

**Illinois Version
of the
Uniform Partnership Act**

April 28, 2002

Part I. Preliminary Provisions

205/1. Uniform Partnership Act

§ 1. This act may be cited as Uniform Partnership Act.

205/2. Definitions

§ 2. Definitions.

In this Act “court” includes every court and judge having jurisdiction in the case.

“Business” includes every trade, occupation or profession.

“Person” includes individuals, partnerships, corporations, and other associations.

“Bankrupt” includes bankrupt under the Federal Bankruptcy Act¹ or insolvent under any state insolvent act.

“Conveyance” includes every assignment, lease, mortgage, or encumbrance.

“Real property” includes land and any interest or estate in land.

“Registered limited liability partnership” includes a partnership formed pursuant to an agreement governed by the laws of this State, registered under Section 8.1 and complying with Sections 8.2 and 8.3.

205/3. Knowledge and notice of facts

§ 3.

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

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

(a) States the fact to such person, or

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

¹ 11 U.S.C.A. § 101 et seq.

205/4. Rules of construction

§ 4.

- (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.
- (2) The law of estoppel shall apply under this act.
- (3) The law of agency shall apply under this act.
- (4) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.
- (5) This act shall not be construed so as to impair the obligations of any contract existing when the act goes into effect, nor to affect any action or proceedings begun or right accrued before this act takes effect.

205/5. Law governing in cases not within Act

§ 5. In any case not provided for in this act the rules of law and equity, including the law merchant, shall govern.

Part II. Nature of a Partnership*205/6. Definition of partnership*

- (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit and includes for all purposes of the laws of this State, a registered limited liability partnership.
- (2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this act, unless such association would have been a partnership in this state prior to the adoption of this act; but this act shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

205/6.5. Prohibited name; locale misrepresentation§ 6.5. *Prohibited name; locale misrepresentation.*

- (a) A foreign partnership may not use an assumed or fictitious name in the conduct of its business to intentionally misrepresent the geographic origin or location of the partnership.
 - (b) A person shall not advertise or cause to be listed in a telephone directory an assumed or fictitious business name that intentionally misrepresents where the business is actually located or operating or falsely states that the business is located or operating in the area covered by the telephone directory. This subsection (b) does not apply to a telephone service provider or to the publisher or distributor of a telephone
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service directory, unless the conduct prescribed in this subsection (b) is on behalf of that telephone service provider or that publisher or distributor. This subsection (b) does not apply to any foreign partnership that has gross annual revenues in excess of \$100,000,000.

(c) A foreign partnership that violates this Section is guilty of a petty offense and must be fined not less than \$501 and not more than \$1,000. A foreign partnership is guilty of an additional offense for each additional day in violation of this Section.

205/7. Rules to determine whether or not a partnership exists

§ 7. In determining whether a partnership exists, these rules shall apply:

- (1) Except as provided by Section 16, persons who are not partners as to each other are not partners as to third persons.
- (2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.
- (3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.
- (4) The receipt by a person of a share of the profits of a business is prima facie evidence that he or she is a partner in the business, but no such inference shall be drawn if such profits were received in payment:
 - (a) As a debt by installments or otherwise;
 - (b) As wages of an employee or rent to a landlord;
 - (c) As an annuity to a widow or widower or representative of a deceased partner;
 - (d) As interest on a loan, though the amount of payment vary with the profits of the business;
 - (e) As the consideration for the sale of the good-will of a business or other property by installments or otherwise.

205/7.1. Merger of partnership and limited liability company

§ 7.1. Merger of partnership and limited liability company.

- (a) Under a plan of merger approved under subsection (c) of this Section, any one or more partnerships of this State may merge with or into one or more limited liability companies of this State, any other state or states of the United States, or the District of Columbia, if the laws of the other state or states or the District of Columbia permit the merger. The partnership or partnerships and the limited liability company or companies may merge with or into a partnership, which may be any one of these partnerships, or
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they may merge with or into a limited liability company, which may be any one of these limited liability companies, which shall be a partnership or limited liability company of this State, any other state of the United States, or the District of Columbia, which permits the merger.

(b) A plan of merger must set forth all of the following:

- (1) The name of each entity that is a party to the merger.
- (2) The name of the surviving entity into which the other entities will merge.
- (3) The type of organization of the surviving entity.
- (4) The terms and conditions of the merger.
- (5) The manner and basis for converting the interests of each party to the merger into interests, obligations, or other securities of the surviving entity, or into money or other property in whole or in part.
- (6) The street address of the surviving entity's principal place of business.

(c) The plan of merger required by subsection (b) of this Section must be approved by each party to the merger in accordance with all of the following:

- (1) In the case of a partnership, by all of the partners or by the number or percentage of the partners required to approve a merger in the partnership agreement.
- (2) In the case of a limited liability company, in accordance with the terms of the limited liability company operating agreement, if any, and in accordance with the laws under which it was formed.

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

(e) If a partnership or partnerships are merging under this Section, the partnership or partnerships and the limited liability company or companies that are parties to the merger must sign the articles of merger. The articles of merger shall be delivered to the Secretary of State of this State for filing. The articles must set forth all of the following:

- (1) The name of each partnership and the name and jurisdiction of organization of each limited liability company that is a party to the merger.
 - (2) That a plan of merger has been approved and signed by each partnership and each limited liability company that is a party to the merger.
 - (3) The name and address of the surviving partnership or other surviving entity.
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- (4) The effective date of the merger.
 - (5) If a party to the merger is a foreign limited liability company, the jurisdiction and date of the filing of its articles of organization and the date when its application for authority was filed with the Secretary of State of this State or, if an application has not been filed, a statement to that effect.
 - (6) If the surviving entity is not a partnership or limited liability company organized under the laws of this State, an agreement that the surviving entity may be served with process in this State and is subject to liability in any action or proceeding for the enforcement of any liability or obligation of any partnership previously subject to suit in this State that is to merge, and for the enforcement, as provided in this Act, of the right of partners of any partnership to receive payment for their interest against the surviving entity.
 - (f) The merger is effective upon the filing of the articles of merger with the Secretary of State of this State, or on a later date as specified in the articles of merger not later than 30 days subsequent to the filing of the plan of merger under subsection (e) of this Section.
 - (g) When any merger becomes effective under this Section:
 - (1) the separate existence of each partnership and each limited liability company that is a party to the merger, other than the surviving entity, terminates;
 - (2) all property owned by each partnership and each limited liability company that is a party to the merger vests in the surviving entity;
 - (3) all debts, liabilities, and other obligations of each partnership and each limited liability company that is a party to the merger become the obligations of the surviving entity;
 - (4) an action or proceeding by or against a partnership or limited liability company that is a party to the merger may be continued as if the merger had not occurred or the surviving entity may be substituted as a party to the action or proceeding; and
 - (5) except as prohibited by other law, all the rights, privileges, immunities, powers, and purposes of each partnership and limited liability company that is a party to the merger vest in the surviving entity.
 - (h) The Secretary of State of this State is an agent for service of process in an action or proceeding against the surviving foreign entity to enforce an obligation of any party to a merger if the surviving foreign entity fails to appoint or maintain an agent designated for service of process in this State or the agent for service of process cannot with reasonable diligence be
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found at the designated office. Service is effected under this subsection (h) at the earliest of:

- (1) the date the surviving entity receives the process notice or demand;
- (2) the date shown on the return receipt, if signed on behalf of the surviving entity; or
- (3) 5 days after its deposit in the mail, if mailed postpaid and correctly addressed.

(i) Service under subsection (h) of this Section shall be made by the person instituting the action by doing all of the following:

- (1) Serving on the Secretary of State of this State, or on any employee having responsibility for administering this Act in his or her office, a copy of the process, notice, or demand, together with any papers required by law to be delivered in connection with service and paying the fee prescribed by Section 8.4 of this Act.
- (2) Transmitting notice of the service on the Secretary of State of this State and a copy of the process, notice, or demand and accompanying papers to the surviving entity being served, by registered or certified mail at the address set forth in the articles of merger.
- (3) Attaching an affidavit of compliance with this Section, in substantially the form that the Secretary of State of this State may by rule prescribe, to the process, notice, or demand.

(j) Nothing contained in this Section shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a partnership in any other manner now or hereafter permitted by law.

(k) The Secretary of State of this State shall keep, for a period of 5 years from the date of service, a record of all processes, notices, and demands served upon him or her under this Section and shall record the time of the service and the person's action with reference to the service.

(l) Except as provided by agreement with a person to whom a general partner of a partnership is obligated, a merger of a partnership that has become effective shall not affect any obligation or liability existing at the time of the merger of a general partner of a partnership that is merging.

205/7.2. Approval of conversion into a limited liability company

§ 7.2. Approval of conversion into a limited liability company. A partnership may convert into a limited liability company organized, formed, or created under the laws of this State, upon approval of the conversion in accordance with this Section. If the partnership agreement specifies the manner of approving a conversion of a partnership, the conversion shall be approved as specified in the

partnership agreement. If the partnership agreement does not specify the manner of approving a conversion of a partnership and does not prohibit a conversion of the partnership, the conversion shall be approved in the same manner as is specified in the partnership agreement for approving a merger that involves a partnership as a constituent party to the merger. If the partnership agreement does not specify the manner of approving a merger that involves the partnership as a constituent party or a conversion of a partnership and does not prohibit a conversion of the partnership, the conversion must be approved by all of the partners.

After a conversion is approved, the partnership shall file articles of organization in the Office of the Secretary of State in accordance with subsection (d) of Section 37-10 of the Limited Liability Company Act.¹

205/8. Partnership property--Conveyances in partnership name

§ 8.

- (1) All property originally brought into the partnership stock or subsequently acquired, by purchase or otherwise, on account of the partnership is partnership property.
- (2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.
- (3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.
- (4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

205/8.1. Registered limited liability partnerships

§ 8.1. Registered limited liability partnerships.

- (a) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State an application or a renewal application, as the case may be, stating the name of the partnership; the federal employer identification number of the partnership; the address of its principal office; the address of a registered office and the name and address of a registered agent for service of process in this State, which the partnership is required to maintain; the number of partners; a brief statement of the business in which the partnership engages; and that the partnership thereby applies for status or renewal of its status, as the case may be, as a registered limited liability partnership; and if the partnership is organized as a registered limited liability partnership under the laws of another state or other foreign

¹ 805 ILCS 180/37-10.

jurisdiction, a document or documents sufficient under those laws to constitute official certification of current status in good standing as a registered limited liability partnership under the laws of that state or jurisdiction.

(b) The application or renewal application shall be executed by a majority in interest of the partners or by one or more partners authorized to execute an application or renewal application.

(c) The application or renewal application for a registered limited liability partnership organized under the laws of this State shall be accompanied by a fee of \$100 for each partner, but in no event shall the fee be less than \$200 or exceed \$5,000. The application for a registered limited liability partnership organized under the laws of another state or other foreign jurisdiction shall be \$500. The renewal application for a registered limited liability partnership organized under the laws of another state or other foreign jurisdiction shall be \$300. All such fees shall be deposited into the Division of Corporations Registered Limited Liability Partnership Fund.

(d) There is hereby created in the State treasury a special fund to be known as the Division of Corporations Registered Limited Liability Partnership Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Business Services Division of the Office of the Secretary of State to administer the responsibilities of the Secretary of State under this Act. The balance of the Fund at the end of any fiscal year shall not exceed \$200,000, and any amount in excess thereof shall be transferred to the General Revenue Fund.

(e) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed application or renewal application with the required fee.

(f) Registration is effective at the time the registration application is filed with the Secretary of State or at any later time, not more than 60 days after the filing of the registration application, specified in the application, for one year after the date an application is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice together with a filing fee of \$100. Registration, whether pursuant to an original application or a renewal application, as a registered limited liability partnership is renewed if, during the 60 day period preceding the date the initial registration or renewed registration otherwise would have expired, the partnership files with the Secretary of State a renewal application. A renewed registration expires one year after the date an original

registration would have expired if the last renewal of the registration had not occurred.

(g) The status of a partnership as a registered limited liability partnership shall not be affected by changes after the filing of an application or a renewal application in the information stated in the application or renewal application.

(h) The Secretary of State shall provide forms for registration application, renewal of registration, and voluntary withdrawal notice.

205/8.2. Name of registered limited liability partnership; misrepresentation

§ 8.2. Name of registered limited liability partnership; misrepresentation.

(a) The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." or the designation "LLP" as the last words or letters of its name.

(b) A foreign partnership may not use an assumed or fictitious name in the conduct of its business to intentionally misrepresent the geographic origin or location of the partnership.

This subsection (b) does not apply to any foreign limited liability partnership that has gross annual revenues in excess of \$100,000,000.

(c) A person shall not advertise or cause to be listed in a telephone directory an assumed or fictitious business name that intentionally misrepresents where the business is actually located or operating or falsely states that the business is located or operating in the area covered by the telephone directory. This subsection (c) does not apply to a telephone service provider or to the publisher or distributor of a telephone service directory, unless the conduct prescribed in this subsection (c) is on behalf of that telephone service provider or that publisher or distributor.

This subsection (c) does not apply to any foreign limited liability partnership that has gross annual revenues in excess of \$100,000,000.

(d) A foreign limited liability partnership that violates this Section is guilty of a petty offense and must be fined not less than \$501 and not more than \$1,000. A foreign limited liability partnership is guilty of an additional offense for each additional day in violation of this Section.

205/8.3. Applicability of Act to foreign and interstate commerce

§ 8.3. Applicability of Act to foreign and interstate commerce.

(a) A partnership, including a registered limited liability partnership, formed and existing under this Act, may conduct its business, carry on its operations, and have and exercise the powers granted by this Act in any state, territory, district, or possession of the United States or in any foreign country.

(b) It is the intent of the legislature that the legal existence of registered limited liability partnerships formed and existing under this Act be recognized outside the boundaries of this State and that a registered limited liability partnership transacting business outside this State and the laws of this State governing registered limited liability partnerships be granted the protection of full faith and credit under the Constitution of the United States.

(c) It is the policy of this State that the internal affairs of partnerships, including registered limited liability partnerships, formed and existing under this Act, including the liability of partners for debt, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this State.

(d) The changes made to this Section by Public Act 88-683 apply retroactively on and after August 11, 1994.

205/8.4. Fees

§ 8.4. Fees.

(a) The Secretary of State shall charge and collect in accordance with the provisions of this Act and rules promulgated under its authority:

- (1) fees for filing documents;
- (2) miscellaneous charges;
- (3) fees for the sale of lists of filings, copies of any documents, and the sale or release of any information.

(b) The Secretary of State shall charge and collect:

- (1) for furnishing a copy or certified copy of any document, instrument, or paper relating to a registered limited liability partnership, \$1 per page, but not less than \$25, and \$25 for the certificate and for affixing the seal to the certificate; and
- (2) for the transfer of information by computer process media to any purchaser, fees established by rule.

205/8.5. Illinois Administrative Procedure Act

§ 8.5. Illinois Administrative Procedure Act.

The Illinois Administrative Procedure Act¹ is expressly adopted and incorporated in Sections 8.1 through 8.4 of this Act as if all of the provisions of the Illinois Administrative Procedure Act were included in Sections 8.1 through 8.4 of this Act, except that the provisions of subsection (c) of Section 16 of the Illinois Administrative Procedure Act,² which provides that at a hearing the licensee had the right to show compliance with all lawful requirements for

¹ 5 ILCS 100/1-1 et seq.

² 5 ILCS 100/10-65.

retention, continuation, or renewal of the license, is specifically excluded, and for the purposes of this Act, the notice required under Section 10 of the Illinois Administrative Procedure Act³ is deemed sufficient when mailed to the last known address of a party.

205/9. Authority of partner to bind the firm, etc.

§ 9.

- (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.
- (2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.
- (3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:
 - (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;
 - (b) Dispose of the good-will of the business;
 - (c) Do any other act which would make it impossible to carry on the ordinary business of the partnership;
 - (d) Confess a judgment;
 - (e) Submit a partnership claim or liability to arbitration or reference.
- (4) No act of a partner in contravention of a restriction on his authority shall bind the partnership to persons having knowledge of the restriction.

205/10. Conveyance of partnership real estate

§ 10.

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

³ 5 ILCS 100/10-25.

knowledge that the partner, in making the conveyance, has exceeded his authority.

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

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

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

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

205/11. Admission of partner as evidence

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

Part III. Relations of Partners to Persons Dealing with the Partnership

205/12. Notice to partner is notice to partnership--Exception

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

205/13. Liability of partnership for acts of partner

§ 13. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership, or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

205/14. Misapplication of property of third persons

§ 14. The partnership is bound to make good the loss:

- (a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and
- (b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

205/15. Liability of partners

§ 15. Liability of partners.

(a) Except as provided in subsection (b) of this Section, all partners are liable:

- (1) jointly and severally for everything chargeable to the partnership under Sections 13 and 14; and
- (2) jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(b) Subject to subsection (c) of this Section, a partner in a registered limited liability partnership is not liable, directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership, whether arising in tort, contract or otherwise, arising from negligence, wrongful acts, omissions, misconduct, or malpractice, committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership. Nothing in this subsection shall have the effect of limiting the personal responsibility penalty that may be chargeable to any partner under Section 3-7 of the Uniform Penalty and Interest Act.¹

(c) Subsection (b) of this Section shall not affect

- (1) the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, omissions, misconduct, or malpractice or that of any other person under his direct supervision and control,
- (2) the joint liability of a partner for debts and obligations of the partnership arising from any cause other than those specified in subsection (b) of this Section, including the ordinary commercial debts of the registered limited liability partnership, or

¹ 35 ILCS 735/3-7.

(3) the liability of a partner for the personal responsibility penalty that may be chargeable under Section 3-7 of the Uniform Penalty and Interest Act.

(d) A partner in a registered limited liability partnership, other than a partner described in item (1) of subsection (c), is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the negligence, wrongful acts, omissions, misconduct, or malpractice of the type described in subsection (b) of this Section.

205/16. Liability for holding oneself out as a partner

§ 16.

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

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

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

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

205/17. Liability of person admitted to partnership for past obligations

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

Part IV. Relations of Partners to One Another

205/18. Rights and duties of partners to each other

§ 18. Rights and duties of partners to each other. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

- (a) Each partner shall be repaid his contribution, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and except as provided in subsection (b) of Section 15, each partner must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.
- (b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.
- (c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.
- (d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.
- (e) All partners have equal rights in the management and conduct of the partnership business.
- (f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.
- (g) No person can become a member of a partnership without the consent of all the partners.
- (h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

205/19. Partnership books

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

205/20. Information must be furnished partner or legal representative

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

205/21. Partner and representative accountable for profits

§ 21.

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

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

205/22. Partner's right to account

§ 22. Any partner shall have the right to a formal account as to partnership affairs:

- (a) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners,
- (b) If the right exists under the terms of any agreement,
- (c) As provided by Section 21,
- (d) Whenever other circumstances render it just and reasonable.

205/23. Continuation of partnership beyond final term

§ 23.

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

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

205/24. Property rights of a partner

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

Part V. Property Rights of a Partner

205/25. *Partnership property--Rights of parties*

§ 25.

- (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.
- (2) The incidents of this tenancy are such that:
 - (a) A partner, subject to the provisions of this act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.
 - (b) A partner's right in specific partnership property is not assignable except in connection with the assignment of the rights of all the partners in the same property.
 - (c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.
 - (d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.
 - (e) A partner's right in specific partnership property is not subject to surviving spouse's or child's award.

205/26. *Interest of partner*

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

205/27. *Effect of conveyance of interest of partner*

§ 27.

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

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

205/28. Judgment and order of court

§ 28.

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

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

- (a) With separate property, by any one or more of the partners, or
- (b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

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

Part VI. Dissolution and Winding Up

205/29. Dissolution of a partnership defined

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

205/30. Effect of dissolution

§ 30. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

205/31. When dissolution is caused

§ 31. Dissolution is caused:

- (1) Without violation of the agreement between the partners,

- (a) By the termination of the definite term or particular undertaking specified in the agreement,
 - (b) By the express will of any partner when no definite term or particular undertaking is specified,
 - (c) By the express will of all the partners who have not assigned their interests or allowed them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,
 - (d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;
- (2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;
 - (3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;
 - (4) By the death of any partner;
 - (5) By the bankruptcy of any partner or the partnership;
 - (6) By the judgment of a court under Section 32.

205/32. Order of dissolution by court

§ 32.

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

205/33. Dissolution terminates authority of partners to act for the partnership

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

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

205/34. Liability of partners inter se upon dissolution

§ 34. Liability of partners inter se upon dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

- (a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution;
- (b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or
- (c) The liability is for a debt, obligation, or liability for which the partner is not liable as provided in subsection (b) of Section 15.

205/35. Effect of dissolution upon power of partner to bind the firm

§ 35.

- (1) After dissolution a partner can bind the partnership except as provided in paragraph (3)
 - (a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution.
 - (b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction
 - (I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or
 - (II) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having

- no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.
- (2) The liability of a partner under paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution
- (a) Unknown as a partner to the person with whom the contract is made; and
 - (b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.
- (3) The partnership is in no case bound by any act of a partner after dissolution
- (a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or
 - (b) Where the partner has become bankrupt; or
 - (c) Where the partner has no authority to wind up partnership affairs, except by a transaction with one who
 - (I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or
 - (II) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in paragraph (1b II).
- (4) Nothing in this section shall affect the liability under Section 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

205/36. Liability of partners upon dissolution

§ 36. Liability of partners upon dissolution.

- (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.
 - (2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business, and such agreement may be inferred from the course of dealing
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between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

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

(4) The individual property of a deceased partner shall be liable for those obligations of the partnership incurred while he was a partner and for which he was liable under Section 15 but subject to the prior payment of his separate debts.

205/37. Who may wind up partnership affairs

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

205/38. Application of partnership property to pay partnership debts

§ 38.

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

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

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

- I. All the rights specified in paragraph (1) of this section, and
- II. The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed

term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2a II) of this section, and in like manner indemnify him against all present or future partnership liabilities.

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

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

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

205/39. Rights of partners upon rescission of partnership contract for fraud or misrepresentation

§ 39. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

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

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

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

205/40. Settlement of accounts between partners

§ 40. Settlement of accounts between partners. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are:

- I. The partnership property,
 - II. The contributions of the partners specified in clause (d) of this paragraph.
- (b) The liabilities of the partnership shall rank in order of payment, as follows:
- I. Those owing to creditors other than partners,
 - II. Those owing to partners other than for capital and profits,
 - III. Those owing to partners in respect of capital,
 - IV. Those owing to partners in respect of profits.
- (c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.
- (d) Except as provided in subsection (b) of Section 15:
- (1) The partners shall contribute, as provided by Section 18(a) the amount necessary to satisfy the liabilities; and
 - (2) if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.
- (e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.
- (f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.
- (g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.
- (h) When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.
- (i) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:
- I. Those owing to separate creditors,
 - II. Those owing to partnership creditors,
 - III. Those owing to partners by way of contribution.

205/41. *Admission or retirement of partners*

§ 41.

- (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.
 - (2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.
 - (3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.
 - (4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.
 - (5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of Section 38(2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.
 - (6) When a partner is expelled and the remaining partners continue the business, either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.
 - (7) The liability of a third person becoming a partner in the partnership continuing the business, under this section to the creditors of the dissolved partnership shall be satisfied out of partnership property only.
 - (8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased
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partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

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

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

205/42. Continuation of business after death or retirement of partner

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

205/43. Right to account on dissolution of partnership

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