representative of an estate, the estate's entire transferable
4 interest in the company is distributed.

5 (11) In the case of a person that is not an individual,
6 the existence of the person terminates.

7 (12) The company participates in a merger under Chapter
8 3 (relating to entity transactions) and:

9 (i) the company is not the surviving entity; or

10 (ii) otherwise as a result of the merger, the person
11 ceases to be a member.

12 (13) The company participates in an interest exchange
13 under Chapter 3 and, as a result of the interest exchange,
14 the person ceases to be a member.

15 (14) The company participates in a conversion under
16 Chapter 3.

17 (15) The company participates in a division under
18 Chapter 3 and:

19 (i) the company is not a resulting association; or

20 (ii) as a result of the division, the person ceases
21 to be a member.

22 (16) The company participates in a domestication under
23 Chapter 3 and, as a result of the domestication, the person
24 ceases to be a member.

25 (17) The company dissolves and completes winding up.

26 § 8862. Power to dissociate and wrongful dissociation.

27 (a) Power to dissociate.--A person has the power to
28 dissociate as a member at any time, rightfully or wrongfully, by
29 withdrawing as a member by express will under section 8861(1)
30 (relating to events causing dissociation).

1 (b) Wrongful dissociation.--A person's dissociation as a
2 member is wrongful only if the dissociation:

3 (1) is in breach of an express provision of the
4 operating agreement; or

5 (2) occurs before the completion of the winding up of
6 the limited liability company and:

7 (i) the person withdraws as a member by express
8 will;

9 (ii) the person is expelled as a member by judicial
10 order under section 8861(6);

11 (iii) the person is dissociated under section
12 8861(8); or

13 (iv) the person is expelled or otherwise dissociated
14 as a member because it willfully dissolved or terminated,
15 except that this subparagraph does not apply to a person
16 that is:

17 (A) a trust that is not a business or statutory
18 trust;

19 (B) an estate; or

20 (C) an individual.

21 (c) Damages for wrongful dissociation.--A person that
22 wrongfully dissociates as a member is liable to the limited
23 liability company and, subject to section 8881 (relating to
24 direct action by member), to the other members for damages
25 caused by the dissociation. The liability is in addition to any
26 debt, obligation or other liability of the member to the company
27 or the other members.

28 § 8863. Effects of dissociation.

29 (a) General rule.--If a person is dissociated as a member:

30 (1) the person's rights as a member terminate;

1 (2) if the company is member-managed, the person's
2 duties and obligations under section 8849.1 (relating to
3 standards of conduct for members) as a member end with regard
4 to matters arising and events occurring after the person's
5 dissociation; and

6 (3) subject to sections 8844(e) (relating to sharing of
7 and right to distributions before dissolution) and 8854
8 (relating to power of personal representative of deceased
9 member) and Chapter 3 (relating to entity transactions), any
10 transferable interest owned by the person in the person's
11 capacity as a member immediately before dissociation as a
12 member is owned by the person solely as a transferee.

13 (b) Existing obligations not discharged.--A person's
14 dissociation as a member does not of itself discharge the person
15 from any debt, obligation or other liability to the company or
16 the other members which the person incurred while a member.

17 SUBCHAPTER G

18 DISSOLUTION AND WINDING UP

19 Sec.

20 8871. Events causing dissolution.

21 8872. Winding up and filing of optional certificates.

22 8873. Rescinding dissolution.

23 8874. Known claims against dissolved limited liability company.

24 8875. Other claims against dissolved limited liability company.

25 8876. Court proceedings.

26 8877. Disposition of assets in winding up.

27 8878. Voluntary termination by members or organizers.

28 § 8871. Events causing dissolution.

29 (a) General rule.--A limited liability company is dissolved,
30 and its activities and affairs shall be wound up, upon the

1 occurrence of any of the following:

2 (1) An event or circumstance that the operating
3 agreement states causes dissolution.

4 (2) The consent of all the members.

5 (3) The passage of 90 consecutive days after the company
6 ceases to have any members unless before the end of the
7 period:

8 (i) consent to admit at least one specified person
9 as a member is given by transferees owning the rights to
10 receive a majority of distributions as transferees at the
11 time the consent is to be effective; and

12 (ii) at least one person becomes a member in
13 accordance with the consent.

14 (4) On application by a member, the entry by the court
15 of an order dissolving the company on the grounds that:

16 (i) the conduct of all or substantially all the
17 company's activities and affairs is unlawful;

18 (ii) it is not reasonably practicable to carry on
19 the company's activities and affairs in conformity with
20 the certificate of organization and the operating
21 agreement; or

22 (iii) the managers or those members in control of
23 the company:

24 (A) have acted, are acting, or will act in a
25 manner that is illegal or fraudulent; or

26 (B) have acted or are acting in a manner that is
27 oppressive and was, is or will be directly harmful to
28 the applicant.

29 (b) Other remedies.--In a proceeding brought under
30 subsection (a) (4) (iii) (B), the court may order a remedy other

1 than dissolution.

2 (c) Cross reference.--See section 8815(c)(15) (relating to
3 contents of operating agreement).

4 § 8872. Winding up and filing of optional certificates.

5 (a) General rule.--A dissolved limited liability company
6 shall wind up its activities and affairs and, except as provided
7 in section 8873 (relating to rescinding dissolution), the
8 company continues after dissolution only for the purpose of
9 winding up.

10 (b) Conduct of winding up.--In winding up its activities and
11 affairs, a limited liability company:

12 (1) shall discharge the company's debts, obligations and
13 other liabilities, settle and close the company's activities
14 and affairs, and marshal and distribute the assets of the
15 company; and

16 (2) may:

17 (i) deliver to the department for filing a
18 certificate of dissolution stating:

19 (A) the name of the company;

20 (B) subject to section 109 (relating to name of
21 commercial registered office provider in lieu of
22 registered address), the address, including street
23 and number, if any, of the registered office of the
24 company; and

25 (C) that the company is dissolved;

26 (ii) preserve the company's activities, affairs and
27 property as a going concern for a reasonable time;

28 (iii) prosecute and defend actions and proceedings,
29 whether civil, criminal or administrative;

30 (iv) transfer the company's property;

1 (v) settle disputes by mediation or arbitration; and
2 (vi) deliver to the department for filing the
3 certificates required by section 139 (relating to tax
4 clearance of certain fundamental transactions) and a
5 certificate of termination stating:

6 (A) the name of the company;

7 (B) subject to section 109, the address,
8 including street and number, if any, of the
9 registered office of the company;

10 (C) that all debts, obligations and liabilities
11 of the company have been paid and discharged or that
12 adequate provision has been made therefor;

13 (D) that all the remaining property and assets
14 of the company have been distributed among its
15 members in accordance with their respective rights
16 and interests;

17 (E) that there are no actions pending against
18 the company in any court or that adequate provision
19 has been made for the satisfaction of any judgment
20 that may be entered against it in any pending action;
21 and

22 (F) that the company is terminated; and

23 (vii) perform other acts necessary or appropriate to
24 the winding up.

25 (c) Conduct of winding up when no members.--If a dissolved
26 limited liability company has no members, the personal
27 representative, guardian or other person authorized to act on
28 behalf of the last person to have been a member may wind up the
29 activities and affairs of the company. If the person does so,
30 the person has the powers of a sole manager under section

1 8847(c) (relating to management of limited liability company)
2 and is deemed to be a manager for the purposes of section
3 8834(a) (relating to liability of members and managers).

4 (d) Action by transferees.--If the personal representative,
5 guardian or other person authorized to act under subsection (c)
6 declines or fails to wind up the company's activities and
7 affairs, a person may be appointed to do so by the consent of
8 transferees owning a majority of the rights to receive
9 distributions as transferees at the time the consent is to be
10 effective. A person appointed under this subsection:

11 (1) has the powers of a sole manager under section
12 8847(c) and is deemed to be a manager for the purposes of
13 section 8834(a); and

14 (2) shall promptly deliver to the department for filing
15 an amendment to the company's certificate of organization
16 stating:

17 (i) that the company has no members;

18 (ii) the name and street and mailing addresses of
19 the person; and

20 (iii) that the person has been appointed under this
21 subsection to wind up the company.

22 (e) Judicial supervision.--The court may order judicial
23 supervision of the winding up of a dissolved limited liability
24 company, including the appointment of a person to wind up the
25 company's activities and affairs:

26 (1) on the application of a member, if the applicant
27 establishes good cause;

28 (2) on the application of a transferee, if:

29 (i) the company does not have any members;

30 (ii) the legal representative of the last person to

1 have been a member declines or fails to wind up the
2 company's activities; and

3 (iii) within a reasonable time following the
4 dissolution a person has not been appointed under
5 subsection (c); or

6 (3) in connection with a proceeding under section
7 8871(a)(4) (relating to events causing dissolution).

8 (f) Cross references.--See:

9 Section 134 (relating to docketing statement).

10 Section 135 (requirements to be met by filed documents).

11 Section 136(c) (relating to processing of documents by
12 Department of State).

13 Section 8815(c)(16) (relating to contents of operating
14 agreement).

15 Section 8823 (relating to signing of filed documents).

16 § 8873. Rescinding dissolution.

17 (a) General rule.--A limited liability company may rescind
18 its dissolution, unless a certificate of termination applicable
19 to the company is effective or the court has entered an order
20 under section 8871(a)(4) (relating to events causing
21 dissolution) dissolving the company.

22 (b) Procedure.--Rescinding dissolution under this section
23 requires:

24 (1) the affirmative vote or consent of each member; and

25 (2) if the limited liability company has delivered to
26 the department for filing a certificate of dissolution and:

27 (i) the certificate of dissolution has not become
28 effective, delivery to the department for filing of a

29 statement of abandonment under section 141 (relating to

30 abandonment of filing before effectiveness) applicable to

1 the certificate of dissolution; or

2 (ii) the certificate of dissolution has become
3 effective, the delivery to the department for filing of a
4 certificate of rescission stating:

5 (A) the name of the company;

6 (B) subject to section 109 (relating to name of
7 commercial registered office provider in lieu of
8 registered address), the address, including street
9 and number, if any, of its registered office; and

10 (C) that dissolution has been rescinded under
11 this section.

12 (c) Effects of rescission.--If a limited liability company
13 rescinds its dissolution:

14 (1) the company resumes carrying on its activities and
15 affairs as if dissolution had never occurred;

16 (2) subject to paragraph (3), any liability incurred by
17 the company after the dissolution and before the rescission
18 is effective is determined as if dissolution had never
19 occurred; and

20 (3) the rights of a third party arising out of conduct
21 in reliance on the dissolution before the third party knew or
22 had notice of the rescission may not be adversely affected.

23 (d) 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 8823 (relating to signing of filed documents).

30 § 8874. Known claims against dissolved limited liability

1 company.

2 (a) General rule.--Except as provided in subsection (d), a
3 dissolved limited liability company may give notice of a known
4 claim under subsection (b), which has the effect provided in
5 subsection (c).

6 (b) Required notice.--A dissolved limited liability company
7 may notify in record form its known claimants of the
8 dissolution. The notice must:

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

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

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

16 (4) state that the claim will be barred if not received
17 by the deadline.

18 (c) Claims barred.--A claim against a dissolved limited
19 liability company is barred if the requirements of subsection
20 (b) are met and:

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

23 (2) if the claim is timely received but rejected by the
24 company:

25 (i) the company causes the claimant to receive a
26 notice in record form stating that the claim is rejected
27 and will be barred unless the claimant commences an
28 action against the company to enforce the claim within 90
29 days after the claimant receives the notice; and

30 (ii) the claimant does not commence the required

1 action within 90 days after the complainant receives the
2 notice.

3 (d) Later arising claims.--This section shall not apply to a
4 claim based on an event occurring after the effective date of
5 dissolution or a liability that on that date is contingent.
6 § 8875. Other claims against dissolved limited liability
7 company.

8 (a) Permissive notice.--A dissolved limited liability
9 company may publish notice of its dissolution and request
10 persons having claims against the company to present them in
11 accordance with the notice.

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

13 (1) be officially published one time;

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

17 (3) state that a claim against the limited liability
18 company is barred unless an action to enforce the claim is
19 commenced within two years after publication of the notice.

20 (c) Claims barred.--If a dissolved limited liability company
21 publishes a notice in accordance with subsection (b), the claim
22 of each of the following claimants is barred unless the claimant
23 commences an action to enforce the claim against the company
24 within two years after the publication date of the notice:

25 (1) a claimant that did not receive notice in record
26 form under section 8874 (relating to known claims against
27 dissolved limited liability company);

28 (2) a claimant whose claim was timely sent to the
29 company but not acted on; and

30 (3) a claimant whose claim is contingent at, or based on

1 an event occurring after, the effective date of dissolution.

2 (d) Claims not barred.--A claim not barred under this
3 section or section 8874 may be enforced:

4 (1) against a dissolved limited liability company, to
5 the extent of its undistributed assets; and

6 (2) except as provided in section 8876 (relating to
7 court proceedings), if assets of the company have been
8 distributed after dissolution, against a member or transferee
9 to the extent of that person's proportionate share of the
10 claim or of the company's assets distributed to the member or
11 transferee after dissolution, whichever is less, except that
12 a person's total liability for all claims under this
13 paragraph may not exceed the total amount of assets
14 distributed to the person after dissolution.

15 § 8876. Court proceedings.

16 (a) Determination of security.--A dissolved limited
17 liability company that has officially published a notice under
18 section 8875 (relating to other claims against dissolved limited
19 liability company) may file an application with the court for a
20 determination of the amount and form of security to be provided
21 for payment of claims that are reasonably expected to arise
22 after the date of dissolution based on facts known to the
23 company and:

24 (1) at the time of application:

25 (i) are contingent; or

26 (ii) have not been made known to the company; or

27 (2) are based on an event occurring after the effective
28 date of dissolution.

29 (b) When security not required.--Security is not required
30 for any claim that is or is reasonably anticipated to be barred

1 under section 8875(c).

2 (c) Notice.--Within 10 days after the filing of an
3 application under subsection (a), the dissolved limited
4 liability company shall give notice of the proceeding to each
5 claimant holding a contingent claim known to the company.

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

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

20 § 8877. Disposition of assets in winding up.

21 (a) Creditors.--In winding up its activities and affairs, a
22 limited liability company shall apply its assets to discharge
23 its obligations to creditors, including members that are
24 creditors.

25 (b) Surplus.--After a limited liability company complies
26 with subsection (a), any surplus shall be distributed in the
27 following order, subject to any charging order in effect under
28 section 8853 (relating to charging order):

29 (1) to each owner of a transferable interest that
30 reflects contributions made and not previously returned, an

1 amount equal to the value of the unreturned contributions;

2 and

3 (2) among owners of transferable interests in proportion

4 to their respective rights to share in distributions

5 immediately before the dissolution of the company.

6 (c) Insufficient assets.--If a limited liability company

7 does not have sufficient surplus to comply with subsection (b)

8 (1), any surplus must be distributed among the owners of

9 transferable interests in proportion to the value of the

10 respective unreturned contributions.

11 (d) Form of payment.--All distributions made under

12 subsections (b) and (c) must be paid in money.

13 § 8878. Voluntary termination by members or organizers.

14 (a) General rule.--The members or organizers of a limited

15 liability company that has not commenced business may effect the

16 termination of the company by delivering to the department for

17 filing a certificate of termination signed by a majority of the

18 organizers or a majority in interest of the members and stating:

19 (1) the name of the company;

20 (2) subject to section 109 (relating to name of

21 commercial registered office provider in lieu of registered

22 address), the address, including street and number, if any,

23 of the registered office of the company;

24 (3) that the company has not commenced business;

25 (4) that the amounts, if any, actually paid in as

26 capital contributions, less any part disbursed for necessary

27 expenses, have been returned to those entitled to the return

28 of the amounts;

29 (5) that all liabilities of the company have been

30 discharged or that adequate provision has been made for those

1 liabilities; and

2 (6) that a majority of the organizers or a majority in
3 interest of the members elect that the company be terminated.

4 (b) Effect.--Upon the filing of the certificate of
5 termination, the existence of the limited liability company
6 shall cease.

7 (c) Cross references.--See:

8 Section 134 (relating to docketing statement).

9 Section 135 (relating to requirements to be met by filed
10 documents).

11 Section 136(c) (relating to processing of documents by
12 Department of State).

13 Section 8823 (relating to signing of filed documents).

14 SUBCHAPTER H

15 ACTIONS BY MEMBERS

16 Sec.

17 8881. Direct action by member.

18 8882. Derivative action.

19 8883. Proper plaintiff.

20 8884. Pleading.

21 8885. Special litigation committee.

22 8886. Proceeds and expenses.

23 § 8881. Direct action by member.

24 (a) General rule.--Subject to subsection (b), a member may
25 maintain a direct action against another member, a manager or
26 the limited liability company to enforce the member's rights and
27 protect the member's interests, including rights and interests
28 under the operating agreement or this title or arising
29 independently of the membership relationship.

30 (b) Required injury.--A member maintaining a direct action

1 under this section must plead and prove an actual or threatened
2 injury that is not solely the result of an injury suffered or
3 threatened to be suffered by the limited liability company.

4 (c) Cross reference.--See section 8815(c)(17) (relating to
5 contents of operating agreement).

6 § 8882. Derivative action.

7 (a) General rule.--Subject to subsection (b), a member may
8 maintain a derivative action to enforce a right of a limited
9 liability company only if:

10 (1) the member first makes a demand on the other members
11 in a member-managed limited liability company, or the
12 managers of a manager-managed limited liability company,
13 requesting that they cause the company to bring an action to
14 enforce the right, unless demand is excused under subsection
15 (b); and

16 (2) both:

17 (i) a special litigation committee is not appointed
18 under section 8885 (relating to special litigation
19 committee); and

20 (ii) the managers or other members do not bring the
21 action within a reasonable time.

22 (b) Prior demand excused.--

23 (1) A demand under subsection (a)(1) is excused only if
24 the member makes a specific showing that irreparable harm to
25 the limited liability company would otherwise result.

26 (2) If demand is excused under paragraph (1), demand
27 should be made promptly after commencement of the action.

28 (c) Contents of demand.--A demand under this section shall
29 give notice with reasonable specificity of the essential facts
30 relied upon to support each of the claims made in the demand.

1 (d) Additional claims.--If a derivative action is commenced
2 after a demand has been made under this section and includes a
3 claim that was not fairly subsumed under the demand, a new
4 demand must be made with respect to that claim.

5 (e) Statute of limitations.--The making of a demand tolls
6 any applicable statute of limitations with respect to a claim
7 asserted in the demand until the later of the date:

8 (1) the member making the demand is notified either:

9 (i) that the managers or members have decided not to
10 bring an action and not to appoint a special litigation
11 committee; or

12 (ii) of the determination under section 8885(e) of a
13 special litigation committee that has been appointed as
14 provided in section 8885; or

15 (2) the court determines under section 8885(f) either
16 to:

17 (i) enforce the determination of the special
18 litigation committee; or

19 (ii) allow the action to continue under the control
20 of the plaintiff.

21 (f) Cross reference.--See section 8815(c)(17) (relating to
22 contents of operating agreement).

23 § 8883. Proper plaintiff.

24 (a) General rule.--A derivative action to enforce a right of
25 a limited liability company may be maintained only by a person
26 that is a member at the time the action is commenced and:

27 (1) who was a member when the conduct giving rise to the
28 action occurred; or

29 (2) whose status as a member devolved on the person by
30 operation of law or pursuant to the terms of the operating

1 agreement from a person that was a member at the time of the
2 conduct.

3 (b) Cross reference.--See section 8815(c)(17) (relating to
4 contents of operating agreement).

5 § 8884. Pleading.

6 In a derivative action, the complaint must state with
7 particularity the date and content of the plaintiff's demand and
8 the response by the managers or other members to the demand.

9 § 8885. Special litigation committee.

10 (a) General rule.--If a limited liability company receives a
11 demand to bring an action to enforce a right of the corporation,
12 or if a derivative action is commenced before demand has been
13 made on the company, the company may appoint a special
14 litigation committee to investigate the claims asserted in the
15 demand or action and to determine on the basis of that
16 investigation whether pursuing any of the claims asserted is in
17 the best interests of the company. A committee may not be
18 appointed under this section if:

19 (1) every member of the company is also a manager of the
20 company; or

21 (2) the company is member-managed and every member is
22 actively involved in the management of the company.

23 (b) Discovery stay.--If a limited liability company appoints
24 a special litigation committee and an action is commenced before
25 the committee has made a determination under subsection (e):

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

30 (2) The time for the defendants to plead shall be tolled

1 until the process provided for under subsection (f) has been
2 completed.

3 (c) Composition of committee.--A special litigation
4 committee shall be composed of two or more disinterested and
5 independent individuals who:

6 (1) are not interested in the action;

7 (2) are capable as a group of objective judgment in the
8 circumstances; and

9 (3) may, but need not, be members.

10 (d) Appointment of committee.--A special litigation
11 committee may be appointed:

12 (1) in a member-managed limited liability company:

13 (i) by a majority of the members not named as actual
14 or potential parties in the demand or action; and

15 (ii) if all members are named as actual or potential
16 parties in the demand or action, by a majority of the
17 members so named; or

18 (2) in a manager-managed limited liability company:

19 (i) by a majority of the managers not named as
20 actual or potential parties in the demand or action; and

21 (ii) if all managers are named as actual or
22 potential parties in the demand or action, by a majority
23 of the managers so named.

24 (e) Determination by committee.--After appropriate
25 investigation, a special litigation committee may determine that
26 it is in the best interests of the limited liability company
27 that:

28 (1) an action based on some or all of the claims
29 asserted in the demand not be brought by the company but that
30 the company not object to an action being brought by the

1 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 company;

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; or

11 (ii) the committee;

12 (6) some or all of the claims asserted in an action
13 already commenced be settled on terms approved by the
14 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 an action is commenced before the
18 committee makes a determination under subsection (e):

19 (1) The limited liability company shall file with the
20 court after the committee makes a determination under
21 subsection (e) a statement of the committee's determination
22 and a report supporting the determination. The company shall
23 serve each party with a copy of the determination and report.
24 If the company moves to file the report under seal, the
25 report shall be served on the parties subject to an
26 appropriate protective order agreed to by the parties or
27 ordered 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 described in
2 subsection (e) (2), (3), (4), (5) (ii), (6) or (7), the court
3 shall 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 and other appropriate motions and pleadings.

19 (g) Cross reference.--See section 8815(c) (18) (relating to
20 contents of operating agreement).

21 § 8886. Proceeds and expenses.

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

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

27 (2) if the plaintiff receives any proceeds, the
28 plaintiff shall remit them immediately to the company.

29 (b) Expenses.--If a derivative action is successful in whole
30 or in part, the court may award the plaintiff reasonable

1 expenses, including reasonable attorney fees and costs, from the
2 recovery of the limited liability company.

3 (c) Cross reference.--See section 8815(c)(13) (relating to
4 contents of operating agreement).

5 Section 30. Repeals are as follows:

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

7 (i) The limited liability company has been evolving
8 as a legal entity over the last 25 years, and statutory
9 law must be updated to deal with the evolving entity.

10 (ii) Existing statutory law on limited liability
11 companies was enacted in 1994. Discrete amendments were
12 enacted in 1997, 1998, 2006, 2013 and 2014; and
13 significant amendments were made by section 2 of the act
14 of June 22, 2001 (P.L.418, No.34), known as the GAA
15 Amendments Act of 2001. A more comprehensive legislative
16 approach was taken in sections 54 and 55 of the act of
17 October 22, 2014 (P.L.2640, No.172), known as the
18 Associations Transactions Act.

19 (iii) Section 22 of this act adds a new chapter on
20 limited liability companies. The new chapter continues
21 the approach under the GAA Amendments Act of 2001 and the
22 Associations Transactions Act and extensively revises
23 existing statutory law to the degree that identification
24 of individual changes or reproduction of voluminous text
25 to be eliminated would inhibit rather than enhance
26 serious legal analysis.

27 (iv) The repeal under paragraph (2) is necessary to
28 carry out this paragraph.

29 (2) Chapter 89 of Title 15 is repealed.

30 Section 31. Section 9115 of Title 15 are amended to read:

1 § 9115. Ownership and transfer of property.

2 (a) General rule.--A nonprofit association may acquire, hold
3 or transfer, in its name, an interest in property.

4 (b) Testamentary and fiduciary dispositions.--A nonprofit
5 association may be a beneficiary of a trust or contract, a
6 legatee or a devisee.

7 (c) Authority to take and hold trust property.--Every
8 nonprofit association organized for a charitable purpose or
9 purposes may take, receive and hold real and personal property
10 as may be given, devised to or otherwise vested in the nonprofit
11 association, in trust, for the purpose or purposes set forth in
12 its governing principles. The managers of the nonprofit
13 association shall, as trustees of the property, be held to the
14 same degree of responsibility and accountability as other
15 trustees, unless a lesser degree or a particular degree of
16 responsibility and accountability is prescribed in the trust
17 instrument, or unless the managers remain under the control of
18 the members of the nonprofit association or third persons who
19 retain the right to direct, and do direct, the actions of the
20 managers as to the use of the trust property from time to time.

21 (d) Nondiversion of certain property.--Property of a
22 nonprofit association committed to charitable purposes shall
23 not, by any proceeding under Chapter 3 (relating to entity
24 transactions) or otherwise, be diverted from the objects to
25 which it was donated, granted or devised, unless and until the
26 nonprofit association obtains from the court an order under 20
27 Pa.C.S. Ch. 77 (relating to trusts) specifying the disposition
28 of the property.

29 Section 32. Section 9302 of Title 15, amended October 22,
30 2014 (P.L.2640, No.172), is amended to read:

1 § 9302. Application of chapter.

2 (a) General rule.--This chapter shall apply to and the word
3 "association" in this chapter shall mean a professional
4 association organized under the act of August 7, 1961 (P.L.941,
5 No.416), known as the Professional Association Act, which has
6 not:

7 (1) Reorganized as an electing partnership under Chapter
8 87 (relating to electing partnerships).

9 (2) Elected to become a professional corporation in the
10 manner provided by section 2905 (relating to election of
11 professional associations to become professional
12 corporations).

13 (3) Converted to a limited liability company under
14 Subchapter E of Chapter 3 (relating to conversion).

15 (b) No new associations.--An association may not be
16 originally organized under this chapter.

17 Section 33. Sections 9501 and 9506 of Title 15 are amended
18 to read:

19 § 9501. Application and effect of chapter.

20 (a) General rule.--

21 (1) Unless the context clearly indicates otherwise, this
22 chapter shall apply to and the words "business trust" in this
23 chapter shall mean an association organized as a trust:

24 (i) [Hereafter established under the laws of this
25 Commonwealth.] Whose deed of trust or other organic
26 document has been filed in the department and is in
27 effect under this chapter.

28 (ii) Whose deed of trust or other organic document
29 states, by amendment or otherwise, that the trust exists
30 subject to the provisions of this chapter, in the case of

1 a business trust heretofore established under the laws of
2 this Commonwealth or heretofore or hereafter established
3 under the laws of any other jurisdiction.

4 (2) The words "business trust" in this chapter shall not
5 include:

6 (i) A trust contemplated by section 1768 (relating
7 to voting trusts and other agreements among shareholders)
8 or any similar provision of law.

9 (ii) A trust for creditors.

10 (iii) A mortgage, deed of trust or other indenture
11 or similar instrument or agreement under which debt
12 securities are outstanding or to be issued.

13 (iv) A trust for the benefit of one or more
14 investors with respect to a lease of real or personal
15 property, unless the instrument creating the trust is
16 filed under this chapter.

17 (b) No franchise.--This chapter shall not confer on a
18 business trust the power to engage in any activity that may be
19 undertaken only in corporate form.

20 (c) Effect on taxation.--This chapter is enacted to codify
21 and clarify certain common law principles applicable to business
22 trusts and is not intended to affect the liability of any
23 business trust to any tax. A trust that is subject to this
24 chapter shall not be deemed to be organized or created by or
25 under this or any other statute or to have the benefit of any
26 state franchise for the purpose of existing law relating to
27 taxation.

28 (d) Multistate application.--It is the intent of the General
29 Assembly in enacting this chapter that the legal existence of
30 business trusts organized in this Commonwealth be recognized

1 outside the boundaries of this Commonwealth and that, subject to
2 any reasonable requirement of registration, a domestic business
3 trust transacting business outside this Commonwealth be granted
4 protection of full faith and credit under the Constitution of
5 the United States.

6 § 9506. Liability of trustees and beneficiaries.

7 (a) General rule.--

8 (1) Except as otherwise provided in the instrument, the
9 beneficiaries of a business trust shall be entitled to the
10 same limitation of personal liability as is extended to
11 shareholders in a domestic business corporation.

12 (2) Except as otherwise provided in the instrument, the
13 trustees of a trust, as such, shall not be personally liable
14 to any person for any act or obligation of the trust or any
15 other trustee.

16 (3) An obligation of a trust based upon a writing may be
17 limited to a specific fund or other identified pool or group
18 of assets of the trust.

19 (b) Standards and immunities.--Except as otherwise provided
20 in the instrument governing the trust, the provisions of
21 Subchapters B (relating to fiduciary duty) and D (relating to
22 indemnification) of Chapter 17 shall be applicable to
23 representatives of a business trust.

24 (c) Certain specifically authorized debt terms.--A business
25 trust shall be subject to section 1510 (relating to certain
26 specifically authorized debt terms) to the same extent as if it
27 were a business corporation.

28 (d) Professional relationship unaffected.--Subsection (a)
29 shall not afford trustees or beneficiaries of a business trust
30 providing professional services with greater immunity than is

1 available to the officers, shareholders, employees or agents of
2 a professional corporation. See section 2925 (relating to
3 professional relationship retained).

4 (e) Disciplinary jurisdiction unaffected.--A business trust
5 providing professional services shall be subject to the
6 applicable rules and regulations adopted by, and all the
7 disciplinary powers of, the court, department, board, commission
8 or other government unit regulating the profession in which the
9 business trust is engaged. The court, department, board or other
10 government unit may require that a business trust include in its
11 instrument provisions that conform to any rule or regulation
12 heretofore or hereafter promulgated for the purpose of enforcing
13 the ethics of a profession. This chapter shall not affect or
14 impair the disciplinary powers of the court, department, board,
15 commission or other government unit over licensed persons or any
16 law, rule or regulation pertaining to the standards for
17 professional conduct of licensed persons or to the professional
18 relationship between any licensed person rendering professional
19 services and the person receiving professional services.

20 (f) Permissible beneficiaries.--Except as otherwise provided
21 by a statute, rule or regulation applicable to a particular
22 profession, all of the ultimate beneficial owners of interests
23 in a business trust that renders one or more restricted
24 professional services shall be licensed persons[. As used in
25 this subsection, the term "restricted professional services"
26 shall have the meaning specified in section 8903 (relating to
27 definitions and index of definitions).] in the profession the
28 trust practices if the trust renders any of the following
29 professional services: chiropractic, dentistry, law, medicine
30 and surgery, optometry, osteopathic medicine and surgery,

1 podiatric medicine, public accounting, psychology or veterinary
2 medicine.

3 (g) Conflict of laws.--The personal liability of a trustee
4 or beneficiary of a business trust to any person or in any
5 action or proceeding for the debts, obligations or liabilities
6 of the trust or for the acts or omissions of other trustees,
7 beneficiaries, employees or agents of the trust shall be
8 governed solely and exclusively by this chapter and the laws of
9 this Commonwealth. Whenever a conflict arises between the laws
10 of this Commonwealth and the laws of any other state with
11 respect to the liability of trustees or beneficiaries of a trust
12 organized and existing under this chapter for the debts,
13 obligations and liabilities of the trust or for the acts or
14 omissions of the other trustees, beneficiaries, employees or
15 agents of the trust, the laws of this Commonwealth shall govern
16 in determining such liability.

17 (h) Medical professional liability.--A business trust shall
18 be deemed to be a professional corporation for purposes of
19 section [811 of the act of October 15, 1975 (P.L.390, No.111),
20 known as the Health Care Services Malpractice Act.] 744 of the
21 act of March 20, 2002 (P.L.154, No.13), known as the Medical
22 Care Availability and Reduction of Error (Mcare) Act.

23 (i) Failure to observe formalities.--The failure of a
24 business trust to observe formalities relating to the exercise
25 of its powers or management of its activities and affairs is not
26 a ground for imposing liability on a beneficiary or trustee of
27 the trust for a debt, obligation or other liability of the
28 trust.

29 Section 34. Section 501(a)(6) and (8) of Title 54, amended
30 October 22, 2014 (P.L.2640, No.172), are amended to read:

1 § 501. Register established.

2 (a) General rule.--A register is established by this chapter
3 which shall consist of such of the following names as are not
4 deleted therefrom by operation of section 504 (relating to
5 effect of failure to make filings) or 506 (relating to voluntary
6 termination of registration by corporations and other
7 associations):

8 * * *

9 (6) In the case of a limited partnership or limited
10 liability company subject to 15 Pa.C.S. Ch. [85] 86 (relating
11 to limited partnerships) or [89] 88 (relating to limited
12 liability companies), the name of the partnership or company
13 as set forth in the certificate of limited partnership,
14 certificate of organization or statement of registration as a
15 [registered] foreign association.

16 (8) In the case of a [registered] limited liability
17 partnership subject to 15 Pa.C.S. Ch. 82 (relating to
18 [registered] limited liability partnerships and limited
19 liability limited partnerships) that is not also a limited
20 partnership, the name of the partnership as set forth in the
21 statement of registration as a [registered] foreign
22 association.

23 * * *

24 Section 35. This act shall take effect in 90 days.