

WEST VIRGINIA CODE: §47B-2-2

§47B-2-2. Formation of partnership.

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