WEST VIRGINIA CODE CHAPTER 47B ARTICLE 8

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§47B-8-1. Events causing dissolution and winding up of partnership business.

A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under subdivisions (2) through (10), section one, article six of this chapter, of that partner's express will to withdraw as a partner, or on a later date specified by the partner;

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

(i) The expiration of ninety days after a partner's dissociation by death or otherwise under subdivisions (6) through (10), section one, article six, or wrongful dissociation under subsection (b), section two, article six, both of this chapter, unless before that time a majority in interest of the remaining partners, including partners who have rightfully dissociated pursuant to paragraph (i), subdivision (2), subsection (b), section two, article six of this chapter, agree to continue the partnership;

(ii) The express will of all of the partners to wind up the partnership business; or

(iii) The expiration of the term or the completion of the undertaking;

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

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

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

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

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

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

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

(i) After the expiration of the term or completion of the undertaking, if the partnership was

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for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

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

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§47B-8-2. Partnership continued after dissolution.

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

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated.

In that event:

(1) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and

(2) The rights of a third party accruing under subdivision (1), section four, article eight of this chapter or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

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§47B-8-3. Right to wind up partnership business.

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

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

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

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§47B-8-4. Partner's power to bind partnership after dissolution.

Subject to section five, article eight of this chapter, a partnership is bound by a partner's act after dissolution that:

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

(2) Would have bound the partnership under section one, article three of this chapter before dissolution, if the other party to the transaction did not have notice of the dissolution.

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§47B-8-5. Statement of dissolution.

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

(b) A statement of dissolution cancels a filed statement of partnership authority for the purposes of subsection (d), section three, article three of this chapter and is a limitation on authority for the purposes of subsection (e), section three, article three of this chapter.

(c) For the purposes of section one, article three and section four, article eight, both of this chapter, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution ninety days after it is filed.

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

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§47B-8-6. Partner's liability to other partners after dissolution.

(a) Except as otherwise provided in subsection (b) of this section, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under section four of this article for which such partner is personally liable under section six, article three of this chapter.

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

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§47B-8-7. Settlement of accounts and contributions among partners.

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

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account that is attributable to an obligation for which such partner is personally liable under section six, article three of this chapter.

(c) If a partner fails or is not obligated to contribute, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy any partnership obligations for which such partner is personally liable under section six, article three of this chapter. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations, to the extent such contributions are made on account of obligations for which the other partners are liable under said section.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations for which such partner is personally liable under section six, article three of this chapter and that were not known at the time of settlement.

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

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership under subsection (b) of this section.

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