WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED

HOUSE BILL No. 987

(By Mr. [Signature]

Passed April 6, 1981
In Effect Ninety Days from Passage
AN ACT to amend and reenact article nine, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to revising the uniform limited partnership act; definitions; name of limited partnership and reservation thereof; specifying office and agent to be maintained by limited partnership; requiring records to be kept and availability thereof; nature of partnership business; business transactions of partner with partnership; execution, amendment, cancellation, filing, notice, and delivery of certificate of limited partnership; liability for false statement in certificate; admission of additional limited partners; voting by limited partners; liability of limited partner to third parties; person erroneously believing himself a limited partner; right of limited partner to information; admission of additional general partners; events of withdrawal of general partners; general powers and liabilities of general partners; contributions by general partner; voting by general partners; liability for contribution; sharing of profits, losses and distributions; interim distributions; withdrawal of general or limited partner; distribution upon withdrawal; distribution in kind; right to distribution; limitations on distribution; liability upon return of contribution; nature of partnership interest; assignment of partnership interest; rights of creditor; right of assignee to become limited partner; power of estate of deceased or incompetent partner; nonjudicial and judicial dissolution; winding up of affairs; distribution of assets; law governing foreign limited partnerships; registration of foreign limited partnerships and names thereof; issuance of registration;
changes and amendments to registration; cancellation of registration; transaction of business without registration; action by the secretary of state to restrain a foreign limited partnership; right of action by limited partner; proper plaintiff; pleading; expenses; construction and application of article; short title of article; effective date of article; and rules for cases not provided for in article.

Be it enacted by the Legislature of West Virginia:

That section eighty-two, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article nine, chapter forty-seven of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS FRANCHISE REGISTRATION CERTIFICATE TAX.

§11-12-82. Annual fee of secretary of state as attorney-in-fact.

Every foreign corporation, every foreign limited partnership, every domestic corporation whose principal place of business or chief works is located without the state, and every domestic limited partnership whose principal place of business is located without the state, shall pay an annual fee of ten dollars for the services of the secretary of state as attorney-in-fact for such corporation or limited partnership, which fee shall be due and payable at the same time, collected by the same officers, and accounted for in the same way, as the annual license tax imposed on corporations under this article, payable to the secretary of state as statutory attorney-in-fact.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.

§47-9-1. Definitions.

As used in this article, unless the context otherwise requires:

1. (1) “Certificate of limited partnership” means the certificate referred to in section eight of this article and the certificate as amended;

2. (2) “Contribution” means any cash, property, services
rendered, or a promissory note or other binding obligation
to contribute cash or property or to perform services, which
a partner contributes to a limited partnership in his capacity
as a partner;

(3) "Event of withdrawal of a general partner" means an
event that causes a person to cease to be a general partner
as provided in section twenty-three of this article;

(4) "Foreign limited partnership" means a partnership
formed under the laws of any state other than this state and
having as partners one or more general partners and one or
more limited partners;

(5) "General partner" means a person who has been ad-
mitted to a limited partnership as a general partner in accord-
ance with the partnership agreement and named in the certi-
cificate of limited partnership as a general partner;

(6) "Limited partner" means a person who has been ad-
mitted to a limited partnership as a limited partner in accord-
ance with the partnership agreement and named in the certi-
cificate of limited partnership as a limited partner;

(7) "Limited partnership" and "domestic limited part-
nership" means a partnership formed by two or more persons
under the laws of this state and having one or more general
partners and one or more limited partners;

(8) "Partner" means a limited or general partner;

(9) "Partnership agreement" means any valid agreement,
written or oral, of the partners as to the affairs of a limited
partnership and the conduct of its business;

(10) "Partnership interest" means a partner's share of the
profits and losses of a limited partnership and the right to re-
ceive distributions of partnership assets;

(11) "Person" means a natural person, partnership, limited
partnership (domestic or foreign), trust, estate, association or
corporation; and

(12) "State" means a state, territory or possession of the
United States, the District of Columbia or the Commonwealth
of Puerto Rico.
§47-9-2. Name of limited partnership.

1. The name of each limited partnership as set forth in its certificate of limited partnership:

   (1) Shall contain without abbreviation the words “limited partnership”;

   (2) May not contain the name of a limited partner unless

   (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under the name before the admission of that limited partner;

   (3) May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership;

   (4) May not be the same as, or deceptively similar to the name of any corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or limited partnership in this state; and

   (5) May not include the words “engineer,” “engineers,” “engineering” or any combination of those words unless the purpose of the corporation is to practice professional engineering as defined in article thirteen, chapter thirty of this code, as amended, and one or more of the incorporators is a registered professional engineer as defined therein.

§47-9-3. Reservation of name.

1. (a) The exclusive right to the use of a name may be reserved by:

   (1) Any person intending to organize a limited partnership under this article and to adopt that name;

   (2) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

   (3) Any foreign limited partnership intending to register in this state and adopt that name; and

   (4) Any person intending to organize a foreign limited
partnership and intending to have it registered in this state and
adopt that name.

(b) The reservation shall be made by filing with the secre-
tary of state an application, executed by the applicant, to
reserve a specified name. If the secretary of state finds that the
name is available for use by a domestic or foreign limited
partnership, he shall reserve that name for the exclusive use
of the applicant for a period of one hundred twenty days. The
right to the exclusive use of a reserved name may be transferred
to any other person by filing in the office of the secretary of
state a notice of the transfer, executed by the applicant for
whom the name was reserved and specifying the name and
address of the transferee.

§47-9-4. Secretary of state constituted attorney-in-fact for all
limited partnerships; manner of acceptance or service
of notice and process upon secretary of state; what
constitutes conducting affairs or doing or transacting
business in this state for purposes of this section.

(a) The secretary of state is hereby constituted the attorney-
in-fact for and on behalf of every limited partnership created
by virtue of the laws of this state, with authority to accept
service of notice and process on behalf of every such limited
partnership and upon whom service of notice and process
may be made in this state for and upon every such limited
partnership.

No act of such limited partnership appointing the secretary
of state such attorney-in-fact shall be necessary. Immediately
after being served with or accepting any such process or notice,
of which process or notice two copies for each defendant shall
be furnished the secretary of state with the original notice or
process, together with a fee of two dollars, the secretary of
state shall file in his office a copy of such process or notice,
with a note thereon endorsed of the time of service, or accep-
tance, as the case may be, and transmit one copy of such pro-
cess or notice by registered or certified mail, return receipt
requested, to the person to whom notice and process shall be
sent, whose name and address were last furnished to the state
officer at the time authorized by statute to accept service of
notice and process and upon whom notice and process may be
served; and if no such person has been named, to the principal
office of the limited partnership at the address last furnished
to the state officer at the time authorized by statute to accept
service of process and upon whom process may be served,
as required by law. No process or notice shall be served on the
secretary of state or accepted by him fewer than ten days
before the return day thereof. Such limited partnership shall
pay the annual fee prescribed by section eighty-two, article
twelve, chapter eleven of this code for the services of the
secretary of state as its attorney-in-fact.

(b) Any foreign limited partnership that conducts affairs
or does or transacts business in this state is conclusively
presumed to have appointed the secretary of state as its
attorney-in-fact with authority to accept service of notice
and process on its behalf and upon whom service of notice
and process may be made in this state for and upon every
such limited partnership in any action or proceeding de-
scribed in the next following paragraph of this subsection.
No act of such foreign limited partnership appointing the
secretary of state as its attorney-in-fact shall be necessary. Im-
mediately after being served with or accepting any such pro-
cess or notice, of which process or notice two copies for each
defendant shall be furnished the secretary of state with the
original notice or process, together with a fee of two dollars,
the secretary of state shall file in his office a copy of such
process or notice, with a note thereon endorsed of the time
of service or acceptance, as the case may be, and transmit one
copy of such process or notice by registered or certified mail,
return receipt requested, to such foreign limited partnership
at the address of its principal office, which address shall be
stated in such process or notice. Such service or acceptance of
such process or notice shall be sufficient if such return receipt
is signed by an agent or employee of such foreign limited part-
nership, or the registered or certified mail so sent by the sec-
retary of state is refused by the addressee and the registered or
certified mail is returned to the secretary of state, or to
his office, showing thereon the stamp of the United States
postal service that delivery thereof has been refused, and such
return receipt or registered or certified mail is appended to
the original process or notice and filed therewith in the clerk's
office of the court from which such process or notice was
issued. No process or notice may be served on the secretary
of state or accepted by him fewer than ten days before the
return date thereof. The court may order such continuances
as may be reasonable to afford each defendant opportunity
to defend the action or proceedings.

For the purpose of this section, a foreign limited partnership
shall be deemed to be conducting affairs or doing or trans-
acting business herein (1) if such foreign limited partnership
makes a contract to be performed, in whole or in part, by any
party thereto, in this state, (2) if such foreign limited partner-
ship commits a tort in whole or in part in this state, or (3) if
such foreign limited partnership manufactures, sells, offers for
sale or supplies any product in a defective condition and such
product causes injury to any person or property within this
state notwithstanding the fact that such foreign limited part-
nership had no agents, servants or employees or contacts
within this state at the time of said injury. The making of such
contract, the committing of such tort or the manufacture or
sale, offer of sale or supply of such defective product as here-
inabove described shall be deemed to be the agreement of such
foreign limited partnership that any notice or process served
upon, or accepted by, the secretary of state pursuant to the
next preceding paragraph of this section in any action or pro-
ceeding against such foreign limited partnership arising from,
or growing out of, such contract, tort, or manufacture or sale,
offer of sale or supply of such defective product shall be of
the same legal force and validity as process duly served on
such a foreign limited partnership in this state.

§47-9-5. Office to be maintained; records to be kept; availability
to partners.

(a) Each limited partnership shall continuously maintain
in this state an office, which may but need not be a place of its
business in this state, at which shall be kept the following
records:

(1) A current list of the full name and last known business
address of each partner set forth in alphabetical order;
(2) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any power of attorney pursuant to which any certificate has been executed;

(3) A copy of the limited partnership’s federal, state and local income tax returns and reports, if any, for the three most recent years; and

(4) A copy of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years.

(b) Such records shall be available for inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.


A limited partnership may carry on any business which a partnership without limited partners may carry on, except the business of banking, brokerage or making insurance.


Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.


(a) In order to form a limited partnership, two or more persons must execute a certificate of limited partnership. The certificate shall be filed in the office of the secretary of state and set forth:

(1) The name of the limited partnership;

(2) The general character of its business;

(3) The address of the office and the name and address of the agent for service of process required to be maintained by section four of this article;
(4) The name and the business address of each partner, specifying separately the general partners and limited partners;

(5) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future;

(6) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(7) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;

(8) If agreed upon, the time at which or the events on the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;

(9) Any right of a partner to receive distributions of property, including cash from the limited partnership;

(10) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution;

(11) Any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;

(12) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner; and

(13) Any other matters the partners determine to include therein.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.
§47-9-9. Amendment to certificate.

(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

(1) The name of the limited partnership;

(2) The date of the filing of the certificate; and

(3) The amendment to the certificate.

(b) Within thirty days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

(1) A change in the amount or character of the contribution of any partner, or in any partner's obligation to make a contribution;

(2) The admission of a new partner;

(3) The withdrawal of a partner; or

(4) The continuation of the business under section forty-four of this article after an event of withdrawal of a general partner.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, but an amendment to show a change of address of a limited partner need be filed only once every twelve months.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

(e) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (b) of this section if the amendment is filed within the thirty-day period specified in subsection (b).

A certificate of limited partnership shall be cancelled upon
the dissolution and the commencement of winding up of the
partnership or at any other time there are no limited partners.
A certificate of cancellation shall be filed in the office of the
secretary of state and set forth:

1. The name of the limited partnership;
2. The date of filing of its certificate of limited partnership;
3. The reason for filing the certificate of cancellation;
4. The effective date, which shall be a date certain, of
cancellation if it is not to be effective upon the filing of the
certificate; and
5. Any other information the general partners filing the
certificate determine.


(a) Each certificate required by this article to be filed in
the office of the secretary of state shall be executed in the
following manner:

1. An original certificate of limited partnership must
be signed by all partners named therein;
2. A certificate of amendment must be signed by at least
one general partner and by each other partner designated in the
certificate as a new partner or whose contribution is described
as having been increased; and
3. A certificate of cancellation must be signed by all
general partners;

(b) Any person may sign a certificate by an attorney-in-
fact, but a power of attorney to sign a certificate relating to
the admission, or increased contribution, of a partner must
specifically describe the admission or increase.

(c) The execution of a certificate by a general partner
constitutes an affirmation under the penalties of perjury that
the facts states therein are true.
§47-9-12. Amendment or cancellation by judicial act.

If a person required by section eleven of this article to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition the appropriate circuit court to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate of amendment or cancellation.


(a) Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation, or of any judicial decree of amendment or cancellation, shall be delivered to the secretary of state. No photostatic copies may be used. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

(1) Endorse on each duplicate original the word “Filed” and the day, month and year of the filing thereof;

(2) File one duplicate original in his office; and

(3) Return the other duplicate original to the person who filed it or his representative.

(b) Upon the filing of a certificate of amendment, or judicial decree of amendment, in the office of the secretary of state the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation, or a judicial decree thereof, the certificate of limited partnership is cancelled.

(c) The certificate of limited partnership and any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation, or a duly certified copy thereof,

1 If any certificate of limited partnership or certificate of amendment or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

5 (1) Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

9 (2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under section twelve of this article.


1 The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated therein as limited partners are limited partners, but it is not notice of any other fact.

§47-9-16. Delivery of certificates to limited partners.

1 Upon the return by the secretary of state pursuant to section thirteen of this article of a certificate marked "Filed," the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate to each limited partner unless the partnership agreement provides otherwise.

§47-9-17. Admission of additional limited partners.

1 (a) After the filing of a limited partnership's original
certificate of limited partnership, a person may be admitted as an additional limited partner:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(2) In the case of an assignee of a partnership interest of a partner who has the power as provided in section forty-two of this article to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

(b) In each case under subsection (a) of this section, the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.


Subject to section nineteen of this article, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, on a per capita or other bases, upon any matter.


(a) Except as provided in subsection (d) of this section, a limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business: Provided, That if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his participation in control.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section solely by doing one or more of the following:
(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner;
(2) Consulting with and advising a general partner with respect to the business of the limited partnership;
(3) Acting as surety for the limited partnership;
(4) Approving or disapproving an amendment to the partnership agreement; or
(5) Voting on one or more of the following matters:
   (i) The dissolution and winding up of the limited partnership;
   (ii) The sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;
   (iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;
   (iv) A change in the nature of the business; or
   (v) The removal of a general partner.
(c) The enumeration in subsection (b) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the business of the limited partnership.
(d) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by subdivision two, section two of this article, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

§47-9-20. Person erroneously believing himself limited partner.
(a) Except as provided in subsection (b) of this section, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the
enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) of this section, is liable as a general partner to any third party who transacts business with the enterprise (i) before the person withdraws and an appropriate certificate is filed to show withdrawal, or (ii) before an appropriate certificate is filed to show his status as a limited partner and, in the case of an amendment, after expiration of the thirty day period for filing an amendment relating to the person as a limited partner under section nine of this article, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

§47-9-21. Right of limited partner to information.

Each limited partner has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by section five of this article;

(2) Obtain from the general partners from time to time upon reasonable demand (i) true and full information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after becoming available, a copy of the limited partnership’s federal, state and local income tax returns from each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable.

§47-9-22. Admission of additional general partners.

After the filing of a limited partnership’s original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner.
§47-9-23. Events of withdrawal of general partner.

Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in section thirty-two of this article;

(2) The general partner ceases to be a member of the limited partnership as provided in section forty of this article;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided for in the certificate of limited partnership, the general partner (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation; (v) files an answer of other pleading admitting to failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his properties;

(5) Unless otherwise provided in the certificate of limited partnership, one hundred twenty days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his consent or acquiescence of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed or within ninety days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural per-
son, (i) his death; or (ii) the entry by a court of competent
jurisdiction adjudicating him incompetent to manage his per-
on or his estate;
(7) In the case of a general partner who is acting as a
general partner by virtue of being a trustee of a trust, the
termination of the trust, but not merely the substitution of a
new trustee;
(8) In the case of a general partner that is a separate part-
nership, the dissolution and commencement of winding up of
the separate partnership;
(9) In the case of a general partner that is a corporation,
the filing of a certificate of dissolution, or its equivalent, for
the corporation or the revocation of its charter; or
(10) In the case of an estate, the distribution by the fidu-
ciary of the estate's entire interest in the partnership.
1 Except as provided in this article or in the partnership agree-
ment, a general partner of a limited partnership has the rights
and powers and is subject to the restrictions and liabilities of
a partner in a partnership without limited partners.
§47-9-25. Contributions by general partner.
1 Except as provided in this article or in the partnership agree-
butions to the partnership and share in the profits and losses
of and in distributions from the limited partnership as a gen-
eral partner. A general partner also may make contributions
to and share in profits, losses and distributions as a limited
partner. A person who is both a general partner and a limited
partner has the rights and powers and is subject to the restric-
tions and liabilities of a general partner and, except as pro-
vided in the partnership agreement, also has the powers and is
subject to the restrictions of a limited partner to the extent of
his participation in the partnership as a limited partner.
1 The partnership agreement may grant to all or certain
identified general partners the right to vote, on a per capita
or any other basis, separately or with all or any class of the
limited partners on any matter.

§47-9-27. Form of contribution.

The contribution of a partner may be in cash, property,
or services rendered, or a promissory note or other obligation
to contribute cash or property or to perform services.


(a) Except as provided in the certificate of limited partner-
ship, a partner is obligated to the limited partnership to
perform any promise to contribute cash or property or to
perform services, even if he is unable to perform because of
death, disability or any other reason. If a partner does not
make the required contribution of property or services, he is
obligated at the option of the limited partnership to contribute
cash equal to the portion of the value, as stated in the certificate
of limited partnership, of the stated contribution that has not
been made.

(b) Unless otherwise provided in the partnership agreement,
the obligation of a partner to make a contribution or return
money or other property paid or distributed in violation of
this article may be compromised only by consent of all the
partners. Notwithstanding the compromise, a creditor of a
limited partnership who extends credit or whose claim arises
after the filing of the certificate of limited partnership or an
amendment thereto which, in either case, reflects the obliga-
tion, and before the amendment or cancellation thereof to
reflect the compromise, may enforce the original obligation.

§47-9-29. Sharing of profits and losses.

The profits and losses of a limited partnership shall be
allocated among the partners, and among classes of partners,
in the manner provided in the partnership agreement. If the
partnership agreement does not so provide, profits and
losses shall be allocated on the basis of the value, as stated
in the certificate of limited partnership, of the contributions
made by each partner to the extent they have been received
by the partnership and have not been returned.

1 Distributions of cash or other assets of a limited partnership shall be allocated among the partners and classes of partners in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

§47-9-31. Interim distributions.

1 Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof:

   (1) To the extent and at the times or upon the happening of the events specified in the partnership agreement; and

   (2) If any distribution constitutes a return of part of his contribution under subsection (b), section thirty-eight of this article, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

§47-9-32. Withdrawal of general partner.

1 A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

§47-9-33. Withdrawal of limited partner.

1 A limited partner may withdraw from a limited partnership at any time or upon the happening of events specified in the certificate of limited partnership and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner
may withdraw upon not less than six months' prior written notice to each general partner at his address on the books of the limited partnership at its office in this state.

§47-9-34. Distribution upon withdrawal.

Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement, and, if not otherwise provided in the agreement, he is entitled to receive within a reasonable time after withdrawal the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.

§47-9-35. Distribution in kind.

Except as provided in the certificate of limited partnership, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

§47-9-36. Right to distribution.

At the time a partner becomes entitled to receive a distribution, he has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

§47-9-37. Limitations on distribution.

A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

§47-9-38. Liability upon return of contribution.

(a) If a partner has received the return of any part of his
contribution without violation of the partnership agreement or this article, he is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a partner has received the return of any part of his contribution in violation of the partnership agreement or this article, he is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully returned.

(c) A partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value, as set forth in the certificate of limited partnership, of his contribution which has not been distributed to him.


A partnership interest is personal property.

§47-9-40. Assignment of partnership interest.

Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all his partnership interest.

§47-9-41. Rights of creditor.

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This article does not deprive
any partner of the benefit of any exemption laws applicable to his partnership interest.

§47-9-42. Right of assignee to become limited partner.

(a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the assignor gives the assignee that right in accordance with authority described in the certificate of limited partnership, or (2) all other partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a limited partner under the partnership agreement and this article. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in section thirty-eight of this article. Provided, That the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the certificate of limited partnership.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under sections fourteen and twenty-eight of this article.

§47-9-43. Power of estate of deceased or incompetent partner.

If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

§47-9-44. Nonjudicial dissolution.

A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time or upon the happening of events specified in the certificate of limited partnership;

(2) The written consent of all partners;

(3) An event of withdrawal of a general partner, unless at the time there is at least one other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within ninety days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one more additional general partners if necessary or desired; or

(4) Entry of a decree of judicial dissolution under section forty-five of this article.


On application by or for a partner, the appropriate circuit court may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

§47-9-46. Winding up of affairs.

Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs: Provided, That the appropriate circuit court may wind up the limited partnership's affairs upon application of any partner, his legal representative or assignee.

§47-9-47. Distribution of assets.

Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section thirty-one or thirty-four of this article;
(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under said section thirty-one or thirty-four; and

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

§47-9-48. Law governing foreign limited partnerships.

Subject to the Constitution of this state, (1) the laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

§47-9-49. Registration of foreign limited partnership.

Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state and date of its formation;

(3) The general character of the business it proposes to transact in this state;

(4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint: Provided, That the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in and authorized to do business in this state;

(5) A statement that the secretary of state is appointed
the agent of the foreign limited partnership for service of
process if no agent has been appointed under subdivision (4)
of this section or, if appointed, the agent's authority has been
revoked or if the agent cannot be found or served with the
eexercise of reasonable diligence;

(6) The address of the office required to be maintained
in the state of its organization by the laws of that state or,
if not so required, of the principal office of the foreign
limited partnership; and

(7) If the certificate of limited partnership filed in the
foreign limited partnership's state of organization is not re-
quired to include the names and business addresses of the
partners, a list of such names and addresses.

§47-9-50. Issuance of registration; filing in the office of the clerk
of the county commission.

(a) If the secretary of state finds that an application for
registration conforms to law and all requisite fees have been
paid, he shall:

(1) Endorse on the application the word “filed”, and the
month, day and year of the filing thereof;

(2) File in his office a duplicate original of the application;

and

(3) Issue a certificate of registration to transact business in
this state.

(b) The certificate of registration, together with a duplicate
original of the application, shall be returned to the person who
filed the application or his representative.

(c) The certificate of registration, or a duly certified copy
thereof, shall be recorded in the office of the clerk of the county
commission of the county where the principal office of the
limited partnership in this state is located. If such limited
partnership does not maintain a principal office in this state,
the recordation may be completed in any county in which the
limited partnership is conducting its affairs or doing or trans-
acting business.
§47-9-51. Registration of name of foreign limited partnership.

A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name under which it is registered in its state of organization, that includes without abbreviation the words “limited partnership” and that could be registered by a domestic limited partnership.

§47-9-52. Changes and amendments to registration.

If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.


A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to claims for relief or causes of action arising out of the transaction of business in this state.

§47-9-54. Transaction of business without registration.

(a) A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(b) The failure of a foreign limited partnership to register in the state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.
(d) A foreign limited partnership, by transacting business in the state without registration, appoints the secretary of state as its agent for service of process with respect to claim for relief or cause of action arising out of the transaction or business in this state.

§47-9-55. Action by attorney general to restrain a foreign limited partnership.

The attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this article.

§47-9-56. Right of action by limited partner.

A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

§47-9-57. Proper plaintiff.

In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which he complains or (2) his status as a partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

§47-9-58. Pleading.

In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

§47-9-59. Expenses.

If a derivative action is successful in whole or in part or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of those proceeds received by him.
§47-9-60. Construction and application of article.

1 This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting the same.

§47-9-61. Short title of article.

1 This article may be cited as the "Uniform Limited Partnership Act."

§47-9-62. Effective date of article.

1 The provisions of this article become effective on the first day of January, one thousand nine hundred eighty-two.

§47-9-63. Rules for cases not provided for in article.

1 In any case not provided for in this article, the provisions of the uniform partnership act, article eight-a of this chapter, shall apply.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ________ in ________ ________ day of ________ , 1981.

Governor