

DRAFT
FOR DISCUSSION ONLY

HARMONIZED UNIFORM PARTNERSHIP ACT (1997)
(Amendments to Uniform Partnership Act (1997))

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For January 28 - 30, 2011 Drafting Committee Meeting

Strike and Score Version

Without Prefatory Note and with Reporters' Notes

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ON UNIFORM STATE LAWS

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January 10, 2011

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HARMONIZED UNIFORM PARTNERSHIP ACT (1997)

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1 **Introductory Reporters' Notes**

2
3 The proposed revisions to the text of the act set forth in this document have been prepared
4 as part of a project that has two purposes: (i) to harmonize the language of all of the
5 unincorporated entity laws, and (ii) to revise the language of each of those acts in a manner that
6 permits their integration into a single code of entity laws.
7

8 The Reporters' Notes in this document are limited to explaining the source of certain of
9 the proposed changes. Following the approval of the changes in this document by the
10 Conference, the Reporters' Notes will be replaced with more usual comments that explain the
11 provisions of the act.
12

13 The harmonization process has involved the revision of the following acts, some of which
14 are referred to in the Reporters' Notes by the abbreviations listed below:
15

16	HUB	Business Organizations Act
17	META	Model Entity Transactions Act
18	MORAA	Model Registered Agents Act
19	UPA	Uniform Partnership Act (1997)
20	ULPA	Uniform Limited Partnership Act (2001)
21	ULLCA	Uniform Limited Liability Company Act (2006)
22	USTEA	Uniform Statutory Trust Entity Act
23	Coop Act	Uniform Limited Cooperative Association Act
24	UUNAA	Uniform Unincorporated Nonprofit Association Act (2008)

25
26 Changes to the currently effective text of the act are shown by ~~striking through text to be deleted~~
27 and underlining text to be added. Black type is used to show changes that adopt language from
28 the HUB, META, or MORAA, or are merely relocations of current language or corrections to
29 cross references. **Changes that adopt language from other unincorporated entity laws are shown**
30 **in blue type.** **Changes that do not have a source in one of the existing unincorporated entity laws**
31 **are shown in red type.**

1 **HARMONIZED UNIFORM PARTNERSHIP ACT (1997)**
2

3 **[ARTICLE] 1**

4 **GENERAL PROVISIONS**

5
6 **SECTION 101. DEFINITIONS.** In this ~~[Act]~~ [act]:

7 (1) “Business” includes every trade, occupation, and profession.

8 (2) “Contribution”, except in the phrase “right of contribution”, means a benefit provided
9 by a person to a partnership to become a partner or in the person’s capacity as a partner.

10 ~~(2)~~ (3) “Debtor in bankruptcy” means a person ~~who~~ that is the subject of:

11 ~~(i)~~ (A) an order for relief under Title 11 of the United States Code or a comparable
12 order under a successor statute of general application; or

13 ~~(ii)~~ (B) a comparable order under federal, state, or foreign law governing
14 insolvency.

15 ~~(3)~~ (4) “Distribution”, except as otherwise provided in Section 405(b), means a transfer
16 of money or other property from a partnership to ~~a partner in the partner’s capacity as a partner~~
17 or to the partner’s transferee a person on account of a transferable interest or in the person’s
18 capacity as a partner. The term includes:

19 (A) a redemption or other purchase by a partnership of a transferable interest; and

20 (B) a transfer to a partner in return for the partner’s relinquishment of any right to:

21 (i) participate as a partner in the management or conduct of the
22 partnership’s business; or

23 (ii) have access to records or other information concerning the
24 partnership’s business.

25 (4) (5) “Foreign limited liability partnership” means ~~a partnership that: (i) is an~~

1 unincorporated entity formed under ~~laws other than the laws of this State~~ the law of a jurisdiction
2 other than this state and ~~(ii) has the status of~~ denominated by that law as a limited liability
3 partnership ~~under those laws~~.

4 ~~(5)~~ (6) “Limited liability partnership”, except in the phrase “foreign limited liability
5 partnership”, means a partnership that has filed a statement of qualification under Section 1001
6 and does not have a similar statement in effect in any other jurisdiction.

7 (7) “Partner” means a person that has become a partner of a partnership under Section
8 402 and has not dissociated under Section 601.

9 ~~(6)~~ (8) “Partnership” means an association of two or more persons to carry on as co-
10 owners a business for profit formed under Section 202, predecessor law, or comparable law of
11 another jurisdiction and having at least two partners upon formation.

12 ~~(7)~~ (9) “Partnership agreement” means the agreement, whether ~~written, oral, or implied,~~
13 ~~among the partners concerning the partnership, including amendments to the partnership~~
14 ~~agreement or not referred to as a partnership agreement and whether oral, in a record, implied, or~~
15 in any combination thereof, of all the partners of a partnership concerning the matters described
16 in Section 103(a). The term includes the agreement as amended or restated.

17 ~~(8)~~ (10) “Partnership at will” means a partnership in which the partners have not agreed
18 to remain partners until the expiration of a definite term or the completion of a particular
19 undertaking.

20 ~~(9)~~ “Partnership interest” or “partner’s interest in the partnership” means ~~all of a partner’s~~
21 ~~interests in the partnership, including the partner’s transferable interest and all management and~~
22 ~~other rights~~.

23 ~~(10)~~ (11) “Person” means ~~an individual, corporation, business trust, estate, trust,~~
24 ~~partnership, association, joint venture, government, governmental subdivision, agency, or~~

1 ~~instrumentality, or any other legal or commercial entity~~ “Person” means an individual, business
2 corporation, nonprofit corporation, partnership, limited-partnership, limited liability company,
3 [general cooperative association,] limited cooperative-association, unincorporated nonprofit
4 association, statutory trust, business trust, common-law business trust, estate, trust, association,
5 joint venture, public corporation, government or governmental subdivision, agency, or
6 instrumentality, or any other legal or commercial entity.

7 (12) “Principal office” means the principal executive office of a partnership or a foreign
8 limited liability partnership, whether or not the office is located in this state.

9 ~~(14)~~ (13) “Property” means all property, real, personal, or mixed, or tangible or intangible,
10 or any right or interest therein.

11 (14) “Record”, used as a noun, means information that is inscribed on a tangible medium
12 or that is stored in an electronic or other medium and is retrievable in perceivable form.

13 (15) “Registered agent” means an agent of a limited liability partnership or foreign limited
14 liability partnership which is authorized to receive service of any process, notice, or demand
15 required or permitted by law to be served on the partnership.

16 (16) “Sign” means, with the present intent to authenticate or adopt a record:

17 (A) to execute or adopt a tangible symbol; or

18 (B) to attach to or logically associate with the record an electronic symbol, sound,
19 or process.

20 ~~(12)~~ (17) “State” means a State state of the United States, the District of Columbia, the
21 ~~Commonwealth~~ of Puerto Rico, the United States Virgin Islands, or any territory or insular
22 possession subject to the jurisdiction of the United States.

23 ~~(13) “Statement” means a statement of partnership authority under Section 303, a statement~~
24 ~~of denial under Section 304, a statement of dissociation under Section 704, a statement of~~

1 ~~dissolution under Section 805, a statement of merger under Section 907, a statement of~~
2 ~~qualification under Section 1001, a statement of foreign qualification under Section 1102, or an~~
3 ~~amendment or cancellation of any of the foregoing.~~

4 (14) (18) “Transfer” includes an assignment, conveyance, sale, lease, ~~mortgage, deed,~~
5 encumbrance, including a mortgage or security interest, a gift, and transfer or vesting by
6 operation of law.

7 (19) “Transferable interest” means the right, as initially owned by a person in the
8 person’s capacity as a partner, to receive distributions from a partnership in accordance with the
9 partnership agreement, whether or not the person remains a partner or continues to own any part
10 of the right. The term applies to any fraction of the interest, by whomever owned.

11 (20) “Transferee” means a person to which all or part of a transferable interest has been
12 transferred, whether or not the transferor is a partner. The term includes a person that owns a
13 transferable interest under Section 603(b)(3).

14 **Reporters’ Note**

15
16 *Contribution* – conformed to ULPA.

17 *Debtor in bankruptcy* – conformed to harmonized HUB § 1-102.

18 *Designated office* – Deleted in recognition that it is no longer appropriate to require a
19 domestic entity to have an office, in addition to a registered agent, within the state.

20 *Distribution* – The new language is to make explicit that redemptions constitute
21 distributions. The phrase “participate in the management or conduct of the partnership’s business
22 or have access to records or other information concerning the partnership’s business” is taken
23 from Section 502(a)(3) (describing the realm of governance rights not available to a transferee).

24 *Partnership* – Strictly speaking, the added language is redundant because Section 201

1 provides that a partnership is not formed until, upon formation, the partnership has at least two
2 partners. Thus a partnership “formed under this act” will always have at least two partners upon
3 formation. The language conforms to RULLCA definition of an LLC.

4 *Person* – conformed to harmonized HUB § 1-102.

5 *Property* – patterned after harmonized HUB § 1-102.

6 *Registered agent* – patterned after HUB § 1-102(40).

7 *Statement* – Deleted as unnecessary and not present in other Acts.

8 *Transfer* – Changes inspired by HUB § 1-102, with the language further refined by use of
9 gerunds and the express inclusion of both of the two most common types of encumbrances (i.e.,
10 security interests as well as mortgages). The word “vesting” is added to the January 2011 draft
11 to help make clear that a merger involves a transfer by operation of law. This point is necessary
12 to protect the act’s transfer restrictions from being evaded when a member that is an entity
13 transfers its interest via a merger.

14 *Transferable interest* – The second sentence is new and intended to make clear that
15 fractional interest in a transferable interest are themselves transferable interests.

16 *Transferee* – The referenced provision states that a person dissociated as a member is
17 treated as a transferee of the person’s own transferable interest. The general definition of
18 transferee does not capture that situation, because in that situation the ownership of the
19 transferable interest does not shift. Instead, all governance rights disappear.

20 **SECTION 102. KNOWLEDGE; ~~AND~~ NOTICE.**

21 (a) A person knows a fact ~~if~~ when the person:

22 (1) has actual knowledge of it; or

1 (2) is deemed to know it under subsection (d)(1) or law other than this [act].

2 (b) A person has notice of a fact ~~if~~ when the person:

3 ~~(1) knows of it;~~

4 ~~(2) has received a notification of it; or~~

5 ~~(3) (1) has reason to know~~ it exists the fact from all of the facts known to the
6 person at the time in question; or

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

8 (c) A person notifies ~~or gives a notification to~~ another of a fact by taking steps reasonably
9 required to inform the other person in ordinary course, whether or not the other person ~~learns of~~
10 it knows the fact.

11 (d) A person ~~receives a notification when the notification~~ that is not a partner is deemed:

12 (1) ~~comes to the person's attention; or~~ to know of a limitation on authority to
13 transfer real property as provided in Section 303(e); and

14 (2) ~~is duly delivered at the person's place of business or at any other place held out~~
15 ~~by the person as a place for receiving communications~~ to have notice of a partnership's:

16 (A) dissolution 90 days after a statement of dissolution under Section 805
17 becomes effective; and

18 (B) merger, conversion, or domestication 90 days after articles of merger,
19 conversion, or domestication under [Article] 9 become effective.

20 ~~(e) Except as otherwise provided in subsection (f), a person other than an individual~~
21 ~~knows, has notice, or receives a notification of a fact for purposes of a particular transaction~~
22 ~~when the individual conducting the transaction knows, has notice, or receives a notification of~~
23 ~~the fact, or if any event when the fact would have been brought to the individual's attention if~~
24 ~~the person had exercised reasonable diligence. The person exercises reasonable diligence if it~~

1 ~~maintains reasonable routines for communicating significant information to the individual~~
2 ~~conducting the transaction and there is reasonable compliance with the routines. Reasonable~~
3 ~~diligence does not require an individual acting for the person to communicate information unless~~
4 ~~the communication is part of the individual's regular duties or the individual has reason to know~~
5 ~~of the transaction and that the transaction would be materially affected by the information.~~

6 (f) (e) A partner's knowledge, notice, or receipt of a notification of a fact relating to the
7 partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the
8 partnership, except in the case of a fraud on the partnership committed by or with the consent of
9 that partner.

10 Reporters' Note

11
12 Section 102 is harmonized with RULLCA Section 103. Section 102(d)(2) omits the
13 RULLCA Section 103(d)(2)(B) reference to a statement of termination. Section 102(e), formerly
14 RUPA Section 102(f), is retained even though not present in RULLCA because unlike a
15 RULLCA member, a RUPA partner is a statutory agent of the partnership solely by reason of
16 being a partner.
17

18 SECTION 103. ~~EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE~~ 19 ~~PROVISIONS~~ SCOPE, FUNCTION, AND LIMITATIONS.

20 (a) Except as otherwise provided in ~~subsection~~ subsections (b), (c), and (d), ~~relations~~
21 ~~among the partners and between the partners and the partnership are governed by the partnership~~
22 ~~agreement. To the extent the partnership agreement does not otherwise provide, this [Act]~~
23 ~~governs relations among the partners and between the partners and the partnership~~ the partnership
24 agreement governs:

25 (1) relations among the partners as partners and between the partners and the
26 partnership;

27 (2) the business of the partnership and the conduct of that business; and

1 (3) the means and conditions for amending the partnership agreement.

2 (b) To the extent the partnership agreement does not otherwise provide for a matter
3 described in subsection (a), this [act] governs the matter.

4 ~~(b)~~ (c) The A partnership agreement may not:

5 (1) vary the rights and duties under Section ~~405~~ 107 except to eliminate the duty to
6 provide copies of statements to all of the partners;

7 (2) vary the law applicable under Section 108;

8 (3) vary a partnership's capacity under Section 307 to sue and be sued in its own
9 name;

10 ~~(2)~~ (4) unreasonably restrict the right of access to books and records under duties
11 and rights stated in Section ~~403(b)~~ 408, but may impose reasonable restrictions on the availability
12 and use of information obtained under that section and may define appropriate remedies,
13 including liquidated damages, for a breach of any reasonable restriction on use;

14 ~~(3)~~ (5) eliminate ~~the duty of loyalty under Section 404(b) or 603(b)(3), but: all~~
15 fiduciary duties but, if not manifestly unreasonable may:

16 (A) restrict or eliminate the aspects of the duty of loyalty stated in Section
17 409(b);

18 ~~(i)~~ (B) the partnership agreement may identify specific types or categories
19 of activities that do not violate the duty of loyalty;

20 ~~(ii)~~ all of the partners or a number or percentage specified in the
21 partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific
22 act or transaction that otherwise would violate the duty of loyalty;

23 ~~(4)~~ (C) unreasonably reduce alter the duty of care under Section ~~404(e) or~~
24 ~~603(b)(3)~~ 409(c), except to authorize intentional misconduct or knowing violation of law; and

1 (D) alter any other fiduciary duty, including eliminating particular aspects
2 of that duty;

3 ~~(5)~~ (6) eliminate the contractual obligation of good faith and fair dealing under
4 Section ~~404(d)~~ 409(d), but if not manifestly unreasonable the partnership agreement may
5 prescribe the standards by which to measure the performance of ~~the~~ that obligation ~~is to be~~
6 ~~measured, if the standards are not manifestly unreasonable;~~

7 ~~(6)~~ (7) vary the power to dissociate as a partner under Section 602(a), except to
8 require the notice under Section 601(1) to be in writing;

9 ~~(7)~~ (8) vary the right of a court to expel a partner in the events specified in Section
10 601(5);

11 ~~(8)~~ (9) vary the requirement to wind up right of a court to dissolve the partnership
12 business in cases specified in Section 801~~(4)~~, (5), or (6), except to provide for arbitration of
13 claims seeking dissolution under those provisions;

14 ~~(9)~~ vary the law applicable to a limited liability partnership under Section 106(b)
15 108;

16 (10) vary the rights of a partner under Section 914; or

17 ~~(10)~~ (11) restrict rights of ~~third parties~~ under this ~~[Act]~~ [act] of a person other than
18 a partner.

19 (d) Subject to subsection (c), without limiting the terms that may be included in an
20 operating agreement:

21 (1) the partnership agreement may specify the method by which a specific act or
22 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one
23 or more disinterested and independent persons after full disclosure of all material facts.

24 (2) To the extent the partnership agreement expressly relieves a partner of a

1 responsibility that the partner would otherwise have under this [act] and imposes the
2 responsibility on one or more other partners, the partnership agreement may, to the benefit of the
3 partner that the partnership agreement relieves of the responsibility, also eliminate or limit any
4 fiduciary duty that would have pertained to the responsibility.

5 (3) The partnership agreement may eliminate or limit a partner’s liability to the
6 partnership and partners for money damages, **whether directly or by providing indemnification**
7 **therefore, except for:**

8 (A) breach of the duty of loyalty;

9 (B) a financial benefit received by the partner to which the
10 partner is not entitled;

11 (C) a breach of duty under Section 407;

12 (D) intentional infliction of harm on the partnership or a partner; or

13 (E) an intentional violation of criminal law.

14 (e) The court shall decide any claim under subsection (c)(5) or (6) that a term of a
15 partnership agreement is manifestly unreasonable. The court:

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

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

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

21 (B) the term is an unreasonable means to achieve the provision’s
22 objective.

23 **Reporters’ Note**

24 Section 103 conformed to RULLCA Section 110. Like RULLCA Sections 110-113,
25

1 RUPA has two other sections specifically regarding the scope and function of the partnership
2 agreement. Accordingly, the title of RUPA Section 103 was conformed to RULLCA Section 110.
3 Sections 103(a)(2)-(3) are clarifications from RULLCA Section 110(a). Section 103(c)(9)
4 eliminated the reference to subsection (b) of Section was eliminated because Section 106 has been
5 substantially rewritten.
6

7 **SECTION 104. PARTNERSHIP AGREEMENT; EFFECT ON PARTNERSHIP**
8 **AND PERSONS BECOMING PARTNERS.**

9 (a) A partnership is bound by and may enforce the partnership agreement, whether or not
10 the partnership has itself manifested assent to the partnership agreement.

11 (b) A person that becomes a partner of a partnership is deemed to assent to the partnership
12 agreement.

13 (c) Two or more persons intending to become the initial members of a partnership may
14 make an agreement providing that upon the formation of the partnership the agreement will become
15 the partnership agreement.

16 **Reporters' Note**

17
18 Section 104 is new and conforms to RULLCA Section 111. Subsection (c) may well be
19 rare considering many “inadvertent” partnerships but it does permit flexible beginnings.
20

21 **SECTION 105. PARTNERSHIP AGREEMENT; EFFECT ON THIRD PARTIES**
22 **AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF PARTNERSHIP.**

23 (a) A partnership agreement may specify that its amendment requires the approval of a
24 person that is not a party to the partnership agreement or the satisfaction of a condition. An
25 amendment is ineffective if its adoption does not include the required approval or satisfy the
26 specified condition.

27 (b) The obligations of a partnership and its partners to a person in the person's capacity as
28 a transferee or dissociated partner are governed by the partnership agreement. Subject only to

1 any court order issued under Section 504(b)(2) to effectuate a charging order, an amendment to
2 the partnership agreement made after a person becomes a transferee or dissociated partner is:

3 (1) effective with regard to any debt, obligation, or other liability of the
4 partnership or its partners to the person in the person's capacity as a transferee or dissociated
5 partner; and

6 (2) not effective to the extent the amendment imposes a new debt, obligation, or
7 other liability on the transferee or dissociated partner.

8 (c) If a record that has been delivered by a partnership to the [Secretary of State] for
9 filing and has become effective under this [act] contains a provision that would be ineffective
10 under Section 103(c) if contained in the partnership agreement, the provision is likewise
11 ineffective in the record.

12 (d) If a statement that has been delivered by a partnership to the [Secretary of State] for
13 filing and has become effective under this [act] conflicts with the provisions of the partnership
14 agreement:

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

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

19 **Reporters' Note**

20
21 Section 105 is new and conforms to ULLCA Section 112. Subsection (b) clarifies that a
22 transferee or dissociated partner may not freeze the agreement. The remaining partners are free to
23 amend the partnership agreement. New subsection (b)(2) addresses an issue raised at the
24 "Plumbing Subcommittee" meeting in December 2010. (The issue arose in the context of an
25 extended discussion of "interest holder liability" under META.)
26

27 **SECTION ~~104~~ 106. SUPPLEMENTAL PRINCIPLES OF LAW.** Unless displaced
28 by particular provisions of this ~~{Act}~~ [act], the principles of law and equity supplement this ~~{Act}~~

1 [act].

2 (b) If an obligation to pay interest arises under this [Act] and the rate is not
3 specified, the rate is that specified in ~~[applicable statute]~~.

4 **Reporters' Note**

5
6 Section 106 deletes subsection (b) and conforms to HUB § 1-702 by eliminating the
7 reference to local statute to specify the interest rate.
8

9 **SECTION ~~105~~ 107. EXECUTION, DELIVERY, FILING, AND RECORDING OF**
10 **STATEMENTS.**

11 (a) ~~A statement may be filed in the office of [the Secretary of State]. A certified copy of a~~
12 ~~statement that is filed in an office in another State may be filed in the office of [the Secretary of~~
13 ~~State]. Either filing has the effect provided in this [Act] with respect to partnership property~~
14 ~~located in or transactions that occur in this State. A statement permitted by this [act] may be~~
15 ~~delivered to the [Secretary of State] for filing.~~

16 (b) ~~A certified copy of a statement that has been filed in the office of the [Secretary of~~
17 ~~State] and recorded in the office for recording transfers of real property has the effect provided~~
18 ~~for recorded statements in this [Act]. A recorded statement that is not a certified copy of a~~
19 ~~statement filed in the office of the [Secretary of State] does not have the effect provided for~~
20 ~~recorded statements in this [Act]. To be filed by the [Secretary of State] pursuant to this [act], a~~
21 ~~statement must be received by the office of the [Secretary of State] and must comply with this~~
22 ~~[act] and satisfy the following:~~

23 (1) The statement must be physically delivered in written form unless and to the
24 extent the [Secretary of State] permits electronic delivery of records in other than written form;

25 (2) The words in the statement must be in English, and numbers must be in Arabic
26 or Roman numerals, but the name of the partnership need not be in English if written in English

1 letters or Arabic or Roman numerals;

2 (3) The statement must be signed by a person authorized to sign the statement
3 under subsection (e);

4 (4) The statement must state the name and capacity, if any, of the person that
5 signed it but need not contain a seal, attestation, acknowledgment, or verification.; and

6 (5) Delivery to the [Secretary of State] is effective only when the statement is
7 received by the [Secretary of State].

8 (c) If law other than this [act] prohibits the disclosure by the [Secretary of State] of
9 information contained in a statement filed by the [Secretary of State], the [Secretary of State]
10 shall accept the filing if the filing otherwise complies with this section but may redact the
11 information.

12 (d) When a record is delivered to the [Secretary of State] for filing, any fee required
13 under this [act] and any fee, tax, or penalty required to be paid under this [act] or law other than
14 this [act] must be paid in a manner permitted by the [Secretary of State] or by that law.

15 (e) The [Secretary of State] may require that a record delivered in written form to the
16 [Secretary of State] for filing be accompanied by an identical or conformed copy.

17 ~~(e) (f) A statement filed by a partnership must be executed by at least two partners. Other~~
18 ~~statements must be executed by a partner or other person authorized by this [Act]. An individual~~
19 ~~who executes a statement as, or on behalf of, a partner or other person named as a partner in a~~
20 ~~statement shall personally declare under penalty of perjury that the contents of the statement are~~
21 ~~accurate. A statement delivered to the [Secretary of State] for filing pursuant to this [act] must be~~
22 signed, as follows:

23 (1) if a partnership statement, by a partner, or that partner's agent;

24 (2) if a statement pertaining to a partner, by that partner, or that partner's agent;

1 and

2 (3) if any person required to sign a statement or deliver a statement to the
3 [Secretary of State] for filing under this [act] does not do so, any other person that is aggrieved
4 may petition the [appropriate court] to order:

5 (A) the person to sign the statement;

6 (B) the person to deliver the statement to the [Secretary of State] for filing;

7 or

8 (C) the [Secretary of State] to file the statement unsigned.

9 ~~(d) (g) A person authorized by this [Act] to file a statement may amend or cancel the~~
10 ~~statement by filing an amendment or cancellation that names the partnership, identifies the~~
11 ~~statement, and states the substance of the amendment or cancellation. A statement filing is~~
12 ~~effective:~~

13 (1) on the date and at the time of its filing by the [Secretary of State];

14 (2) on the date of filing and at the time specified in the statement as its effective
15 time, if later than the time under paragraph (1); or

16 (3) at a specified delayed effective time and date, which may not be more than 90
17 days after the date of filing.

18 ~~(e) (h) A person who files a statement pursuant to this section shall promptly send a copy~~
19 ~~of the statement to every nonfiling partner and to any other person named as a partner in the~~
20 ~~statement. Failure to send a copy of a statement to a partner or other person does not limit the~~
21 ~~effectiveness of the statement as to a person not a partner. A certified copy of a statement that is~~
22 ~~filed in an office in another state may be delivered to the [the Secretary of State] for filing. The~~
23 ~~filing has the effect provided in this [act] with respect to partnership property located in or~~
24 ~~transactions that occur in this state.~~

1 Section 107(h) restates former Section 105(b) (first sentence).

2
3 Section 107(i) restates former Section 105(b) (second sentence).

4
5 Section 107(j) restates former Section 105(d) and conforms to RULLCA Section 207
6 (harmonized version).

7
8 Section 107(k) restates former Section 105(e).

9
10 **SECTION 108. GOVERNING LAW.** ~~(a) Except as otherwise provided in~~
11 ~~subsection (b), the~~ The law of this state, in the case of a limited liability partnership, or in other
12 cases, the law of the jurisdiction in which a partnership has its chief executive office governs
13 ~~relations among the partners and between the partners and the partnership.~~ principal office
14 governs:

15 (1) the internal affairs of the partnership or limited liability partnership; and

16 (2) the liability of a partner as a partner for the debts, obligations, and other liabilities of
17 the partnership or limited liability partnership.

18 ~~(b) The law of this State governs relations among the partners and between the partners~~
19 ~~and the partnership and the liability of partners for an obligation of a limited liability partnership.~~

20 Reporters' Notes

21
22 Section 108 restates prior Section 106 to conform the governing law principles to HUB
23 Section 1-501. Section 108 also rejects the concept of a chief executive office in favor of an
24 expanded concept of a principal office defined in HUB Section 1-102(31).

25
26
27 **SECTION 107. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF**
28 ~~[ACT]. A partnership governed by this [Act] is subject to any amendment to or repeal of~~
29 ~~this [Act]. The [Legislature of this state] has the power to amend or repeal all or part of this [act]~~
30 ~~at any time, and all domestic or foreign partnerships subject to this [act] are governed by the~~
31 ~~amendment or repeal.~~

Reporters' Note

1
2
3 Section 109 conforms prior Section 107 to HUB Section 1-701 but is moved to end of
4 Act.
5
6

1 [ARTICLE] 2

2 NATURE OF PARTNERSHIP

3
4 SECTION 201. PARTNERSHIP AS ENTITY.

5 (a) A partnership is an entity distinct from its partners.

6 (b) A limited liability partnership continues to be the same entity that existed before the
7 filing of a statement of qualification under Section 1001.

8 SECTION 202. FORMATION OF PARTNERSHIP.

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

12 (b) An association formed under a statute other than this ~~{Act}~~ [act], a predecessor statute,
13 or a comparable statute of another jurisdiction is not a partnership under this ~~{Act}~~ [act].

14 (c) In determining whether a partnership is formed, the following rules apply:

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

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

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

23 (i) (A) of a debt by installments or otherwise;

24 (ii) (B) for services as an independent contractor or of wages or other

1 compensation to an employee;
2 ~~(iii)~~ (C) of rent;
3 ~~(iv)~~ (D) of an annuity or other retirement or health benefit to a beneficiary,
4 representative, or designee of a deceased or retired partner;
5 ~~(v)~~ (E) of interest or other charge on a loan, even if the amount of payment
6 varies with the profits of the business, including a direct or indirect present or future ownership
7 of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
8 ~~(vi)~~ (F) for the sale of the goodwill of a business or other property by
9 installments or otherwise.

10 **SECTION 203. PARTNERSHIP PROPERTY.** Property acquired by a partnership is
11 property of the partnership and not of the partners individually.

12 **SECTION 204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.**

13 (a) Property is partnership property if acquired in the name of:

14 (1) the partnership; or

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

18 (b) Property is acquired in the name of the partnership by a transfer to:

19 (1) the partnership in its name; or

20 (2) one or more partners in their capacity as partners in the partnership, if the
21 name of the partnership is indicated in the instrument transferring title to the property.

22 (c) Property is presumed to be partnership property if purchased with partnership assets,
23 even if not acquired in the name of the partnership or of one or more partners with an indication
24 in the instrument transferring title to the property of the person's capacity as a partner or of the

1 existence of a partnership.

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

6

1 [ARTICLE] 3

2 RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

3 SECTION 301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a
4 statement of partnership authority under Section 303, the following rules apply:
5

6 (1) Each partner is an agent of the partnership for the purpose of its business. An act of a
7 partner, including the execution of an instrument in the partnership name, for apparently carrying
8 on in the ordinary course the partnership business or business of the kind carried on by the
9 partnership binds the partnership, unless the partner had no authority to act for the partnership in
10 the particular matter and the person with whom the partner was dealing knew or had received a
11 notification that the partner lacked authority.

12 (2) An act of a partner which is not apparently for carrying on in the ordinary course the
13 partnership business or business of the kind carried on by the partnership binds the partnership
14 only if the act was authorized by the other partners.

15 SECTION 302. TRANSFER OF PARTNERSHIP PROPERTY.

16 (a) Partnership property may be transferred as follows:

17 (1) Subject to the effect of a statement of partnership authority under Section 303,
18 partnership property held in the name of the partnership may be transferred by an instrument of
19 transfer executed by a partner in the partnership name.

20 (2) Partnership property held in the name of one or more partners with an
21 indication in the instrument transferring the property to them of their capacity as partners or of
22 the existence of a partnership, but without an indication of the name of the partnership, may be
23 transferred by an instrument of transfer executed by the persons in whose name the property is
24 held.

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

5 (b) A partnership may recover partnership property from a transferee only if it proves that
6 execution of the instrument of initial transfer did not bind the partnership under Section 301 and:

7 (1) as to a subsequent transferee who gave value for property transferred under
8 subsection (a)(1) and (2), proves that the subsequent transferee knew or had received a
9 notification that the person who executed the instrument of initial transfer lacked authority to
10 bind the partnership; or

11 (2) as to a transferee who gave value for property transferred under subsection
12 (a)(3), proves that the transferee knew or had received a notification that the property was
13 partnership property and that the person who executed the instrument of initial transfer lacked
14 authority to bind the partnership.

15 (c) A partnership may not recover partnership property from a subsequent transferee if the
16 partnership would not have been entitled to recover the property, under subsection (b), from any
17 earlier transferee of the property.

18 (d) If a person holds all of the partners' interests in the partnership, all of the partnership
19 property vests in that person. The person may execute a document in the name of the partnership
20 to evidence vesting of the property in that person and may file or record the document.

21 **SECTION 303. STATEMENT OF PARTNERSHIP AUTHORITY.**

22 (a) A partnership may ~~file~~ [deliver to the \[Secretary of State\] for filing](#) a statement of
23 partnership authority. ~~which~~ [The statement:](#)

24 (1) must include:

1 (i) (A) the name of the partnership and the street and mailing address of its
2 registered agent; and

3 (ii) (B) the street and mailing address of its chief executive principal office
4 and of one office in this State state, if there is one.

5 (iii) the names and mailing addresses of all of the partners or of an agent
6 appointed and maintained by the partnership for the purpose of subsection (b); and

7 (iv) the names of the partners authorized to execute an instrument
8 transferring real property held in the name of the partnership; and

9 (2) may state the authority, or limitations on the authority, of some or all of the
10 partners to enter into other transactions on behalf of the partnership and any other matter.

11 (b) If a statement of partnership authority names an agent, the agent shall maintain a list
12 of the names and mailing addresses of all of the partners and make it available to any person on
13 request for good cause shown.

14 (c) If a filed statement of partnership authority is executed pursuant to Section 105(c) and
15 states the name of the partnership but does not contain all of the other information required by
16 subsection (a), the statement nevertheless operates with respect to a person not a partner as
17 provided in subsections (d) and (e).

18 (d) Except as otherwise provide in subsection (g), a filed statement of partnership
19 authority supplements the authority of a partner to enter into transactions on behalf of the
20 partnership as follows:

21 (1) Except for transfers of real property, a grant of authority contained in a filed
22 statement of partnership authority is conclusive in favor of a person who gives value without
23 knowledge to the contrary, so long as and to the extent that a limitation on that authority is not
24 then contained in another filed statement. A filed cancellation of a limitation on authority revives

1 ~~the previous grant of authority.~~

2 ~~(2) A grant of authority to transfer real property held in the name of the~~
3 ~~partnership contained in a certified copy of a filed statement of partnership authority recorded in~~
4 ~~the office for recording transfers of that real property is conclusive in favor of a person who~~
5 ~~gives value without knowledge to the contrary, so long as and to the extent that a certified copy~~
6 ~~of a filed statement containing a limitation on that authority is not then of record in the office for~~
7 ~~recording transfers of that real property. The recording in the office for recording transfers of~~
8 ~~that real property of a certified copy of a filed cancellation of a limitation on authority revives~~
9 ~~the previous grant of authority.~~

10 ~~(e) A person not a partner is deemed to know of a limitation on the authority of a partner~~
11 ~~to transfer real property held in the name of the partnership if a certified copy of the filed~~
12 ~~statement containing the limitation on authority is of record in the office for recording transfers~~
13 ~~of that real property.~~

14 ~~(f) Except as otherwise provided in subsections (d) and (e) and Sections 704 and 805, a~~
15 ~~person not a partner is not deemed to know of a limitation on the authority of a partner merely~~
16 ~~because the limitation is contained in a filed statement.~~

17 ~~(g) Unless earlier canceled, a filed statement of partnership authority is canceled by~~
18 ~~operation of law five years after the date on which the statement, or the most recent amendment,~~
19 ~~was filed with the [Secretary of State].~~

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

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

1 (B) enter into other transactions on behalf of, or otherwise act for or bind,
2 the partnership; and

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

4 (A) execute an instrument transferring real property held in the name of
5 the partnership; or

6 (B) enter into other transactions on behalf of, or otherwise act for or bind,
7 the partnership.

8 (b) To amend or withdraw a statement of authority filed by the [Secretary of State] under
9 Section 107(g), a partnership must deliver to the [Secretary of State] for filing an amendment or
10 withdrawal stating:

11 (1) the name of the partnership and the street and mailing address of its registered
12 agent;

13 (2) the street and mailing address of the partnership's principal office and of one
14 office in this state, if there is one;

15 (3) the date the statement being affected became effective; and

16 (4) the contents of the amendment or a declaration that the statement being
17 affected is canceled.

18 (c) A statement of authority affects only the power of a person to bind a partnership to
19 persons that are not partners.

20 (d) Subject to subsection (c) and Section 102(d) and except as otherwise provided in
21 subsections (f), (g), and (h), a limitation on the authority of a person or a position contained in an
22 effective statement of authority is not by itself evidence of knowledge or notice of the limitation
23 by any person.

24 (e) Subject to subsection (c), a grant of authority not pertaining to transfers of real

1 property and contained in an effective statement of authority is conclusive in favor of a person
2 that gives value in reliance on the grant, except to the extent that if the person gives value:

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

4 (2) the statement has been canceled or restrictively amended under subsection (b);

5 or

6 (3) a limitation on the grant is contained in another statement of authority that
7 became effective after the statement containing the grant became effective.

8 (f) Subject to subsection (c), an effective statement of authority that grants authority to
9 transfer real property held in the name of the partnership and that is recorded by certified copy in
10 the office for recording transfers of the real property is conclusive in favor of a person that gives
11 value in reliance on the grant without knowledge to the contrary, except to the extent that when
12 the person gives value:

13 (1) the statement has been canceled or restrictively amended under subsection (b)
14 and a certified copy of the cancellation or restrictive amendment has been recorded in the office
15 for recording transfers of the real property; or

16 (2) a limitation on the grant is contained in another statement of authority that
17 became effective after the statement containing the grant became effective and a certified copy of
18 the later-effective statement is recorded in the office for recording transfers of the real property.

19 (g) Subject to subsection (c), if a certified copy of an effective statement containing a
20 limitation on the authority to transfer real property held in the name of a partnership is recorded
21 in the office for recording transfers of that real property, all persons are deemed to know of the
22 limitation.

23 (h) Subject to subsection (i), an effective statement of dissolution is a cancellation of any
24 filed statement of authority for the purposes of subsection (f) and is a limitation on authority for

1 purposes of subsection (g).

2 (i) After a statement of dissolution becomes effective, a partnership may deliver to the
3 [Secretary of State] for filing and, if appropriate, may record a statement of authority that is
4 designated as a post-dissolution statement of authority.

5 (j) Unless canceled earlier, an effective statement of authority is canceled by operation of
6 law five years after the date on which the statement or its most recent amendment becomes
7 effective. Cancellation is effective without recording under subsection (f) or (g).

8 (k) An effective statement of denial operates as a restrictive amendment under this
9 section and may be recorded by certified copy for purposes of subsection (f)(1).

10 **Reporters' Note**

11 Section 303 is conformed to RULLCA Section 302.
12
13

14 **SECTION 304. STATEMENT OF DENIAL.** ~~A partner or other person named as a~~
15 ~~partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to~~
16 ~~Section 303(b) may file a statement of denial stating the name of the partnership and the fact that~~
17 ~~is being denied, which may include denial of a person's authority or status as a partner. A~~
18 ~~statement of denial is a limitation on authority as provided in Section 303(d) and (e). A person~~
19 named in a filed statement of authority granting that person authority may deliver to the
20 [Secretary of State] for filing a statement of denial that:

21 (1) provides the name of the partnership and the caption of the statement of authority to
22 which the statement of denial pertains; and

23 (2) denies the grant of authority.

24 **Reporters' Note**

25 Section 304 is conformed to RULLCA Section 303.
26
27

1 **SECTION 305. PARTNERSHIP LIABLE FOR PARTNER’S ACTIONABLE**
2 **CONDUCT.**

3 (a) A partnership is liable for loss or injury caused to a person, or for a penalty incurred,
4 as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the
5 ordinary course of business of the partnership or with authority of the partnership.

6 (b) If, in the course of the partnership’s business or while acting with authority of the
7 partnership, a partner receives or causes the partnership to receive money or property of a person
8 not a partner, and the money or property is misapplied by a partner, the partnership is liable for
9 the loss.

10 **SECTION 306. PARTNER’S LIABILITY.**

11 (a) Except as otherwise provided in subsections (b) and (c), all partners are liable jointly
12 and severally for all obligations of the partnership unless otherwise agreed by the claimant or
13 provided by law.

14 (b) A person admitted as a partner into an existing partnership is not personally liable for
15 any partnership obligation incurred before the person’s admission as a partner.

16 (c) ~~An obligation of a partnership incurred while the partnership is a limited liability~~
17 ~~partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the~~
18 ~~partnership. A partner is not personally liable, directly or indirectly, by way of contribution or~~
19 ~~otherwise, for such an obligation solely by reason of being or so acting as a partner. A debt,~~
20 obligation, or other liability of a partnership incurred while the partnership is a limited liability
21 partnership is solely the debt, obligation, or other liability of the limited liability partnership. A
22 partner, manager, agent of the partnership, or agent of a manager is not personally liable, directly
23 or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the
24 limited liability partnership solely by reason of being or acting as a partner, manager, agent of the

1 limited liability partnership, or agent of a partner or manager. This subsection applies
2 notwithstanding anything inconsistent in the partnership agreement that existed immediately
3 before the vote required to become a limited liability partnership under Section 1001(b).

4 (d) The failure of a limited liability partnership to observe any particular formalities
5 relating to the management of its business is not a ground for imposing liability on any partner,
6 manager, agent of the partnership, or agent of a manager, for any debt, obligation, or other
7 liability of the limited liability partnership.

8 **Reporters' Note**

9
10 Section 306(c) is conformed to Trust Act Section 304(e) and RULLCA Section 304.
11 Section 306(d) is conformed to RULLCA Section 304(b).
12

13 **SECTION 307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.**

14 (a) A partnership may sue and be sued in the name of the partnership.

15 (b) An action may be brought against the partnership and, to the extent not inconsistent
16 with Section 306, any or all of the partners in the same action or in separate actions.

17 (c) A judgment against a partnership is not by itself a judgment against a partner. A
18 judgment against a partnership may not be satisfied from a partner's assets unless there is also a
19 judgment against the partner.

20 (d) A judgment creditor of a partner may not levy execution against the assets of the
21 partner to satisfy a judgment based on a claim against the partnership unless the partner is
22 personally liable for the claim under Section 306 and:

23 (1) a judgment based on the same claim has been obtained against the partnership
24 and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

25 (2) the partnership is a debtor in bankruptcy;

26 (3) the partner has agreed that the creditor need not exhaust partnership assets;

1 (4) a court grants permission to the judgment creditor to levy execution against
2 the assets of a partner based on a finding that partnership assets subject to execution are clearly
3 insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively
4 burdensome, or that the grant of permission is an appropriate exercise of the court's equitable
5 powers; or

6 (5) liability is imposed on the partner by law or contract independent of the
7 existence of the partnership.

8 (e) This section applies to any partnership liability or obligation resulting from a
9 representation by a partner or purported partner under Section 308.

10 **SECTION 308. LIABILITY OF PURPORTED PARTNER.**

11 (a) If a person, by words or conduct, purports to be a partner, or consents to being
12 represented by another as a partner, in a partnership or with one or more persons not partners, the
13 purported partner is liable to a person to whom the representation is made, if that person, relying
14 on the representation, enters into a transaction with the actual or purported partnership. If the
15 representation, either by the purported partner or by a person with the purported partner's
16 consent, is made in a public manner, the purported partner is liable to a person who relies upon
17 the purported partnership even if the purported partner is not aware of being held out as a partner
18 to the claimant. If partnership liability results, the purported partner is liable with respect to that
19 liability as if the purported partner were a partner. If no partnership liability results, the purported
20 partner is liable with respect to that liability jointly and severally with any other person
21 consenting to the representation.

22 (b) If a person is thus represented to be a partner in an existing partnership, or with one or
23 more persons not partners, the purported partner is an agent of persons consenting to the
24 representation to bind them to the same extent and in the same manner as if the purported partner

1 were a partner, with respect to persons who enter into transactions in reliance upon the
2 representation. If all of the partners of the existing partnership consent to the representation, a
3 partnership act or obligation results. If fewer than all of the partners of the existing partnership
4 consent to the representation, the person acting and the partners consenting to the representation
5 are jointly and severally liable.

6 (c) A person is not liable as a partner merely because the person is named by another in a
7 statement of partnership authority.

8 (d) A person does not continue to be liable as a partner merely because of a failure to file
9 a statement of dissociation or to amend a statement of partnership authority to indicate the
10 partner's dissociation from the partnership.

11 (e) Except as otherwise provided in subsections (a) and (b), persons who are not partners
12 as to each other are not liable as partners to other persons.

13

1 [ARTICLE] 4

2 RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

3 SECTION 401. PARTNER'S RIGHTS AND DUTIES.
4

5 ~~(a) Each partner is deemed to have an account that is:~~

6 ~~(1) credited with an amount equal to the money plus the value of any other~~
7 ~~property, net of the amount of any liabilities, the partner contributes to the partnership and the~~
8 ~~partner's share of the partnership profits; and~~

9 ~~(2) charged with an amount equal to the money plus the value of any other~~
10 ~~property, net of the amount of any liabilities, distributed by the partnership to the partner and the~~
11 ~~partner's share of the partnership losses.~~

12 ~~(b)~~ (a) Each partner is entitled to an equal share of the partnership profits and is
13 chargeable with a share of the partnership losses in proportion to the partner's share of the
14 profits.

15 ~~(c)~~ (b) A partnership shall reimburse a partner for any payments payment made ~~and~~
16 ~~indemnify a partner for liabilities incurred~~ by the partner in the ~~ordinary~~ course of the partner's
17 activities business on behalf of the partnership ~~or for the preservation of its business or property, if~~
18 the partner complied with Sections 406 and 409 in making the payment.

19 (c) A partnership shall indemnify and hold harmless a partner with respect to any claim or
20 demand against the person and any debt, obligation, or other liability incurred by the person by
21 reason of the person's former or present capacity as partner, if the claim, demand, debt, obligation,
22 or other liability does not arise from the person's breach of Section 406 or 409.

23 (d) In the ordinary course of its business, a partnership may advance reasonable expenses,
24 including attorney's fees and costs, incurred by a partner in connection with a claim or demand

1 against the person by reason of the person's former or present capacity as a partner, if the person
2 promises to repay the partnership if the person ultimately is determined not to be entitled to be
3 indemnified under subsection (c).

4 (e) A partnership may purchase and maintain insurance on behalf of a partner of the
5 partnership against liability asserted against or incurred by the partner in that capacity or arising
6 from that status even if, under Section 103(d)(3), the partnership agreement could not eliminate
7 or limit the person's liability to the partnership for the conduct giving rise to the liability.

8 ~~(d)~~ (e) A partnership shall reimburse a partner for an advance to the partnership beyond
9 the amount of capital the partner agreed to contribute.

10 ~~(e)~~ (f) A payment or advance made by a partner which gives rise to a partnership
11 obligation under ~~subsection (e) or (d)~~ subsections (b), (c), or (d) constitutes a loan to the
12 partnership which accrues interest from the date of the payment or advance.

13 ~~(f)~~ (g) Each partner has equal rights in the management and conduct of the partnership
14 business.

15 ~~(g)~~(h) A partner may use or possess partnership property only on behalf of the
16 partnership.

17 ~~(h)~~(i) A partner is not entitled to remuneration for services performed for the partnership,
18 except for reasonable compensation for services rendered in winding up the business of the
19 partnership.

20 ~~(i) A person may become a partner only with the consent of all of the partners.~~

21 (j) A difference arising as to a matter in the ordinary course of business of a partnership
22 may be decided by a majority of the partners. An act outside the ordinary course of business of a
23 partnership, ~~and an amendment to the partnership agreement,~~ and the approval of a merger,
24 conversion, or domestication may be undertaken only with the consent of all of the partners.

1 (k) This section does not affect the obligations of a partnership to other persons under
2 Section 301.

3 **Reporters' Note**

4
5 Section 401 is conformed RULLCA by eliminating the concept of a required account to
6 which a partner's share of partnership items are debited and credited. Like RULLCA, a
7 partnership states a simple default rule that distributions are to be made per capita unless the
8 partnership agreement provides otherwise. Section 401(b) is conformed to RULLCA Section
9 408(a). Section 401(c) is conformed to RULLCA Section 408(b). Section 401(d) is new and
10 conforms to RULLCA Section 408(c). Section 401(e) is former Section 401(d). Section 401(f) is
11 former Section 401(e), expanded to include other circumstances when a partnership might incur
12 an obligation. Section 401(g) is former Section 401(f). Section 401(h) is former Section 401(g).
13 Section 401(i) is former Section 401(h). Section 401(j) is former Section 401(i). Section 401(k)
14 is former Section 401(j), modified to reference expanded Article 9 and conform to RULLCA
15 Section 407(c)(4). Section 401(l) is former Section 401(k). Prior Section 401(i) is deleted
16 because of new Section 402.
17

18 **SECTION 402. BECOMING A PARTNER.**

19 (a) Upon formation of a partnership, a person becomes a partner under Section 202(a).

20 (b) After formation of a partnership, a person becomes a partner:

21 (1) as provided in the partnership agreement;

22 (2) as the result of a transaction effective under [Article] 9; or

23 (3) with the consent of all the partners.

24 (c) A person may become a partner without acquiring a transferable interest and without
25 making or being obligated to make a contribution to the partnership.

26 **Reporters' Note**

27
28 Section 402 is new and generally conforms to RULLCA Section 401. The primary
29 exception is that this section does not adopt RULLCA § 401(d)(4) that allows a partnership to
30 continue if within 90 days after the partnership ceases to have at least two partners, specified
31 parties are allowed to designate a partner. Section 402(c) is new, conforms to RULLCA Section
32 401(e), and expressly permits a person to become a partner without a contribution to the
33 partnership.
34

35 **SECTION 403. FORM OF CONTRIBUTION. A contribution may consist of property**

1 or other benefit to a partnership, including money, services performed, promissory notes, other
2 agreements to contribute money or property, and contracts for services to be performed.

3 **Reporters' Note**

4
5 Section 403 is new and generally conforms to RULLCA Section 402. While former
6 RUPA Section 401(a) permitted a contribution to an account, the term contribution or its
7 permitted form was neither described nor defined.
8

9 **SECTION 404. LIABILITY FOR CONTRIBUTION.**

10 (a) A person's obligation to make a contribution to a partnership is not excused by the
11 person's death, disability, or other inability to perform personally. If a person does not make a
12 promised nonmonetary contribution, the person or the person's estate is obligated to contribute
13 money equal to the value of the part of the contribution which has not been made, at the option
14 of the partnership.

15 (b) The obligation of a person to make a contribution may be compromised only by
16 consent of all partners. A creditor of a limited liability partnership which extends credit or
17 otherwise acts in reliance on an obligation described in subsection (a) without notice of any
18 compromise under this subsection may enforce the obligation.

19 **Reporters' Note**

20
21 Section 403 is new and generally conforms to RULLCA Section 403 and ULPA 2001
22 Section 502. Section 403(b) conforms to RULLCA Section 403(b) and ULPA 2001 Section
23 502(c).

24 **SECTION 402 405. DISTRIBUTIONS IN KIND SHARING OF AND RIGHT TO**

25 **DISTRIBUTIONS BEFORE DISSOLUTION.** ~~A partner has no right to receive, and may not~~
26 ~~be required to accept, a distribution in kind.~~

27 (a) Any distributions made by a partnership before its dissolution and winding up must be
28

1 in equal shares among partners, except to the extent necessary to comply with any transfer
2 effective under Section 503 and any charging order in effect under Section 504.

3 (b) A person has a right to a distribution before the dissolution and winding up of a
4 partnership only if the partnership decides to make an interim distribution. A person's
5 dissociation does not entitle the person to a distribution.

6 (c) A person does not have a right to demand or receive a distribution from a partnership
7 in any form other than money. Except as otherwise provided in Section 807, a partnership may
8 distribute an asset in kind if each part of the asset is fungible with each other part and each
9 person receives a percentage of the asset equal in value to the person's share of distributions.

10 (d) If a partner or transferee becomes entitled to receive a distribution, the partner or
11 transferee has the status of, and is entitled to all remedies available to, a creditor of the
12 partnership with respect to the distribution.

13 **Reporters' Note**

14
15 Section 405 replaces former Section 402 and conforms to RULLCA Section 404. Section
16 405(b) confirms that a person's dissociation does not entitle that person to a "distribution" but
17 other rights may be triggered under Article 7 (purchase of partner's interest).
18

19 **SECTION 406. LIMITATIONS ON DISTRIBUTIONS OF A LIMITED** 20 **LIABILITY PARTNERSHIP.**

21 (a) In this section, the term "distribution" does not include amounts constituting
22 reasonable compensation for present or past services or reasonable payments made in the
23 ordinary course of business under a bona fide retirement plan or other benefits program.

24 (b) A limited liability partnership may not make a distribution if after the distribution:

25 (1) the limited liability partnership would not be able to pay its debts as they
26 become due in the ordinary course of the limited liability partnership's activities; or

1 (2) the limited liability partnership's total assets would be less than the sum of its
2 total liabilities plus the amount that would be needed, if the limited liability partnership were to
3 be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon
4 dissolution and winding up of partners whose preferential rights are superior to those of persons
5 receiving the distribution.

6 (c) A limited liability partnership may base a determination that a distribution is not
7 prohibited under subsection (b) on financial statements prepared on the basis of accounting
8 practices and principles that are reasonable in the circumstances or on a fair valuation or other
9 method that is reasonable under the circumstances.

10 (d) The effect of a distribution under subsection (b) is measured:

11 (1) in the case of a distribution of indebtedness:

12 (A) as of the date the indebtedness is distributed; and again

13 (B) as of the date each payment of principal or interest is made with each
14 payment treated as a distribution; and

15 (2) in all other cases, as of the date:

16 (A) the distribution is authorized, if the payment occurs not later than 120
17 days after that date; or

18 (B) the payment is made, if the payment occurs more than 120 days after
19 the distribution is authorized.

20 (e) A limited liability partnership's indebtedness, including indebtedness issued in
21 connection with or as part of a distribution, is not a liability for purposes of subsection (b) if the
22 terms of the indebtedness provide that payment of principal and interest are made only to the
23 extent that a distribution could be made under this section.

1 (f) A limited liability partnership’s indebtedness incurred by reason of a distribution
2 made in accordance with this section has the same priority as the partnership’s indebtedness to
3 its general, unsecured creditors except to the extent subordinated by agreement.

4 (g) This section does not apply to distributions under Section 807.

5 **Reporters’ Note**

6
7 Section 406 is new. Prior to the LLP amendments to RUPA, a distributions liability rule
8 was not necessary because all partners were liable for all partnership obligations. When the
9 limited liability partnership amendments were added in 1997, the drafting committee considered
10 the matter but in the interest of simplicity preferred to allow fraudulent transfer and conveyance
11 law to solve the problem. Section 406 now conforms to RULLCA Section 405 to make a partner
12 of a limited liability partnership subject to the same liability rules applicable to other entity forms
13 with a liability shield. The phrase “limited liability partnership” is repeated even within a
14 subsection to clarify this section only applies to an LLP and not to a general partnership. For
15 partnerships in transition, the limitation will only apply when a distribution occurred while the
16 entity was a limited liability partnership. Section 406(b)(2) conforms to RULLCA Section 405(2)
17 but without the concept of termination. Section 406 does not apply to distributions made in
18 winding up a limited liability partnership.
19

20 **SECTION 407. LIABILITY FOR IMPROPER DISTRIBUTIONS OF A LIMITED** 21 **LIABILITY PARTNERSHIP.**

22 (a) Except as otherwise provided in subsection (b), if a partner of a limited liability
23 partnership consents to a distribution made in violation of Section 406 and in consenting to the
24 distribution fails to comply with Section 409, the partner is personally liable to the limited
25 liability partnership for the amount of the distribution that exceeds the amount that could have
26 been distributed without the violation of Section 406.

27 (b) To the extent the partnership agreement expressly relieves a partner of the authority
28 and responsibility to consent to distributions and imposes that authority and responsibility on one
29 or more other partners, the liability under subsection (a) applies to the other partners and not the
30 partner that the partnership agreement relieves of authority and responsibility.

31 (c) A person that receives a distribution knowing that the distribution to that person was

1 made in violation of Section 406 is personally liable to the limited liability partnership but only
2 to the extent that the distribution received by the person exceeded the amount that could have
3 been properly paid under Section 406.

4 (d) A person against which an action is commenced because the person is liable under
5 subsection (a) may:

6 (1) implead any other person that is subject to liability under subsection (a) and
7 seek to enforce a right of contribution from the person; and

8 (2) implead any person that received a distribution in violation of subsection (c)
9 and seek to enforce a right of contribution from the person in the amount the person received in
10 violation of subsection (c).

11 (e) An action under this section is barred if not commenced not later than two years after
12 the distribution.

13 **Reporters' Note**

14 Section 407 is new and conforms to RULLCA Section 406.
15
16

17 **SECTION 403 ~~408~~. PARTNER'S RIGHTS OF PARTNERS AND DISSOCIATED** 18 **PARTNERS DUTIES WITH RESPECT TO INFORMATION.**

19 (a) A partnership shall keep its books and records, if any, at its ~~chief executive principal~~
20 office and the following rules shall apply:

21 ~~(b) A partnership shall provide partners and their agents and attorneys access to its books~~
22 ~~and records. It shall provide former partners and their agents and attorneys access to books and~~
23 ~~records pertaining to the period during which they were partners. The right of access provides the~~
24 ~~opportunity to inspect and copy books and records during ordinary business hours. A partnership~~

1 ~~may impose a reasonable charge, covering the costs of labor and material, for copies of documents~~
2 ~~furnished.~~

3 ~~(c) Each partner and the partnership shall furnish to a partner, and to the legal~~
4 ~~representative of a deceased partner or partner under legal disability:~~

5 ~~(1) without demand, any information concerning the partnership's business and~~
6 ~~affairs reasonably required for the proper exercise of the partner's rights and duties under the~~
7 ~~partnership agreement or this [Act] [act]; and~~

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

11 (1) On reasonable notice, a partner may inspect and copy during regular business
12 hours, at the principal office or at a reasonable location specified by the partnership, any record
13 maintained by the partnership regarding the partnership's business, financial condition, and other
14 circumstances, to the extent the information is material to the partner's rights and duties under
15 the partnership agreement or this [act].

16 (2) The partnership shall furnish to each partner:

17 (A) without demand, any information concerning the partnership's
18 business, financial condition, and other circumstances which the partnership knows and is
19 material to the proper exercise of the partner's rights and duties under the partnership agreement
20 or this [act], except to the extent the partnership can establish that it reasonably believes the
21 member already knows the information; and

22 (B) on demand, any other information concerning the partnership's
23 business, financial condition, and other circumstances, except to the extent the demand or
24 information demanded is unreasonable or otherwise improper under the circumstances.

1 (3) The duty to furnish information under paragraph (2) also applies to each
2 partner to the extent the partner knows any of the information described in paragraph (2).

3 (b) On 10 days' demand made in a record received by a partnership, a dissociated partner
4 may have access to information to which the person was entitled while a partner if the
5 information pertains to the period during which the person was a partner and the person seeks the
6 information in good faith. Within 10 days after receiving a demand, the partnership shall in a
7 record inform the member that made the demand:

8 (A) of the information that the partnership will provide in response to the
9 demand and when and where the partnership will provide the information; and

10 (B) if the partnership declines to provide any demanded information, the
11 partnership's reasons for declining.

12 (c) A partnership may charge a person that makes a demand under this section the
13 reasonable costs of copying, limited to the costs of labor and material.

14 (d) A partner or dissociated partner may exercise rights under this section through an
15 agent or, in the case of an individual under legal disability, a legal representative. Any
16 restriction or condition imposed by the partnership agreement or under subsection (f) applies
17 both to the agent or legal representative and the partner or dissociated partner.

18 (e) The rights under this section do not extend to a person as transferee.

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

1 **Reporters' Note**

2
3 Section 408 is a modification of former Section 403 and partially conforms to RULLCA
4 Section 410 to the extent those provisions applied to a member-managed limited liability
5 company. Section 408 also incorporates the new reference to principal office and eliminates the
6 concept of chief executive office.
7

8 **SECTION ~~404~~ 409. GENERAL STANDARDS OF PARTNER'S CONDUCT**
9 **CONDUCT FOR PARTNERS.**

10 (a) ~~The only fiduciary duties a~~ A partner owes to the partnership and the other partners
11 ~~are the duty~~ the duties of loyalty and ~~the duty of~~ care ~~set forth~~ stated in subsections (b) and (c).

12 (b) A partner's The fiduciary duty of loyalty ~~to the partnership and the other partners is~~
13 ~~limited to the following~~ of a partner includes the duties:

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

16 (A) in the conduct and or winding up of the partnership partnership's
17 business;

18 (B) or derived from a use by the partner of the partnership partnership's
19 property; or

20 (C) including from the appropriation of a partnership opportunity.

21 (2) to refrain from dealing with the partnership in the conduct or winding up of
22 the partnership business as or on behalf of a party person having an interest adverse to the
23 partnership; and

24 (3) to refrain from competing with the partnership in the conduct of the
25 partnership partnership's business before the dissolution of the partnership.

26 (c) A partner's duty of care to the partnership and the other partners in the conduct and
27 winding up of the partnership business is limited to refraining from engaging in grossly

1 negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

2 (d) A partner shall discharge the duties to the partnership and the other partners under this
3 ~~{Act}~~ [act] or under the partnership agreement and exercise any rights consistently with the
4 contractual obligation of good faith and fair dealing.

5 (e) ~~A partner does not violate a duty or obligation under this [Act] [act] or under the~~
6 ~~partnership agreement merely because the partner's conduct furthers the partner's own interest.~~
7 All of the partners may authorize or ratify, after full disclosure of all material facts, a specific act
8 or transaction that otherwise would violate the fiduciary duty of loyalty

9 (f) ~~A partner may lend money to and transact other business with the partnership, and as~~
10 ~~to each loan or transaction the rights and obligations of the partner are the same as those of a~~
11 ~~person who is not a partner, subject to other applicable law. If, as permitted by subsection (e) or~~
12 ~~the partnership agreement, a partner enters into a transaction with a partnership that otherwise~~
13 ~~would be prohibited by subsection (b)(2), the partner's rights and obligations arising from the~~
14 ~~transaction are the same as those of a person not a partner.~~

15 (g) It is a defense to a claim under subsection (b)(2) and any comparable claim in equity
16 or at common law that the transaction was fair to the partnership.

17 (g) (h) This section applies to a person winding up the partnership business as the
18 personal or legal representative of the last surviving partner as if the person were a partner.

19 **Reporters' Note**

20
21 Section 408 is a modification of former Section 404. Former Section 404(a) is eliminated
22 thereby freeing the concept of duties to expand. Section 408(b) conforms to RULLCA Section
23 409(a) and no longer states the duty of loyalty as fiduciary in nature and affirms the stated duties
24 are not exclusive. Otherwise Section 408(b) merely separately states the former components of
25 the referenced former Section 404(b) duties of loyalty. Section 408(c), like RULLCA, clarifies
26 the obligation of good faith and fair dealing is contractual in nature. Section 408(e) clarifies that
27 fairness of the transaction is an ultimate defense to a breach of duty of loyalty specified under
28 Section 408(a)(2).

1 **SECTION ~~405~~ 410. ACTIONS BY PARTNERSHIP AND PARTNER.**

2 (a) A partnership may maintain an action against a partner for a breach of the partnership
3 agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

4 (b) A partner may maintain an action against the partnership or another partner for legal or
5 equitable relief, with or without an accounting as to partnership business, to:

6 (1) enforce the partner's rights under the partnership agreement;

7 (2) enforce the partner's rights under this ~~{Act}~~ [act], including:

8 (i) (A) the partner's rights under Sections 401, ~~403~~ 408, or ~~404~~ 409;

9 (ii) (B) the partner's right on dissociation to have the partner's interest in
10 the partnership purchased pursuant to Section 701 or enforce any other right under [Article] 6 or
11 7; or

12 (iii) (C) the partner's right to compel a dissolution and winding up of the
13 partnership business under Section 801 or enforce any other right under [Article] 8; or

14 (3) enforce the rights and otherwise protect the interests of the partner, including
15 rights and interests arising independently of the partnership relationship.

16 (c) The accrual of, and any time limitation on, a right of action for a remedy under this
17 section is governed by other law. A right to an accounting upon a dissolution and winding up
18 does not revive a claim barred by law.

19 **Reporters' Note**

20
21 At the March 2010 meeting, the drafting committee discussed and rejected the concept of
22 a RULLCA derivative action. The committee chose to retain the traditional concept of a partner's
23 right to bring a direct action without a derivative filter. Accordingly, Section 409 is a replica of
24 former Section 405.
25

1 **SECTION 406 411. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE**
2 **TERM OR PARTICULAR UNDERTAKING.**

3 (a) If a partnership for a definite term or particular undertaking is continued, without an
4 express agreement, after the expiration of the term or completion of the undertaking, the rights
5 and duties of the partners remain the same as they were at the expiration or completion, so far as
6 is consistent with a partnership at will.

7 (b) If the partners, or those of them who habitually acted in the business during the term
8 or undertaking, continue the business without any settlement or liquidation of the partnership,
9 they are presumed to have agreed that the partnership will continue.

10

1 [ARTICLE] 5

2 TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS
3 OF PARTNER

4
5 SECTION 501. PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY.

6 A partner is not a co-owner of partnership property and has no interest in partnership property
7 ~~which that~~ can be transferred, either voluntarily or involuntarily.

8 SECTION 502. PARTNER'S NATURE OF TRANSFERABLE INTEREST ~~IN~~

9 ~~PARTNERSHIP.~~ The only transferable interest of a partner in the partnership is the partner's
10 ~~share of the profits and losses of the partnership and the partner's right to receive distributions.~~

11 Except as otherwise provided in Section 504(f), the only part of a membership that is transferable is
12 the transferable interest. A transferable interest is personal property.

13 Reporters' Note

14
15 Unlike RUPA, RULLCA Section 102(21) specifically defines the term "transferable
16 interest." Consequently, revised Section 502 simply confirms that is the only interest of a partner
17 that may be transferred. This conforms RUPA Section 502 to RULLCA Section 501 and ULPA
18 2001 Section 701.
19

20 SECTION 503. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST.

21 (a) A transfer, in whole or in part, of a partner's transferable interest ~~in the partnership~~:

22 (1) is permissible;

23 (2) does not by itself cause ~~the a~~ partner's dissociation or a dissolution and
24 winding up of the partnership business; and

25 (3) subject to Section 505, does not, ~~as against the other partners or the~~
26 partnership, entitle the transferee to:

27 (A) during the continuance of the partnership, to participate in the

1 management or conduct of the ~~partnership~~ partnership's business; or

2 (B) ~~business, to require~~ except as otherwise provided in subsection (c),
3 have access to records or other information concerning the partnership partnership's transactions,
4 ~~or to inspect or copy the partnership books or records~~ business.

5 (b) A transferee ~~of a partner's transferable interest in the partnership~~ has a the right:

6 (1) to receive, in accordance with the transfer, distributions to which the transferor
7 would otherwise be entitled; and

8 ~~(2) to receive upon the dissolution and winding up of the partnership business, in~~
9 ~~accordance with the transfer, the net amount otherwise distributable to the transferor; and~~

10 ~~(3)~~ (2) to seek under Section 801(6) a judicial determination that it is equitable to
11 wind up the partnership business.

12 (c) In a dissolution and winding up of a partnership, a transferee is entitled to an account
13 of ~~partnership~~ the partnership's transactions only from the date of the latest account agreed to by
14 all of the partners.

15 (d) ~~Upon transfer, the transferor retains the rights and duties of a partner other than the~~
16 ~~interest in distributions transferred.~~ Except as otherwise provided in Section 601(4)(B), when a
17 partner transfers a transferable interest, the transferor retains the rights of a partner other than the
18 interest in distributions transferred and retains all duties and obligations of a partner.

19 (e) A partnership need not give effect to a transferee's rights under this section until ~~it~~ the
20 partnership has notice of the transfer.

21 (f) A transfer of a ~~partner's~~ transferable interest ~~in the partnership~~ in violation of a
22 restriction on transfer contained in the partnership agreement is ineffective as to a person having
23 notice of the restriction at the time of transfer.

24 (g) When a partner transfers a transferable interest to a person that becomes a partner with

1 respect to the transferred interest, the transferee is liable for the partner's obligations under
2 Sections 404 and 407(c).

3 **Reporters' Note**

4
5 At the March 2010 meeting, the drafting committee rejected the RULLCA Section 502(c)
6 notion that the accounting runs only from the date of dissolution. Therefore, Section 503(c)
7 continues the RUPA concept of dating the accounting from the latest accounting. Section 503(g)
8 follows RULLCA Section 502(h).
9

10 **SECTION 504. ~~PARTNER'S TRANSFERABLE INTEREST SUBJECT TO~~** 11 **CHARGING ORDER.**

12 (a) ~~On application by a judgment creditor of a partner or of a partner's transferee, a court~~
13 ~~having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the~~
14 ~~judgment. The court may appoint a receiver of the share of the distributions due or to become~~
15 ~~due to the judgment debtor in respect of the partnership and make all other orders, directions,~~
16 ~~accounts, and inquiries the judgment debtor might have made or which the circumstances of the~~
17 ~~case may require. On application by a judgment creditor of a partner or transferee, a court may~~
18 ~~enter a charging order against the transferable interest of the judgment debtor for the unsatisfied~~
19 ~~amount of the judgment. A charging order creates a lien on a judgment debtor's transferable~~
20 ~~interest and requires the partnership to pay over to the person to which the charging order was~~
21 ~~issued any distribution that would otherwise be paid to the judgment debtor.~~

22 (b) ~~A charging order constitutes a lien on the judgment debtor's transferable interest in~~
23 ~~the partnership. The court may order a foreclosure of the interest subject to the charging order at~~
24 ~~any time. The purchaser at the foreclosure sale has the rights of a transferee. To the extent~~
25 ~~necessary to effectuate the collection of distributions pursuant to a charging order in effect under~~
26 ~~subsection (a), the court may:~~

27 (c) ~~At any time before foreclosure, an interest charged may be redeemed:~~

1 (1) ~~by the judgment debtor~~ appoint a receiver of the distributions subject to the
2 charging order, with the power to make all inquiries the judgment debtor might have made; and

3 (2) ~~with property other than partnership property, by one or more of the other~~
4 ~~partners; or~~ make all other orders necessary to give effect to the charging order.

5 (3) ~~(c) with partnership property, by one or more of the other partners with the consent of~~
6 ~~all of the partners whose interests are not so charged.~~ Upon a showing that distributions under a
7 charging order will not pay the judgment debt within a reasonable time, the court may foreclose
8 the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale
9 obtains only the transferable interest, does not thereby become a partner, and is subject to Section
10 503.

11 (d) ~~This [Act] does not deprive a partner of a right under exemption laws with respect to~~
12 ~~the partner's interest in the partnership.~~ At any time before foreclosure under subsection (c), the
13 partner or transferee whose transferable interest is subject to a charging order under subsection
14 (a) may extinguish the charging order by satisfying the judgment and filing a certified copy of
15 the satisfaction with the court that issued the charging order.

16 (e) ~~This section provides the exclusive remedy by which a judgment creditor of a partner~~
17 ~~or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest~~
18 ~~in the partnership.~~ At any time before foreclosure under subsection (c), a partnership or one or
19 more partners whose transferable interests are not subject to the charging order may pay to the
20 judgment creditor the full amount due under the judgment and thereby succeed to the rights of
21 the judgment creditor, including the charging order.

22 (f) ~~This [act] does not deprive any partner or transferee of the benefit of any exemption~~
23 ~~law applicable to the transferable interest of the partner or transferee.~~

24 (g) ~~This section provides the exclusive remedy by which a person seeking to enforce a~~

1 judgment against a partner or transferee may, in the capacity of judgment creditor, satisfy the
2 judgment from the judgment debtor's transferable interest.

3 **Reporters' Note**

4
5 Section 504 is substantially restated to conform to RULLCA Section 503, except for a
6 new subsection (f) considering the effect of foreclosing a charging lien against the only member
7 of a single member limited liability company.

8
9

10 **SECTION 505. POWER OF PERSONAL REPRESENTATIVE OF DECEASED**

11 **PARTNER.** If a partner dies, the deceased partner's personal representative or other legal
12 representative may exercise:

13 (1) the rights of a transferee as provided in Section 503(c); and

14 (2) for purposes of settling the estate, the rights the deceased partner had under Section
15 408.

16 **Reporters' Note**

17
18 Section 505 is new and conforms to RULLCA Section 504.

19

1 [ARTICLE] 6

2 PARTNER'S DISSOCIATION

3 SECTION 601. EVENTS CAUSING PARTNER'S DISSOCIATION. A partner

4 person is dissociated as a partner from a partnership ~~upon the occurrence of any of the following~~
5 events when:

6 (1) ~~the partnership's having partnership~~ has notice of the partner's person's express will
7 to withdraw as a partner ~~[upon the date of notice] or on a later date specified by the partner but,~~
8 if the person specified a withdrawal date later than the date the partnership had notice, on that
9 later date;

10 (2) an event agreed to stated in the partnership agreement as causing the partner's
11 person's dissociation as a partner occurs;

12 (3) the ~~partner's expulsion~~ person is expelled as a partner pursuant to the partnership
13 agreement;

14 (4) the ~~partner's expulsion~~ person is expelled as a partner by the unanimous vote of the
15 other partners if:

16 (i) (A) it is unlawful to carry on the partnership partnership's business with ~~that~~
17 the person as a partner;

18 (ii) (B) there has been a transfer of all ~~or substantially all~~ of ~~that the~~ the partner's
19 transferable interest ~~in the partnership~~, other than:

20 (i) a transfer for security purposes; or

21 (ii) ~~a court order charging the partner's interest~~ charging order in effect under
22 Section 504 which has not been foreclosed;

23 (iii) ~~within 90 days after the partnership notifies a corporate partner that it~~

1 ~~will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been~~
2 ~~revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation,~~
3 ~~there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to~~
4 ~~conduct business; or the person is a corporation and, within 90 days after the partnership notifies the~~
5 ~~person that it will be expelled as a member because the person has filed a certificate of dissolution or~~
6 ~~the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the~~
7 ~~jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right~~
8 ~~to conduct business has not been reinstated; or~~

9 (iv) ~~the person is a limited liability company or~~ a partnership that ~~is a~~
10 ~~partner~~ has been dissolved and ~~its~~ whose business is being wound up;

11 (5) on application by the partnership ~~or another partner, the partner's expulsion,~~ the
12 person is expelled as a partner by judicial ~~determination order~~ because the person:

13 (i)(A) ~~the partner has~~ engaged or is engaging in wrongful conduct that has
14 adversely and materially affected, or will affect, the partnership business;

15 (ii)(B) ~~the partner has~~ willfully or persistently committed, or is willfully and
16 persistently committing, a material breach of the partnership agreement or ~~of a duty the person's~~
17 duties or obligations owed to the partnership or the other partners under Section 404 ~~408~~; or

18 (iii)(C) ~~the partner has~~ engaged, or is engaging, in conduct relating to the
19 ~~partnership~~ partnership's business which makes it not reasonably practicable to carry on the
20 partnership with the partner business with the person as a partner;

21 (6) the partner's:

22 (i) (A) becoming a debtor in bankruptcy;

23 (ii)(B) executing an assignment for the benefit of creditors;

24 (iii)(C) seeking, consenting to, or acquiescing in the appointment of a trustee,

1 receiver, or liquidator of that partner or of all or substantially all of that partner's property; or
2 ~~(iv)~~(D) failing, within 90 days after the appointment, to have vacated or stayed
3 the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of
4 the partner's property obtained without the partner's consent or acquiescence, or failing within
5 90 days after the expiration of a stay to have the appointment vacated;

6 (7) in the case of a partner who is an individual:

7 (i) (A) the partner's death;

8 (ii) (B) ~~the appointment of~~ a guardian or general conservator for the partner is
9 appointed; or

10 (iii) (C) there is a judicial determination that the partner has otherwise become
11 incapable of performing the partner's duties under this [act] or the partnership agreement;

12 (8) in the case of a partner that is a trust or is acting as a partner by virtue of being a
13 trustee of a trust, the trust's ~~distribution of the trust's~~ entire transferable interest is distributed; ~~in~~
14 ~~the partnership, but not merely by reason of the substitution of a successor trustee~~;

15 (9) in the case of a partner that is an estate or is acting as a partner by virtue of being a
16 personal representative of an estate, ~~distribution of~~ the estate's entire transferable interest is in the
17 partnership is distributed; ~~but not merely by reason of the substitution of a successor personal~~
18 ~~representative; or~~

19 (10) ~~termination in the case~~ of a partner that is not an individual, partnership, limited
20 liability company, corporation, trust, or estate, the termination of the partner;

21 (11) the partnership participates in a merger under [Article] 9, if:

22 (A) the partnership is not the surviving entity, or

23 (B) otherwise as a result of the merger, the person ceases to be a partner;

24 (12) the partnership participates in a conversion under [Article] 9;

1 (iii) (C) the partner person is dissociated as a partner by becoming a debtor
2 in bankruptcy; or

3 (iv) (D) in the case of a partner who person that is not an individual, a trust
4 other than a business trust, ~~or an~~ estate, or an individual, the partner person is expelled as a
5 partner or otherwise dissociated because it willfully dissolved or terminated.

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

9 Reporters' Note

10 Section 602 is conformed to RULLCA Section 601. Unlike RULLCA Section 110(c)
11 which permits the operating agreement to negate the power to dissociate, the power cannot be
12 eliminated under RUPA Section 103(b)(6).
13
14

15 SECTION 603. EFFECT OF PARTNER'S PERSON'S DISSOCIATION AS A 16 PARTNER.

17 (a) ~~If When~~ a partner's person's dissociation as a partner results in a dissolution and
18 winding up of the partnership business, [Article] 8 applies; otherwise, [Article] 7 applies.

19 (b) ~~Upon a partner's dissociation~~ When a person is dissociated as a partner of a
20 partnership:

21 (1) the partner's person's right to participate in the management and conduct of
22 the partnership business as a partner terminates, except as otherwise provided in Section 803;

23 (2) ~~the partner's duty of loyalty under Section 404(b)(3) terminates~~ the person's
24 duties as a partner under Section 408 terminate with regard to matters arising and events
25 occurring after the person's dissociation; and

26 (3) ~~the partner's duty of loyalty under Section 404(b)(1) and (2) and duty of care~~
27 under Section 404(c) continue only with regard to matters arising and events occurring before the

1 ~~partner's dissociation, unless the partner participates in winding up the partnership's business~~
2 ~~pursuant to Section 803~~ subject to Section 505 and [Article] 9, any transferable interest owned by
3 the person immediately before dissociation in the person's capacity as a partner is owned by the
4 person solely as a transferee.

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

8 **Reporters' Note**

9
10 Section 603 conforms to RULLCA Section 603. Like RULLCA Section 603(b), Section
11 603(c) confirms that dissociation, without more, does not obligations incurred while a partner.
12 This point is affirmed in Section 703(a).
13

1 [ARTICLE] 7

2 PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

3 SECTION 701. PURCHASE OF DISSOCIATED PARTNER'S INTEREST.
4

5 (a) If a ~~partner~~ person is dissociated as a partner from a partnership without resulting in a
6 dissolution and winding up of the partnership business under Section 801, the partnership shall
7 cause the dissociated ~~partner's~~ person's interest in the partnership to be purchased for a buyout
8 price determined pursuant to subsection (b).

9 (b) The buyout price of a dissociated ~~partner's~~ person's interest is the amount that would
10 have been distributable to the dissociating ~~partner~~ person under Section 807(b) if, on the date of
11 dissociation, the assets of the partnership were sold at a price equal to the greater of the
12 liquidation value or the value based on a sale of the entire business as a going concern without
13 the dissociated ~~partner~~ person and the partnership were wound up as of that date. Interest must be
14 paid from the date of dissociation to the date of payment.

15 (c) Damages for wrongful dissociation under Section 602(b), and all other amounts
16 owing, whether or not presently due, from the dissociated ~~partner~~ person to the partnership, must
17 be offset against the buyout price. Interest must be paid from the date the amount owed becomes
18 due to the date of payment.

19 (d) A partnership shall indemnify a dissociated ~~partner~~ person whose interest is being
20 purchased against all partnership liabilities, whether incurred before or after the dissociation,
21 except liabilities incurred by an act of the dissociated partner under Section 702.

22 (e) If no agreement for the purchase of a dissociated ~~partner's~~ person's interest is reached
23 within 120 days after a written demand for payment, the partnership shall pay, or cause to be
24 paid, in cash to the dissociated ~~partner~~ person the amount the partnership estimates to be the

1 buyout price and accrued interest, reduced by any offsets and accrued interest under subsection
2 (c).

3 (f) If a deferred payment is authorized under subsection (h), the partnership may tender a
4 written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced
5 by any offsets under subsection (c), stating the time of payment, the amount and type of security
6 for payment, and the other terms and conditions of the obligation.

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

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

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

11 (3) an explanation of how the estimated amount of the payment was calculated;

12 and

13 (4) written notice that the payment is in full satisfaction of the obligation to

14 purchase unless, within 120 days after the written notice, the dissociated ~~partner~~ person

15 commences an action to determine the buyout price, any offsets under subsection (c), or other

16 terms of the obligation to purchase.

17 (h) A ~~partner~~ person who wrongfully dissociates before the expiration of a definite term

18 or the completion of a particular undertaking is not entitled to payment of any portion of the

19 buyout price until the expiration of the term or completion of the undertaking, unless the ~~partner~~

20 person establishes to the satisfaction of the court that earlier payment will not cause undue

21 hardship to the business of the partnership. A deferred payment must be adequately secured and

22 bear interest.

23 (i) A dissociated ~~partner~~ person may maintain an action against the partnership, pursuant

24 to Section ~~405(b)(2)(ii)~~ 408(b)(2)(ii), to determine the buyout price of that ~~partner's~~ person's

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

12 **SECTION 702. DISSOCIATED PARTNER'S POWER TO BIND AND**
13 **LIABILITY TO PARTNERSHIP.**

14 (a) For two years after a ~~partner~~ person dissociates without resulting in a dissolution and
15 winding up of the partnership business, the partnership, including a surviving partnership under
16 [Article] 9, is bound by an act of the dissociated ~~partner~~ person which would have bound the
17 partnership under Section 301 before dissociation only if at the time of entering into the
18 transaction the other party:

- 19 (1) reasonably believed that the dissociated ~~partner~~ person was then a partner;
20 (2) did not have notice of the ~~partner's~~ person's dissociation; and
21 (3) is not deemed to have had knowledge under Section 303(e) or notice under
22 Section 704(c).

23 (b) A dissociated ~~partner~~ person is liable to the partnership for any damage caused to the
24 partnership arising from an obligation incurred by the dissociated partner after dissociation for

1 which the partnership is liable under subsection (a).

2 **SECTION 703. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.**

3 (a) A ~~partner's~~ person's dissociation as a partner does not of itself discharge the ~~partner's~~
4 person's liability for a partnership obligation incurred before dissociation. A dissociated ~~partner~~
5 person is not liable for a partnership obligation incurred after dissociation, except as otherwise
6 provided in subsection (b).

7 (b) A ~~partner~~ person who dissociates without resulting in a dissolution and winding up of
8 the partnership business is liable as a ~~partner~~ person to the other party in a transaction entered
9 into by the partnership, or a surviving partnership under [Article] 9, within two years after the
10 ~~partner's~~ person's dissociation, only if the ~~partner~~ person is liable for the obligation under
11 Section 306 and at the time of entering into the transaction the other party:

12 (1) reasonably believed that the dissociated ~~partner~~ person was then a partner;

13 (2) did not have notice of the ~~partner's~~ person's dissociation; and

14 (3) is not deemed to have had knowledge under Section 303(e) or notice under
15 Section 704(c).

16 (c) By agreement with the partnership creditor and the partners continuing the business, a
17 dissociated ~~partner~~ person may be released from liability for a partnership obligation.

18 (d) A dissociated ~~partner~~ person is released from liability for a partnership obligation if a
19 partnership creditor, with notice of the ~~partner's~~ person's dissociation but without the ~~partner's~~
20 person's consent, agrees to a material alteration in the nature or time of payment of a partnership
21 obligation.

22 **SECTION 704. STATEMENT OF DISSOCIATION.**

23 (a) A dissociated ~~partner~~ person or the partnership may file a statement of dissociation
24 stating the name of the partnership and that the ~~partner~~ person is dissociated from the

1 partnership.

2 (b) A statement of dissociation is a limitation on the authority of a dissociated ~~partner~~
3 person for the purposes of Section 303(d) and (e).

4 (c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a ~~partner~~ person is
5 deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

6 **SECTION 705. CONTINUED USE OF PARTNERSHIP NAME.** Continued use of a
7 partnership name, or a dissociated ~~partner's~~ person's name as part thereof, by partners continuing
8 the business does not of itself make the dissociated ~~partner~~ person liable for an obligation of the
9 partners or the partnership continuing the business.

10

1 [ARTICLE] 8

2 DISSOLUTION AND WINDING UP

3 SECTION 801. EVENTS CAUSING DISSOLUTION ~~AND WINDING UP OF~~

4 ~~PARTNERSHIP BUSINESS~~. A partnership is dissolved, and its business must be wound up,
5 only upon the occurrence of any of the following events:

6 (1) in a partnership at will, ~~the partnership's having notice from a partner, other than a~~
7 ~~partner who is dissociated under Section 601(2) through (10), of that partner's express will to~~
8 ~~withdraw as a partner, or on a later date specified by the partner~~ the partnership has notice of a
9 person's express will to withdraw as a partner, other than a person who has dissociated under
10 Section 601(2) through (10), but, if the person specified a withdrawal date later than the date the
11 partnership had notice, on the later date;

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

13 (i) ~~(A)~~ (A) within 90 days after a ~~partner's~~ person's dissociation as a partner by death
14 or otherwise under Section 601(6) through (10) or wrongful dissociation under Section 602(b),
15 the ~~express will~~ consent of at least half of the remaining partners to wind up the partnership
16 business, for which purpose a partner's rightful dissociation pursuant to Section 602(b)(2)(i)
17 constitutes the expression of that partner's will to wind up the partnership business;

18 (ii) ~~(B)~~ (B) the ~~express will~~ consent of all of the partners ~~to wind up the partnership~~
19 ~~business; or~~

20 (iii) ~~(C)~~ (C) the expiration of the term or the completion of the undertaking;

21 (3) an event ~~agreed to in or circumstance that~~ the partnership agreement ~~resulting in the~~
22 ~~winding up of the partnership business~~ states causes the dissolution;

23 (4) an event that makes it unlawful for all or substantially all of the business of the
24

1 partnership to be continued, but a cure of illegality within 90 days after notice to the partnership
2 of the event is effective retroactively to the date of the event for purposes of this section;

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

4 (i) (A) the economic purpose of the partnership is likely to be unreasonably
5 frustrated;

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

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

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

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

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

18 (7) Except as provided in Section 302(d), when the partnership no longer has two or more
19 partners.

20 Reporters' Note

21
22 Section 801 conformed to RULLCA Article 7, when possible. Under RULLCA,
23 dissociation of a member no longer threatens entity dissolution but the concept remains relevant
24 to RUPA because of the RUPA Article 7 purchase on dissociation without dissolution. Unlike
25 RULLCA, Section 801(5) does not state oppression as cause for judicial dissolution.
26

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

3 (c) A person winding up a partnership's business may preserve the partnership business or
4 property as a going concern for a reasonable time, prosecute and defend actions and proceedings,
5 whether civil, criminal, or administrative, settle and close the partnership's business, dispose of
6 and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets
7 of the partnership pursuant to Section 807, settle disputes by mediation or arbitration, and
8 perform other necessary acts.

9 **SECTION 804. PARTNER'S POWER TO BIND PARTNERSHIP AFTER**

10 **DISSOLUTION.** Subject to Section 805, a partnership is bound by a ~~partner's~~ person's act after
11 dissolution that:

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

13 (2) would have bound the partnership under Section 301 before dissolution, if the other
14 party to the transaction did not have notice of the dissolution.

15 **SECTION 805. STATEMENT OF DISSOLUTION.**

16 (a) After dissolution, a ~~partner~~ person who has not wrongfully dissociated as a partner
17 may ~~file~~ deliver to the [Secretary of State] for filing a statement of dissolution stating the name
18 of the partnership and that the partnership has dissolved and is winding up its business.

19 (b) A statement of dissolution cancels a filed statement of partnership authority for the
20 purposes of Section 303(d) and is a limitation on authority for the purposes of Section 303(e).

21 (c) For the purposes of Sections 301 and 804, a person not a partner is deemed to have
22 notice of the dissolution and the limitation on the partners' authority as a result of the statement
23 of dissolution 90 days after it is filed.

1 (d) After the filing and, if appropriate, recording a statement of dissolution, a dissolved
2 partnership may ~~file~~ deliver to the [Secretary of State] for filing and, if appropriate, record a
3 statement of partnership authority which will operate with respect to a person not a partner as
4 provided in Section 303(d) and (e) in any transaction, whether or not the transaction is
5 appropriate for winding up the partnership business.

6 **SECTION 806. PARTNER’S LIABILITY TO OTHER PARTNERS AFTER**
7 **DISSOLUTION.**

8 (a) Except as otherwise provided in subsection (b) and Section 306, after dissolution a
9 ~~partner~~ person is liable to the other partners for the ~~partner’s~~ person’s share of any partnership
10 liability incurred under Section 804.

11 (b) A ~~partner~~ person who, with knowledge of the dissolution, incurs a partnership liability
12 under Section 804(2) by an act that is not appropriate for winding up the partnership business is
13 liable to the partnership for any damage caused to the partnership arising from the liability.

14 **Reporters’ Note**

15
16 Section 806 remains but a partner’s share of partnership liabilities may be altered by the
17 limitation on known and unknown claims conforming to RULLCA Sections 703-704.

18
19
20 **SECTION 807. SETTLEMENT OF ACCOUNTS DISTRIBUTIONS AND**
21 **CONTRIBUTIONS AMONG PARTNERS UPON WINDING UP.**

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

1 (b) ~~Each partner is entitled to a settlement of all partnership accounts upon winding up~~
2 ~~the partnership business. In settling accounts among the partners, profits and losses that result~~
3 ~~from the liquidation of the partnership assets must be credited and charged to the partners'~~
4 ~~accounts. The partnership shall make a distribution to a partner in an amount equal to any excess~~
5 ~~of the credits over the charges in the partner's account. A partner shall contribute to the~~
6 ~~partnership an amount equal to any excess of the charges over the credits in the partner's account~~
7 ~~t but excluding from the calculation charges attributable to an obligation for which the partner is~~
8 ~~not personally liable under Section 306. After a partnership complies with subsection (a), any~~
9 ~~surplus must be distributed in the following order, subject to any charging order in effect under~~
10 Section 504:

11 (1) to each person owning a transferable interest that reflects contributions made
12 by a partner and not previously returned, an amount equal to the value of the unreturned
13 contributions; and

14 (2) in equal shares among partners and dissociated partners, except to the extent
15 necessary to comply with any transfer effective under Section 503.

16 (c) If partnership assets are not adequate to satisfy partnership debts, obligations or other
17 liabilities under subsection (a), each partner or former partner shall contribute to the partnership
18 an equal share of the excess excluding from the calculation charges attributable to an obligation
19 for which the partner is not personally liable under Section 306.

20 (e) (d) If a partner fails to contribute the full amount required under subsection ~~(b)~~ (c), all
21 of the other partners shall contribute, in the proportions in which those partners share partnership
22 losses, the additional amount necessary to satisfy the partnership obligations for which they are
23 personally liable under Section 306. A partner or partner's legal representative may recover from
24 the other partners any contributions the partner makes to the extent the amount contributed

1 exceeds that partner's share of the partnership obligations for which the partner is personally
2 liable under Section 306.

3 ~~(d) After the settlement of accounts, each partner shall contribute, in the proportion in
4 which the partner shares partnership losses, the amount necessary to satisfy partnership
5 obligations that were not known at the time of the settlement and for which the partner is
6 personally liable under Section 306.~~

7 (e) The estate of a deceased ~~partner~~ partner person is liable for the ~~partner's~~ partner's person's obligation
8 to contribute to the partnership.

9 (f) An assignee for the benefit of creditors of a partnership or a ~~partner~~ partner person, or a
10 person appointed by a court to represent creditors of a partnership or a ~~partner~~ partner person, may
11 enforce a ~~partner's~~ partner's person's obligation to contribute to the partnership.

12 **Reporters' Note**

13
14 Consistent with amendments to Section 401, Section 807 eliminates the concept of an
15 account that must be maintained for each partner.
16

17 **SECTION 808. KNOWN CLAIMS AGAINST A DISSOLVED LIMITED**

18 **LIABILITY PARTNERSHIP.**

19 (a) Except as otherwise provided in subsection (d), a dissolved limited liability partnership
20 may give notice of a known claim under subsection (b), which has the effect as provided in
21 subsection (c).

22 (b) A dissolved limited liability partnership may notify in a record its known claimants of
23 the dissolution. The notice must:

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

25 (2) provide a mailing address to which the claim is to be sent;

1 (1) be published at least once in a newspaper of general circulation in the [county]
2 in this state in which the dissolved limited liability partnership's principal office is located or, if it
3 has none in this state, in the [county] in this state in which the office of the limited liability
4 partnership's registered agent is or was last located;

5 (2) describe the information required to be contained in a claim and provide a
6 mailing address to which the claim is to be sent; and

7 (3) state that a claim against the limited liability partnership is barred unless an
8 action to enforce the claim is commenced not later than three years after publication of the
9 notice.

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

14 (1) a claimant that did not receive notice in a record under Section 808;

15 (2) a claimant whose claim was timely sent to the limited liability partnership but
16 not acted on; and

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

19 (d) A claim not barred under this section or Section 808 may be enforced:

20 (1) against a dissolved limited liability partnership, to the extent of its
21 undistributed assets; and

22 (2) except as provided in Section 810(d), if assets of the limited liability
23 partnership have been distributed after dissolution, against a partner or transferee to the extent of
24 that person's proportionate share of the claim or of the assets distributed to the partner or

1 transferee after dissolution, whichever is less, but a person's total liability for all claims under
2 this paragraph does not exceed the total amount of assets distributed to the person after
3 dissolution.

4 **Reporters' Note**

5
6 Section 809 is new and conforms to RULLCA Section 704. Section 809(b)(3) conforms
7 to MBCA Section 14.07(c).
8

9 **SECTION 810. COURT PROCEEDINGS.**

10 (a) A dissolved limited liability partnership that has published a notice under Section 809
11 may file an application with the [appropriate court] in the [county] where the dissolved limited
12 liability partnership's principal office or, if none in this state, the office of its registered agent, is
13 located for a determination of the amount and form of security to be provided for payment of
14 claims that are contingent or have not been made known to the dissolved limited liability
15 partnership or that are based on an event occurring after the effective date of dissolution but
16 which, based on the facts known to the dissolved limited liability partnership, are reasonably
17 estimated to arise after the effective date of dissolution. Provision need not be made for any
18 claim that is or is reasonably anticipated to be barred under Section 809(c).

19 (b) Within 10 days after the filing of the application, notice of the proceeding must be
20 given by the dissolved partnership to each claimant holding a contingent claim whose contingent
21 claim is shown on the records of the dissolved limited liability partnership.

22 (c) The court may appoint a guardian ad litem to represent all claimants whose identities
23 are unknown in any proceeding brought under this section. The reasonable fees and expenses of
24 such guardian, including all reasonable expert witness fees, must be paid by the dissolved limited
25 liability partnership.

1 [ARTICLE] 9

2 ~~CONVERSIONS AND MERGERS~~

3 MERGERS, INTEREST EXCHANGES, CONVERSIONS AND DOMESTICATIONS

4 **SECTION 901. DEFINITIONS.** In this [article]:

5 (1) ~~“General partner” means a partner in a partnership and a general partner in a limited~~
6 ~~partnership.~~

7 (2) ~~“Limited partner” means a limited partner in a limited partnership.~~

8 (3) ~~“Limited partnership” means a limited partnership created under the [State Limited~~
9 ~~Partnership Act], predecessor law, or comparable law of another jurisdiction.~~

10 (4) ~~“Partner” includes both a general partner and a limited partner.~~

11 (1) ~~“Constituent partnership” means a constituent organization that is a partnership.~~

12 (2) ~~“Constituent organization” means an organization that is party to a merger.~~

13 (3) ~~“Converted organization” means the organization into which a converting~~
14 ~~organization converts pursuant to Sections 906 through 909.~~

15 (4) ~~“Converting partnership” means a converting organization that is a partnership.~~

16 (5) ~~“Converting organization” means an organization that converts into another~~
17 ~~organization pursuant to Section 906.~~

18 (6) ~~“Domesticated partnership” means the limited liability partnership that exists after a~~
19 ~~domesticating foreign partnership or limited liability partnership effects a domestication pursuant~~
20 ~~to Sections 910 through 913.~~

21 (7) ~~“Domesticating partnership” means the limited liability partnership that effects~~
22 ~~domestication pursuant to Sections 910 through 913.~~

23 (8) ~~“Foreign partnership” means a partnership that has its principal office in a jurisdiction~~

1 other than this state or that has specified in its partnership agreement that relations among the
2 partners and between the partners and the partnership will be governed by the law of a
3 jurisdiction other than this state.

4 (9) "Governing statute" means the statute that governs an organization's internal affairs.

5 (10) "Organization" means a general partnership, including a limited liability partnership,
6 limited partnership, including a limited liability limited partnership, limited liability company,
7 business trust, corporation, or any other person having a governing statute. The term includes a
8 domestic or foreign organization regardless of whether organized for profit.

9 (11) "Organizational documents" means:

10 (A) for a domestic or foreign general partnership, its partnership agreement;

11 (B) for a limited partnership or foreign limited partnership, its certificate of
12 limited partnership and partnership agreement;

13 (C) for a domestic or foreign limited liability company, its certificate or articles of
14 organization and operating agreement, or comparable records as provided in its governing
15 statute;

16 (D) for a business trust, its agreement of trust and declaration of trust;

17 (E) for a domestic or foreign corporation for profit, its articles of incorporation,
18 bylaws, and other agreements among its shareholders which are authorized by its governing
19 statute, or comparable records as provided in its governing statute; and

20 (F) for any other organization, the basic records that create the organization and
21 determine its internal governance and the relations among the persons that own it, have an
22 interest in it, or are members of it.

1 ~~(12) “Personal liability” means liability for a debt, obligation, or other liability of an~~
2 ~~organization that is imposed on a person that co-owns, has an interest in, or is a member of the~~
3 ~~organization:~~

4 ~~(A) by the governing statute solely by reason of the person co-owning, having an~~
5 ~~interest in, or being a member of the organization; or~~

6 ~~(B) by the organization’s organizational documents under a provision of the~~
7 ~~governing statute authorizing those documents to make one or more specified persons liable for~~
8 ~~all or specified debts, obligations, or other liabilities of the organization solely by reason of the~~
9 ~~person or persons co-owning, having an interest in, or being a member of the organization.~~

10 ~~(13) “Surviving organization” means an organization into which one or more other~~
11 ~~organizations are merged whether the organization preexisted the merger or was created by the~~
12 ~~merger.~~

13 ~~**SECTION 902. CONVERSION OF PARTNERSHIP TO LIMITED**~~
14 ~~**PARTNERSHIP MERGER.**~~

15 ~~(a) A partnership may be converted to a limited partnership pursuant to this section.~~

16 ~~(b) The terms and conditions of a conversion of a partnership to a limited partnership~~
17 ~~must be approved by all of the partners or by a number or percentage specified for conversion in~~
18 ~~the partnership agreement.~~

19 ~~(c) After the conversion is approved by the partners, the partnership shall file a certificate~~
20 ~~of limited partnership in the jurisdiction in which the limited partnership is to be formed. The~~
21 ~~certificate must include:~~

22 ~~(1) a statement that the partnership was converted to a limited partnership from a~~
23 ~~partnership;~~

24 ~~(2) its former name; and~~

1 ~~(3) a statement of the number of votes cast by the partners for and against the~~
2 ~~conversion and, if the vote is less than unanimous, the number or percentage required to approve~~
3 ~~the conversion under the partnership agreement.~~

4 ~~(d) The conversion takes effect when the certificate of limited partnership is filed or at~~
5 ~~any later date specified in the certificate.~~

6 ~~(e) A general partner who becomes a limited partner as a result of the conversion remains~~
7 ~~liable as a general partner for an obligation incurred by the partnership before the conversion~~
8 ~~takes effect. If the other party to a transaction with the limited partnership reasonably believes~~
9 ~~when entering the transaction that the limited partner is a general partner, the limited partner is~~
10 ~~liable for an obligation incurred by the limited partnership within 90 days after the conversion~~
11 ~~takes effect. The limited partner's liability for all other obligations of the limited partnership~~
12 ~~incurred after the conversion takes effect is that of a limited partner as provided in the [State~~
13 ~~Limited Partnership Act].~~

14 ~~(a) A partnership may merge with one or more other constituent organizations pursuant to~~
15 ~~this section, Sections 903 through 905, and a plan of merger, if:~~

16 ~~(1) the governing statute of each of the other organizations authorizes the merger;~~

17 ~~(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the~~
18 ~~governing statutes; and~~

19 ~~(3) each of the other organizations complies with its governing statute in effecting~~
20 ~~the merger.~~

21 ~~(b) Unless each constituent organization and the surviving organization are partnerships~~
22 ~~other than limited liability partnerships, a plan of merger must be in a record and must include:~~

23 ~~(1) the name and form of each constituent organization;~~

- 1 ~~(2) the name and form of the surviving organization and, if the surviving~~
2 ~~organization is to be created by the merger, a statement to that effect;~~
- 3 ~~(3) the terms and conditions of the merger, including the manner and basis for~~
4 ~~converting the interests in each constituent organization into any combination of money, interests~~
5 ~~in the surviving organization, and other consideration;~~
- 6 ~~(4) if the surviving organization is to be created by the merger, the surviving~~
7 ~~organization's organizational documents that are proposed to be in a record; and~~
- 8 ~~(5) if the surviving organization is not to be created by the merger, any~~
9 ~~amendments to be made by the merger to the surviving organization's organizational documents~~
10 ~~that are, or are proposed to be, in a record.~~

11 **~~SECTION 903. CONVERSION OF LIMITED PARTNERSHIP TO~~**
12 **~~PARTNERSHIP ACTION ON PLAN OF MERGER BY CONSTITUENT~~**
13 **~~PARTNERSHIP.~~**

- 14 ~~(a) A limited partnership may be converted to a partnership pursuant to this section.~~
- 15 ~~(b) Notwithstanding a provision to the contrary in a limited partnership agreement, the~~
16 ~~terms and conditions of a conversion of a limited partnership to a partnership must be approved~~
17 ~~by all of the partners.~~
- 18 ~~(c) After the conversion is approved by the partners, the limited partnership shall cancel~~
19 ~~its certificate of limited partnership.~~
- 20 ~~(d) The conversion takes effect when the certificate of limited partnership is canceled.~~
- 21 ~~(e) A limited partner who becomes a general partner as a result of the conversion remains~~
22 ~~liable only as a limited partner for an obligation incurred by the limited partnership before the~~
23 ~~conversion takes effect. Except as otherwise provided in Section 306, the partner is liable as a~~
24 ~~general partner for an obligation of the partnership incurred after the conversion takes effect.~~

1 ~~(a) Subject to Section 914, a plan of merger must be consented to by all the partners of a~~
2 ~~constituent partnership.~~

3 ~~(b) Subject to Section 914 and any contractual rights, after a merger is approved, and at~~
4 ~~any time before articles of merger are delivered to the [Secretary of State] for filing under~~
5 ~~Section 904, a constituent partnership may amend the plan or abandon the merger:~~

6 ~~(1) as provided in the plan; or~~

7 ~~(2) except as otherwise prohibited in the plan, with the same consent as was~~
8 ~~required to approve the plan.~~

9 **SECTION 904. EFFECT OF CONVERSION; ENTITY UNCHANGED FILINGS**
10 **REQUIRED AND PERMITTED FOR MERGER; EFFECTIVE DATE.**

11 ~~(a) partnership or limited partnership that has been converted pursuant to this [article] is~~
12 ~~for all purposes the same entity that existed before the conversion.~~

13 ~~(b) When a conversion takes effect:~~

14 ~~(1) all property owned by the converting partnership or limited partnership~~
15 ~~remains vested in the converted entity;~~

16 ~~(2) all obligations of the converting partnership or limited partnership continue as~~
17 ~~obligations of the converted entity; and~~

18 ~~(3) an action or proceeding pending against the converting partnership or limited~~
19 ~~partnership may be continued as if the conversion had not occurred.~~

20 ~~(a) After each constituent organization has approved a merger, articles of merger must be~~
21 ~~signed on behalf of:~~

22 ~~(1) each constituent partnership, as provided in Section 105, unless the merger is~~
23 ~~between or among only general partnerships, none of which is a limited liability partnership, and~~

1 ~~the surviving organization will be a general partnership other than a limited liability partnership;~~
2 ~~and~~

3 ~~(2) each other constituent organization, as provided in its governing statute.~~

4 ~~(b) Articles of merger under this section must include:~~

5 ~~(1) the name and form of each constituent organization and the jurisdiction of its~~
6 ~~governing statute;~~

7 ~~(2) the name and form of the surviving organization, the jurisdiction of its~~
8 ~~governing statute, and, if the surviving organization is created by the merger, a statement to that~~
9 ~~effect;~~

10 ~~(3) the date the merger is effective under the governing statute of the surviving~~
11 ~~organization;~~

12 ~~(4) if the surviving organization is to be created by the merger:~~

13 ~~(A) if it will be a limited liability partnership, the limited liability~~
14 ~~partnership's statement of qualification; or~~

15 ~~(B) if it will be an organization other than a limited liability partnership,~~
16 ~~the organizational document that creates the organization that is in a public record;~~

17 ~~(5) if the surviving organization preexists the merger, any amendments provided~~
18 ~~for in the plan of merger for the organizational document that created the organization that are in~~
19 ~~a public record;~~

20 ~~(6) a statement as to each constituent organization that the merger was approved~~
21 ~~as required by the organization's governing statute;~~

22 ~~(7) if the surviving organization is a foreign organization not authorized to~~
23 ~~transact business in this state, the street and mailing addresses of an office that the [Secretary of~~
24 ~~State] may use for the purposes of Section 905(b); and~~

1 ~~(8) any additional information required by the governing statute of any constituent~~
2 ~~organization.~~

3 ~~(c) Each constituent partnership that is a limited liability partnership shall, and each~~
4 ~~constituent partnership that is not a limited liability partnership may, may deliver the articles of~~
5 ~~merger for filing in the office of the [Secretary of State].~~

6 ~~(d) A merger becomes effective under this [article]:~~

7 ~~(1) if the surviving organization is a partnership, upon the later of:~~

8 ~~(A) — compliance with subsection (c); or~~

9 ~~(B) — a time or event specified in the articles of merger; or~~

10 ~~(2) if the surviving organization is not a partnership, as provided by the governing~~
11 ~~statute of the surviving organization.~~

12 **SECTION 905. MERGER OF PARTNERSHIPS EFFECT OF MERGER.**

13 ~~(a) Pursuant to a plan of merger approved as provided in subsection (c), a partnership~~
14 ~~may be merged with one or more partnerships or limited partnerships.~~

15 ~~(b) The plan of merger must set forth:~~

16 ~~(1) the name of each partnership or limited partnership that is a party to the~~
17 ~~merger;~~

18 ~~(2) the name of the surviving entity into which the other partnerships or limited~~
19 ~~partnerships will merge;~~

20 ~~(3) whether the surviving entity is a partnership or a limited partnership and the~~
21 ~~status of each partner;~~

22 ~~(4) the terms and conditions of the merger;~~

23 ~~(5) the manner and basis of converting the interests of each party to the merger~~
24 ~~into interests or obligations of the surviving entity, or into money or other property in whole or~~

1 part; and

2 ~~(6) the street address of the surviving entity's chief executive office.~~

3 ~~(c) The plan of merger must be approved:~~

4 ~~(1) in the case of a partnership that is a party to the merger, by all of the partners,~~
5 ~~or a number or percentage specified for merger in the partnership agreement; and~~

6 ~~(2) in the case of a limited partnership that is a party to the merger, by the vote~~
7 ~~required for approval of a merger by the law of the State or foreign jurisdiction in which the~~
8 ~~limited partnership is organized and, in the absence of such a specifically applicable law, by all~~
9 ~~of the partners, notwithstanding a provision to the contrary in the partnership agreement.~~

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

12 ~~(e) The merger takes effect on the later of:~~

13 ~~(1) the approval of the plan of merger by all parties to the merger, as provided in~~
14 ~~subsection (c);~~

15 ~~(2) the filing of all documents required by law to be filed as a condition to the~~
16 ~~effectiveness of the merger; or~~

17 ~~(3) any effective date specified in the plan of merger.~~

18 ~~(a) When a merger becomes effective:~~

19 ~~(1) the surviving organization continues or comes into existence;~~

20 ~~(2) each constituent organization that merges into the surviving organization~~
21 ~~ceases to exist as a separate entity;~~

22 ~~(3) all property owned by each constituent organization that ceases to exist vests in~~
23 ~~the surviving organization;~~

24 ~~(4) all debts, obligations, or other liabilities of each constituent organization that~~

1 ~~ceases to exist continue as debts, obligations, or other liabilities of the surviving organization;~~
2 ~~(5) an action or proceeding pending by or against any constituent organization that~~
3 ~~ceases to exist may be continued as if the merger had not occurred;~~
4 ~~(6) except as prohibited by other law, all of the rights, privileges, immunities,~~
5 ~~powers, and purposes of each constituent organization that ceases to exist vest in the surviving~~
6 ~~organization;~~
7 ~~(7) except as otherwise provided in the plan of merger, the terms and conditions of~~
8 ~~the plan of merger take effect; and~~
9 ~~(8) except as otherwise agreed, if a constituent partnership ceases to exist, the~~
10 ~~merger does not dissolve the partnership for the purposes of [Article] 8;~~
11 ~~(9) if the surviving organization is created by the merger:~~
12 ~~(A) if it is a partnership, the partnership is formed upon approval of and on~~
13 ~~the date specified in the plan of merger;~~
14 ~~(B) if it is a limited liability partnership, the partnership is formed and the~~
15 ~~statement of qualification takes effect after filing of the articles of merger by the [Secretary of~~
16 ~~State] and upon the filing of the statement of qualification pursuant to Section 1001 or on the~~
17 ~~date provided in the statement, whichever is later; or~~
18 ~~(C) if it is an organization other than a partnership, the organizational~~
19 ~~document that creates the organization becomes effective; and~~
20 ~~(10) if the surviving organization preexisted the merger, any amendments provided~~
21 ~~for in the articles of merger for the organizational document that created the~~
22 ~~organization become effective.~~
23 ~~(b) A surviving organization that is a foreign organization consents to the jurisdiction of~~
24 ~~the courts of this state to enforce any debt, obligation, or other liability owed by a constituent~~

1 ~~organization, if before the merger the constituent organization was subject to suit in this state on~~
2 ~~the debt, obligation, or other liability. A surviving organization that is a foreign organization and~~
3 ~~not authorized to transact business in this state appoints the [Secretary of State] as its agent for~~
4 ~~service of process for the purposes of enforcing a debt, obligation, or other liability under this~~
5 ~~subsection. Service of any process, notice, or demand on the [Secretary of State] as agent for a~~
6 ~~surviving organization that is a foreign organization may be made by delivering to the [Secretary~~
7 ~~of State] duplicate copies of the process, notice, or demand. If a process, notice, or demand is~~
8 ~~served upon the [Secretary of State], the [Secretary of State] shall forward one of the copies by~~
9 ~~registered or certified mail, return receipt requested, to the organization at its registered office.~~
10 ~~Service is effected under this subsection at the earliest of:~~

- 11 ~~(1) the date the surviving organization receives the process, notice, or demand;~~
12 ~~(2) the date shown on the return receipt, if signed on behalf of the organization; or~~
13 ~~(3) five days after the process, notice, or demand is deposited with the United~~
14 ~~States Postal Service, if correctly addressed and with sufficient postage.~~

15 **SECTION 906. EFFECT OF MERGER CONVERSION.**

16 (a) ~~When a merger takes effect:~~

- 17 ~~(1) the separate existence of every partnership or limited partnership that is a~~
18 ~~party to the merger, other than the surviving entity, ceases;~~
19 ~~(2) all property owned by each of the merged partnerships or limited partnerships~~
20 ~~vests in the surviving entity;~~
21 ~~(3) all obligations of every partnership or limited partnership that is a party to the~~
22 ~~merger become the obligations of the surviving entity; and~~
23 ~~(4) an action or proceeding pending against a partnership or limited partnership~~
24 ~~that is a party to the merger may be continued as if the merger had not occurred, or the surviving~~

1 ~~entity may be substituted as a party to the action or proceeding.~~

2 ~~(b) The [Secretary of State] of this State is the agent for service of process in an action or~~
3 ~~proceeding against a surviving foreign partnership or limited partnership to enforce an obligation~~
4 ~~of a domestic partnership or limited partnership that is a party to a merger. The surviving entity~~
5 ~~shall promptly notify the [Secretary of State] of the mailing address of its chief executive office~~
6 ~~and of any change of address. Upon receipt of process, the [Secretary of State] shall mail a copy~~
7 ~~of the process to the surviving foreign partnership or limited partnership.~~

8 ~~(c) A partner of the surviving partnership or limited partnership is liable for:~~

9 ~~(1) all obligations of a party to the merger for which the partner was personally~~
10 ~~liable before the merger;~~

11 ~~(2) all other obligations of the surviving entity incurred before the merger by a~~
12 ~~party to the merger, but those obligations may be satisfied only out of property of the entity; and~~

13 ~~(3) except as otherwise provided in Section 306, all obligations of the surviving~~
14 ~~entity incurred after the merger takes effect, but those obligations may be satisfied only out of~~
15 ~~property of the entity if the partner is a limited partner.~~

16 ~~(d) If the obligations incurred before the merger by a party to the merger are not satisfied~~
17 ~~out of the property of the surviving partnership or limited partnership, the general partners of that~~
18 ~~party immediately before the effective date of the merger shall contribute the amount necessary to~~
19 ~~satisfy that party's obligations to the surviving entity, in the manner provided in Section 807 or in~~
20 ~~the [Limited Partnership Act] of the jurisdiction in which the party was formed, as the case may~~
21 ~~be, as if the merged party were dissolved.~~

22 ~~(e) A partner of a party to a merger who does not become a partner of the surviving~~
23 ~~partnership or limited partnership is dissociated from the entity, of which that partner was a~~
24 ~~partner, as of the date the merger takes effect. The surviving entity shall cause the partner's~~

1 interest in the entity to be purchased under Section 701 or another statute specifically applicable
2 to that partner's interest with respect to a merger. The surviving entity is bound under Section
3 702 by an act of a general partner dissociated under this subsection, and the partner is liable
4 under Section 703 for transactions entered into by the surviving entity after the merger takes
5 effect.

6 ~~(a) An organization other than a partnership or a foreign partnership may convert to a~~
7 ~~partnership, and a partnership may convert to an organization other than a foreign partnership~~
8 ~~pursuant to this section, Sections 907 through 909, and a plan of conversion, if:~~

9 ~~(1) the other organization's governing statute authorizes the conversion;~~

10 ~~(2) the conversion is not prohibited by the law of the jurisdiction that enacted the~~
11 ~~other organization's governing statute; and~~

12 ~~(3) the other organization complies with its governing statute in effecting the~~
13 ~~conversion.~~

14 ~~(b) A plan of conversion must be in a record and must include:~~

15 ~~(1) the name and form of the organization before conversion;~~

16 ~~(2) the name and form of the organization after conversion;~~

17 ~~(3) the terms and conditions of the conversion, including the manner and basis for~~
18 ~~converting interests in the converting organization into any combination of money, interests in~~
19 ~~the converted organization, and other consideration; and~~

20 ~~(4) the organizational documents of the converted organization that are, or are~~
21 ~~proposed to be, in a record.~~

1 **SECTION 907. STATEMENT OF MERGER ACTION ON PLAN OF**
2 **CONVERSION BY CONVERTING PARTNERSHIP.**

3 (a) ~~After a merger, the surviving partnership or limited partnership may file a statement~~
4 ~~that one or more partnerships or limited partnerships have merged into the surviving entity.~~

5 (b) ~~A statement of merger must contain:~~

6 (1) ~~the name of each partnership or limited partnership that is a party to the~~
7 ~~merger;~~

8 (2) ~~the name of the surviving entity into which the other partnerships or limited~~
9 ~~partnership were merged;~~

10 (3) ~~the street address of the surviving entity's chief executive office and of an~~
11 ~~office in this State, if any; and~~

12 (4) ~~whether the surviving entity is a partnership or a limited partnership.~~

13 (c) ~~Except as otherwise provided in subsection (d), for the purposes of Section 302,~~
14 ~~property of the surviving partnership or limited partnership which before the merger was held in~~
15 ~~the name of another party to the merger is property held in the name of the surviving entity upon~~
16 ~~filing a statement of merger.~~

17 (d) ~~For the purposes of Section 302, real property of the surviving partnership or limited~~
18 ~~partnership which before the merger was held in the name of another party to the merger is~~
19 ~~property held in the name of the surviving entity upon recording a certified copy of the statement~~
20 ~~of merger in the office for recording transfers of that real property.~~

21 (e) ~~A filed and, if appropriate, recorded statement of merger, executed and declared to be~~
22 ~~accurate pursuant to Section 105(e), stating the name of a partnership or limited partnership that~~
23 ~~is a party to the merger in whose name property was held before the merger and the name of the~~
24 ~~surviving entity, but not containing all of the other information required by subsection (b),~~

1 operates with respect to the partnerships or limited partnerships named to the extent provided in
2 subsections (c) and (d)

3 ~~(a) Subject to Section 914, a plan of conversion must be consented to by all the partners of~~
4 ~~a converting partnership.~~

5 ~~(b) Subject to Section 914 and any contractual rights, after a conversion is approved, and~~
6 ~~at any time before articles of conversion are delivered to the [Secretary of State] for filing under~~
7 ~~Section 908, a converting partnership may amend the plan or abandon the conversion:~~

8 ~~(1) as provided in the plan; or~~

9 ~~(2) except as otherwise prohibited in the plan, by the same consent as was~~
10 ~~required to approve the plan.~~

11 **SECTION 908. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE**

12 **DATE.NONEXCLUSIVE** ~~This [article] is not exclusive. Partnerships or limited partnerships~~
13 ~~may be converted or merged in any other manner provided by law.~~

14 ~~(a) After a plan of conversion is approved:~~

15 ~~(1) a converting limited liability partnership shall deliver to the [Secretary of~~
16 ~~State] for filing articles of conversion, which must be signed as provided in Section 105~~
17 ~~and must include:~~

18 ~~(A) a statement that the limited liability partnership has been converted~~
19 ~~into another organization;~~

20 ~~(B) the name and form of the converted organization and the jurisdiction of~~
21 ~~its governing statute;~~

22 ~~(C) the date the conversion is effective under the governing statute of the~~
23 ~~converted organization;~~

24 ~~(D) a statement that the conversion was approved as required by this act;~~

1 ~~(E) a statement that the conversion was approved as required by the~~
2 ~~governing statute of the converted organization; and~~

3 ~~(F) if the converted organization is a foreign organization not authorized to~~
4 ~~transact business in this state, the street and mailing addresses of an office which the [Secretary~~
5 ~~of State] may use for the purposes of Section 909(c); and~~

6 ~~(2) if the converting organization is not a converting partnership or limited~~
7 ~~liability partnership, the converting organization shall deliver to the [Secretary of State] for filing~~
8 ~~a statement of conversion, which must include:~~

9 ~~(A) a statement that the converted organization was converted from~~
10 ~~another organization, and whether the converted organization is a partnership or a limited liability~~
11 ~~partnership;~~

12 ~~(B) the name and form of that converting organization and the jurisdiction~~
13 ~~of its governing statute; and~~

14 ~~(C) a statement that the conversion was approved in a manner that~~
15 ~~complied with the converting organization's governing statute.~~

16 ~~(b) A conversion becomes effective:~~

17 ~~(1) if the converted organization is a partnership, as provided in the plan or~~
18 ~~statement of conversion;~~

19 ~~(2) if the converted organization is a limited liability partnership, after the filing of~~
20 ~~the statement of conversion required by subsection (a)(2) and upon the filing of the statement~~
21 ~~of qualification pursuant to Section 1001 with the [Secretary of State], or on the date provided in~~
22 ~~the statement, whichever is later; or~~

23 ~~(3) if the converted organization is not a partnership or limited liability~~
24 ~~partnership, as provided by the governing statute of the converted organization.~~

1 **SECTION 909. EFFECT OF CONVERSION.**

2 ~~(a) An organization that has been converted pursuant to this [article] is for all purposes the~~
3 ~~same entity that existed before the conversion.~~

4 ~~(b) When a conversion takes effect:~~

5 ~~(1) all property owned by the converting organization remains vested in the~~
6 ~~converted organization;~~

7 ~~(2) all debts, obligations, or other liabilities of the converting organization~~
8 ~~continue as debts, obligations, or other liabilities of the converted organization;~~

9 ~~(3) an action or proceeding pending by or against the converting organization may~~
10 ~~be continued as if the conversion had not occurred;~~

11 ~~(4) except as prohibited by law other than this [act], all of the rights, privileges,~~
12 ~~immunities, powers, and purposes of the converting organization remain vested in the converted~~
13 ~~organization;~~

14 ~~(5) except as otherwise provided in the plan of conversion, the terms and~~
15 ~~conditions of the plan of conversion take effect; and~~

16 ~~(6) except as otherwise agreed, the conversion does not dissolve a converting~~
17 ~~partnership for the purposes of [Article] 8.~~

18 ~~(c) A converted organization that is a foreign organization consents to the jurisdiction of~~
19 ~~the courts of this state to enforce any debt, obligation, or other liability for which the converting~~
20 ~~partnership or limited liability partnership is liable if, before the conversion, the converting~~
21 ~~partnership or limited liability partnership was subject to suit in this state on the debt, obligation,~~
22 ~~or other liability. A converted organization that is a foreign organization and not authorized to~~
23 ~~transact business in this state appoints the [Secretary of State] as its agent for service of process~~
24 ~~for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on~~

1 the [Secretary of State] under this subsection of any process, notice, or demand as agent for a
2 converted organization that is a foreign organization may be made by delivering to the [Secretary
3 of State] duplicate copies of the process, notice, or demand. If a process, notice, or demand is
4 served upon the [Secretary of State], the [Secretary of State] shall forward one of the copies by
5 registered or certified mail, return receipt requested, to the organization at its registered office.
6 Service is effected under this subsection at the earliest of-

- 7 (1) the date the converted organization receives the process, notice, or demand;
- 8 (2) the date shown on the return receipt, if signed on behalf of the organization; or
- 9 (3) five days after the process, notice, or demand is deposited with the United
10 States Postal Service, if correctly addressed and with sufficient postage.

11 **SECTION 910. DOMESTICATION.**

12 (a) A foreign limited liability partnership may become a limited liability partnership
13 pursuant to this section, Sections 911 through 913, and a plan of domestication, if:

14 (1) the foreign limited liability partnership's governing statute authorizes the
15 domestication;

16 (2) the domestication is not prohibited by the law of the jurisdiction that enacted
17 the governing statute; and

18 (3) the foreign limited liability partnership complies with its governing statute in
19 effecting the domestication.

20 (b) A limited liability partnership may become a foreign limited liability partnership
21 pursuant to this section, Sections 911 through 913, and a plan of domestication, if:

22 (1) the foreign limited liability partnership's governing statute authorizes the
23 domestication;

24 (2) the domestication is not prohibited by the law of the jurisdiction that enacted

1 the governing statute; and

2 (3) the foreign limited liability partnership complies with its governing statute in
3 effecting the domestication.

4 (c) A plan of domestication must be in a record and must include:

5 (1) the name of the domesticating limited liability partnership before
6 domestication and the jurisdiction of its governing statute;

7 (2) the name of the domesticated limited liability partnership after domestication
8 and the jurisdiction of its governing statute;

9 (3) the terms and conditions of the domestication, including the manner and basis
10 for converting interests in the domesticating limited liability partnership into any combination of
11 money, interests in the domesticated limited liability partnership, and other consideration; and

12 (4) the organizational documents of the domesticated company that are, or are
13 proposed to be, in a record.

14 **SECTION 911. ACTION ON PLAN OF DOMESTICATION BY**
15 **DOMESTICATING PARTNERSHIP.**

16 (a) A plan of domestication must be consented to:

17 (1) by all the partners, subject to Section 914, if the domesticating company is a
18 limited liability partnership; and

19 (2) as provided in the domesticating company's governing statute, if the company
20 is a foreign limited liability partnership.

21 (b) Subject to any contractual rights, after a domestication is approved, and at any time
22 before articles of domestication are delivered to the [Secretary of State] for filing under Section
23 912, a domesticating limited liability partnership may amend the plan or abandon the
24 domestication.

1 ~~(1) as provided in the plan; or~~

2 ~~(2) except as otherwise prohibited in the plan, by the same consent as was required~~
3 ~~to approve the plan.~~

4 **SECTION 912. FILINGS REQUIRED FOR DOMESTICATION; EFFECTIVE**

5 **DATE.**

6 ~~(a) After a plan of domestication is approved, a domesticating limited liability partnership~~
7 ~~shall deliver to the [Secretary of State] for filing articles of domestication, which must include:~~

8 ~~(1) a statement to that effect if the limited liability partnership has been~~
9 ~~domesticated from or into another jurisdiction;~~

10 ~~(2) the name of the domesticating limited liability partnership and the jurisdiction~~
11 ~~of its governing statute;~~

12 ~~(3) the name of the domesticated limited liability partnership and the jurisdiction~~
13 ~~of its governing statute;~~

14 ~~(4) the date the domestication is effective under the governing statute of the~~
15 ~~domesticated limited liability partnership;~~

16 ~~(5) if the domesticating company was a limited liability partnership, a statement~~
17 ~~that the domestication was approved as required by this [act];~~

18 ~~(6) if the domesticating limited liability partnership was a foreign limited liability~~
19 ~~partnership, a statement that the domestication was approved as required by the governing statute~~

20 ~~of the other jurisdiction; and~~

21 ~~(7) if the domesticated limited liability partnership is a foreign limited liability~~
22 ~~partnership not authorized to transact business in this state, the street and mailing addresses of an~~
23 ~~office that the [Secretary of State] may use for the purposes of Section 913(b).~~

24 ~~(b) A domestication becomes effective:~~

1 ~~(1) upon the filing of the statement of qualification pursuant to section 1001 or on~~
2 ~~the date provided therein, whichever is later, if the domesticated partnership is a limited liability~~
3 ~~partnership; and~~

4 ~~(2) according to the governing statute of the domesticated limited liability~~
5 ~~partnership, if it is a foreign limited liability partnership.~~

6 **SECTION 913. EFFECT OF DOMESTICATION.**

7 (a) When a domestication takes effect:

8 ~~(1) the domesticated limited liability partnership is for all purposes the limited~~
9 ~~liability partnership that existed before the domestication;~~

10 ~~(2) all property owned by the domesticating limited liability partnership remains~~
11 ~~vested in the domesticated limited liability partnership;~~

12 ~~(3) all debts, obligations, or other liabilities of the domesticating limited liability~~
13 ~~partnership continue as debts, obligations, or other liabilities of the domesticated limited liability~~
14 ~~partnership;~~

15 ~~(4) an action or proceeding pending by or against a domesticating limited liability~~
16 ~~partnership may be continued as if the domestication had not occurred;~~

17 ~~(5) except as prohibited by other law, all of the of the domesticating limited liability~~
18 ~~partnership remain vested in the domesticated limited liability partnership;~~

19 ~~(6) except as otherwise provided in the plan of domestication, the terms and~~
20 ~~conditions of the plan of domestication take effect; and~~

21 ~~(7) except as otherwise agreed, the domestication does not dissolve a~~
22 ~~domesticating limited liability partnership for the purposes of [Article] 8.~~

23 ~~(b) A domesticated limited liability partnership that is a foreign limited liability~~
24 ~~partnership consents to the jurisdiction of the courts of this state to enforce any debt, obligation,~~

1 or other liability owed by the domesticating limited liability partnership, if, before the
2 domestication, the domesticating limited liability partnership was subject to suit in this state on
3 the debt, obligation, or other liability. A domesticated limited liability partnership that is a foreign
4 limited liability partnership and not authorized to transact business in this state appoints the
5 [Secretary of State] as its agent for service of process for purposes of enforcing a debt, obligation,
6 or other liability under this subsection. Service on the [Secretary of State] under this subsection of
7 any process, notice, or demand as agent for a domesticated limited liability partnership that is a
8 foreign limited liability partnership may be made by delivering to the [Secretary of State]
9 duplicate copies of the process, notice, or demand. If a process, notice, or demand is served upon
10 the [Secretary of State], the [Secretary of State] shall forward one of the copies by registered or
11 certified mail, return receipt requested, to the organization at its registered office. Service is
12 effected under this subsection at the earliest of:

13 (1) the date the domesticated foreign limited liability partnership receives the
14 process, notice, or demand;

15 (2) the date shown on the return receipt, if signed on behalf of the limited liability
16 partnership; or

17 (3) five days after the process, notice, or demand is deposited with the United
18 States Postal Service, if correctly addressed and with sufficient postage.

19 (c) If a limited liability partnership has adopted and approved a plan of domestication
20 under Section 910 providing for the limited liability partnership to be domesticated in a foreign
21 jurisdiction, a statement pursuant to Section 1001(d) cancelling the limited liability partnership's
22 statement of qualification must be delivered to the [Secretary of State] for filing setting forth:

23 (1) the name of the limited liability partnership;

24 (2) a statement that the limited liability partnership's statement of qualification is

1 ~~being cancelled in connection with the domestication of the limited liability partnership in a~~
2 ~~foreign jurisdiction;~~

3 ~~(3) a statement the domestication was approved as required by this [act]; and~~

4 ~~(4) the jurisdiction of formation of the domesticated foreign limited liability~~
5 ~~partnership.~~

6 **SECTION 914. RESTRICTIONS ON APPROVAL OF MERGER, CONVERSION,**
7 **AND DOMESTICATION.**

8 ~~(a) If a partner of a constituent or converting partnership, or domesticating limited liability~~
9 ~~partnership will have personal liability with respect to a surviving, converted, or domesticated~~
10 ~~organization, approval or amendment of a plan of merger, conversion, or domestication are~~
11 ~~ineffective without the consent of the partner, unless:~~

12 ~~(1) the partnership's partnership agreement provides for approval of a merger,~~
13 ~~conversion, or domestication with the consent of fewer than all the partners; and~~

14 ~~(2) the partner has consented to the provision.~~

15 ~~(b) A partner does not give the consent required by subsection (a) merely by consenting to~~
16 ~~a provision of the partnership agreement that permits the partnership agreement to be amended~~
17 ~~with the consent of fewer than all the partners.~~

18 **SECTION 915. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER,**
19 **CONVERSION, DOMESTICATION.**

20 ~~(a) Subject to Section 914, a plan of merger, domestication, or conversion of a~~
21 ~~partnership may be amended:~~

22 ~~(1) in the same manner as the plan was approved, if the plan does not provide for~~
23 ~~the manner in which it may be amended; or~~

24 ~~(2) by the partners of the partnership in the manner provided in the plan, but a~~

1 member that was entitled to vote on or consent to approval of the plan is entitled to vote on or
2 consent to any amendment of the plan that will change:

3 (A) the amount or kind of interests, securities, obligations, rights to acquire
4 interests or securities, cash, or other property, or any combination of the foregoing, to be received
5 by the members of any party to the plan;

6 (B) the organizational documents of the surviving, converted, or
7 domesticated organization that will be in effect immediately after the merger, conversion, or
8 domestication becomes effective, except for changes that, under the governing statute of the
9 organization, do not require approval of the persons considered by the governing statute to be
10 owners of the organization; or

11 (C) any other terms or conditions of the plan, if the change would
12 adversely affect the partner in any material respect.

13 (b) After a plan of merger, conversion, or domestication has been approved by a
14 partnership and before a statement of merger, conversion, or domestication becomes effective, the
15 plan may be abandoned:

16 (1) as provided in the plan; or

17 (2) unless prohibited by the plan, in the same manner as the plan was approved.

18 (c) If a plan of merger is abandoned after a statement of merger, conversion, or
19 domestication has been filed with the [Secretary of State] and before the filing becomes effective,
20 a statement of abandonment, signed on behalf of a constituent organization, converting
21 organization, or domesticating organization, must be filed with the [Secretary of State] before the
22 time the statement of merger, conversion, or domestication becomes effective. The statement of
23 abandonment takes effect upon filing, and the merger, conversion, or domestication is abandoned
24 and does not become effective. The statement of abandonment must contain:

1 (5) “Converting entity” means the domestic entity that approves a plan of conversion
2 pursuant to Section 943 or the foreign entity that approves a conversion pursuant to the law of its
3 jurisdiction of formation.

4 (6) “Distributional interest” means the right under an unincorporated entity’s organic law
5 to receive distributions from the entity.

6 (7) “Domestic”, with respect to a partnership, means governed as to its internal affairs by
7 the law of this state.

8 (8) “Domesticated limited liability partnership” means the domesticating limited liability
9 partnership as it continues in existence after a domestication.

10 (9) “Domesticating limited liability partnership” means the domestic limited liability
11 partnership that approves a plan of domestication pursuant to [Section 953] or the foreign limited
12 liability partnership that approves a domestication pursuant to the law of its jurisdiction of
13 formation.

14 (10) “Domestication” means a transaction authorized by [part] 5.

15 (11) “Entity”:

16 (A) means:

17 (i) a business corporation;

18 (ii) a nonprofit corporation;

19 (iii) a general partnership;

20 (iv) a limited partnership;

21 (v) a limited liability company;

22 [(vi) a general cooperative association;]

23 (vii) a limited cooperative association;

24 (viii) an unincorporated nonprofit association;

1 (ix) a statutory trust, business trust, or common-law business trust; or
2 (x) any other person that has a legal existence separate from any interest
3 holder of that person or that has the power to acquire an interest in real property in its own name;
4 and

5 (B) does not include:

6 (i) an individual;

7 (ii) a testamentary, inter vivos, or charitable trust, except a statutory trust,
8 business trust, or common-law business trust;

9 (iii) an association or relationship that is not a partnership solely by reason
10 of [Section 202(c) of the Revised Uniform Partnership Act] [Section 7 of the Uniform Partnership
11 Act] or a similar provision of the law of another jurisdiction;

12 (iv) a decedent’s estate; [or]

13 (v) a government or a governmental subdivision, agency, or
14 instrumentality [; or] [.]

15 [(vi) a person excluded under Section 905.]

16 (12) “Filing entity” means an entity that is formed by the filing of a public organic
17 record.

18 (13) “Foreign” with respect to an entity, means an entity governed as to its internal affairs
19 by the laws of a jurisdiction other than this state.

20 (14) “Governance interest” means the right under the organic law or organic rules of an
21 unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

22 (A) receive or demand access to information concerning, or the books and records
23 of, the entity;

24 (B) vote for the election of the governors of the entity; or

1 (C) receive notice of or vote on any issue involving the internal affairs of the
2 entity.

3 (15) “Governor” means:

4 (A) a director of a business corporation;

5 (B) a director or trustee of a nonprofit corporation;

6 (C) a general partner of a general partnership;

7 (D) a general partner of a limited partnership;

8 (E) a manager of a manager-managed limited liability company;

9 (F) a member of a member-managed limited liability company;

10 [(G) a director of a general cooperative association;]

11 (H) a director of a limited cooperative association;

12 (I) a manager of an unincorporated nonprofit association;

13 (J) a trustee of a statutory trust, business trust, or common-law business trust; or

14 (K) any other person under whose authority the powers of an entity are exercised

15 and under whose direction the activities and affairs of the entity are managed pursuant to the
16 organic law and organic rules of the entity.

17 (16) “Interest” means:

18 (A) a share in a business corporation;

19 (B) a membership in a nonprofit corporation;

20 (C) a partnership interest in a general partnership;

21 (D) a partnership interest in a limited partnership;

22 (E) a membership interest in a limited liability company;

23 [(F) a share in a general cooperative association;]

24 (G) a member’s interest in a limited cooperative association;

- 1 (H) a membership in an unincorporated nonprofit association;
2 (I) a beneficial interest in a statutory trust, business trust, or common-law business
3 trust;
4 (J) a governance interest in any other type of unincorporated entity; or
5 (K) a distributional interest in an unincorporated entity.

6 (17) “Interest holder” means:

- 7 (A) a shareholder of a business corporation;
8 (B) a member of a nonprofit corporation;
9 (C) a general partner of a general partnership;
10 (D) a general partner of a limited partnership;
11 (E) a limited partner of a limited partnership;
12 (F) a member of a limited liability company;
13 [(G) a shareholder of a general cooperative association;]
14 (H) a member of a limited cooperative association;
15 (I) a member of an unincorporated nonprofit association;
16 (J) a beneficiary of a statutory trust, business trust, or common-law business trust;

17 or

- 18 (K) any other direct holder of an interest.

19 (18) “Interest holder liability” means:

- 20 (A) personal liability for a liability of an entity that is imposed on a person:
21 (i) solely by reason of the status of the person as an interest holder; or
22 (ii) by the organic rules of the entity that make one or more specified
23 interest holders or categories of interest holders liable in their capacity as interest holders for all
24 or specified liabilities of the entity; or

1 (B) an obligation of an interest holder under the organic rules of an entity to
2 contribute to the entity.

3 (19) “Jurisdiction of formation” means the jurisdiction whose law includes the organic
4 law of an entity.

5 (20) “Merger” means a transaction in which two or more merging entities are combined
6 into a surviving entity pursuant to a filing with the [Secretary of State].

7 (21) “Merging entity” means an entity that is a party to a merger and exists immediately
8 before the merger becomes effective.

9 (22) “Organic law” means the law of an entity’s jurisdiction of formation governing the
10 internal affairs of the entity.

11 (23) “Organic rules” means the public organic record and private organic rules of an
12 entity.

13 (24) “Person” means an individual, business corporation, nonprofit corporation,
14 partnership, limited partnership, limited liability company, [general cooperative association,]
15 limited cooperative association, unincorporated nonprofit association, statutory trust, business
16 trust, or common-law business trust, estate, trust, association, joint venture, public corporation,
17 government or governmental subdivision, agency, or instrumentality, or any other legal or
18 commercial entity.

19 (25) “Plan” means a plan of merger, interest exchange, conversion, or domestication.

20 (26) “Private organic rules” mean the rules, whether or not in a record, that govern the
21 internal affairs of an entity, are binding on all of its interest holders, and are not part of its public
22 organic record, if any. The term includes:

23 (A) the bylaws of a business corporation;

24 (B) the bylaws of a nonprofit corporation;

- 1 (C) the partnership agreement of a general partnership;
- 2 (D) the partnership agreement of a limited partnership;
- 3 (E) the partnership agreement of a limited liability company;
- 4 [(F) the bylaws of a general cooperative association;]
- 5 (G) the bylaws of a limited cooperative association;
- 6 (H) the governing principles of an unincorporated nonprofit association; and
- 7 (I) the governing instrument of a statutory trust, business trust, or common-law
- 8 business trust.

9 (27) “Protected agreement” means:

10 (A) a record evidencing indebtedness and any related agreement in effect on the

11 effective date of this [act];

12 (B) an agreement that is binding on an entity on the effective date of this [act];

13 (C) the organic rules of an entity in effect on the effective date of this [act]; or

14 (D) an agreement that is binding on any of the governors or interest holders of an

15 entity on the effective date of this [act].

16 (28) “Public organic record” means the record the filing of which by the [Secretary of

17 State] forms an entity and any amendment to or restatement of that record. The term includes:

18 (A) the articles of incorporation of a business corporation;

19 (B) the articles of incorporation of a nonprofit corporation;

20 (C) the certificate of limited partnership of a limited partnership;

21 (D) the certificate of organization of a limited liability company;

22 [(E) the articles of incorporation of a general cooperative association;]

23 (F) the articles of organization of a limited cooperative association; and

24 (G) the certificate of trust of a statutory trust, business trust, or common-law

1 business trust.

2 (29) “Record” means information that is inscribed on a tangible medium or that is stored
3 in an electronic or other medium and is retrievable in perceivable form.

4 (30) “Registered foreign entity” means a foreign entity that is registered to do business or
5 otherwise qualified in this state pursuant to a filing with the [Secretary of State].

6 (31) “Sign” means, with present intent to authenticate or adopt a record:

7 (A) to execute or adopt a tangible symbol; or

8 (B) to attach to or logically associate with the record an electronic symbol, sound
9 or process.

10 (32) “Surviving entity” means the entity that continues in existence after or is created by
11 a merger.

12 (33) “Transfer” includes an assignment, conveyance, sale, lease, encumbrance, including
13 by mortgaging or granting a security interest, gift, and transfer by operation of law.

14 (34) “Type of entity” means a generic form of entity:

15 (A) recognized at common law; or

16 (B) formed under an organic law, whether or not some entities formed under that
17 organic law are subject to provisions of that law that create different categories of the form of
18 entity.

19 **Reporters’ Note**

20 Patterned after harmonized META § 102.

21 **SECTION 902. RELATIONSHIP OF [ARTICLE] TO OTHER LAWS.**

22 **This [article] does not authorize an act prohibited by, and does not affect the application**
23 **or requirements of, law other than this [article].**

1 **Reporters' Note**

2 Patterned after harmonized META § 103(b).

3 **SECTION 903. REQUIRED NOTICE OR APPROVAL.**

4
5 (a) A domestic or foreign entity that is required to give notice to, or obtain the approval
6 of, a governmental agency or officer in order to be a party to a merger must give the notice or
7 obtain the approval in order to be a party to an interest exchange, conversion, or domestication.

8 (b) Property held for a charitable purpose under the law of this state by a domestic or
9 foreign entity immediately before a transaction under this [article] becomes effective may not, as
10 a result of the transaction, be diverted from the objects for which it was donated, granted, or
11 devised unless, to the extent required by or pursuant to the law of this state concerning cy pres or
12 other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of
13 [name of court] [the attorney general] specifying the disposition of the property.

14 **Reporters' Note**

15 Patterned after harmonized META § 104.

16 **SECTION 904. STATUS OF FILINGS.** A filing under this [article] signed by a

17
18 domestic entity becomes part of the public organic record of the entity if the entity's organic law
19 provides that similar filings under that law become part of the public organic record of the entity.

20 **Reporters' Note**

21 Patterned after harmonized META § 105.

22 **SECTION 905. NONEXCLUSIVITY.** The fact that a transaction under this [article]

23
24 produces a certain result does not preclude the same result from being accomplished in any other
25 manner permitted by law other than this [article].

1 **Reporters' Note**

2 Patterned after harmonized META § 106.

3 **SECTION 906. REFERENCE TO EXTERNAL FACTS.** A plan may refer to facts
4 ascertainable outside of the plan if the manner in which the facts will operate upon the plan is
5 specified in the plan. The facts may include the occurrence of an event or a determination or
6 action by a person, whether or not the event, determination, or action is within the control of a
7 party to the transaction.

8 **Reporters' Note**

9 Patterned after harmonized META § 107.

10 **SECTION 907. ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS.**

11 Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of
12 a transaction under this [article] by the unanimous vote or consent of its interest holders satisfies
13 the requirements of this [article] for approval of the transaction.

14 **Reporters' Note**

15 Patterned after harmonized META § 108.

16 **SECTION 908. APPRAISAL RIGHTS.**

17 (a) An interest holder of a domestic merging, acquired, or converting entity is entitled to
18 appraisal rights in connection with the transaction if the interest holder would have been entitled
19 to appraisal rights under the entity's organic law in connection with a merger in which the interest
20 of the interest holder was changed, converted, or exchanged unless:

21 (1) the organic law permits the organic rules to limit the availability of appraisal
22 rights; and

1 **Reporters' Note**

2 Patterned after harmonized META § 201(a), (b), and (d).

3 **SECTION 922. PLAN OF MERGER.**

4 (a) A domestic partnership may become a party to a merger under this [part] by approving
5 a plan of merger. The plan must be in a record and contain:

6 (1) as to each merging entity, its name, jurisdiction of formation, and type;

7 (2) if the surviving entity is to be created in the merger, a statement to that effect
8 and its name, jurisdiction of formation, and type;

9 (3) the manner of converting the interests in each party to the merger into
10 interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or
11 any combination of the foregoing;

12 (4) if the surviving entity exists before the merger, any proposed amendments to
13 its public organic record or to its private organic rules that are, or are proposed to be, in a record;

14 (5) if the surviving entity is to be created in the merger, its proposed public
15 organic record, if any, and the full text of its private organic rules that are proposed to be in a
16 record;

17 (6) the other terms and conditions of the merger; and

18 (7) any other provision required by the law of a merging entity's jurisdiction of
19 formation or the organic rules of a merging entity.

20 (b) A plan of merger may contain any other provision not prohibited by law.

21 **Reporters' Note**

22 Patterned after harmonized META § 202.

1 **SECTION 923. APPROVAL OF MERGER.**

2 (a) A plan of merger is not effective unless it has been approved:

3 (1) by a domestic merging partnership, by all of the partners entitled to vote on or
4 consent to any matter; and

5 (2) in a record, by each partner of a domestic merging partnership that will have
6 interest holder liability for debts, obligations and other liabilities that arise after the merger
7 becomes effective, unless:

8 (A) the partnership agreement of the partnership provides in a record for
9 the approval of a merger in which some or all of its partners become subject to interest holder
10 liability by the vote or consent of fewer than all of the interest holders; and

11 (B) the partner voted for or consented in a record to that provision of the
12 partnership agreement or became a partner after the adoption of that provision.

13 (b) A merger involving a domestic merging entity that is not a partnership is not effective
14 unless the merger is approved by that entity in accordance with its organic law.

15 (c) A merger involving a foreign merging entity is not effective unless the merger is
16 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
17 formation.

18 **Reporters' Note**

19 Subsection (a) is a simplified version of harmonized META § 203(a). Subsection (b) is
20 new and supplies some of the provisions of harmonized META § 203(a). Subsection (c) is
21 patterned after harmonized META § 203(b).
22

23 **SECTION 924. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER.**

24 (a) A plan of merger of a domestic merging partnership may be amended:

1 (1) in the same manner as the plan was approved, if the plan does not provide for
2 the manner in which it may be amended; or

3 (2) by the partners in the manner provided in the plan, but a partner that was
4 entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any
5 amendment of the plan that will change:

6 (A) the amount or kind of interests, securities, obligations, rights to
7 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
8 received by the partners of any party to the plan;

9 (B) the public organic record or private organic rules of the surviving
10 entity that will be in effect immediately after the merger becomes effective, except for changes
11 that do not require approval of the interest holders of the surviving entity under its organic law or
12 organic rules; or

13 (C) any other terms or conditions of the plan, if the change would
14 adversely affect the partner in any material respect.

15 (b) After a plan of merger has been approved by a domestic merging partnership and
16 before a statement of merger becomes effective, the plan may be abandoned:

17 (1) as provided in the plan; or

18 (2) unless prohibited by the plan, in the same manner as the plan was approved.

19 (c) If a plan of merger is abandoned after a statement of merger has been delivered to the
20 [Secretary of State] for filing and before the statement becomes effective, a statement of
21 abandonment, signed by a merging entity, must be delivered to the [Secretary of State] for filing
22 before the statement of merger becomes effective. The statement of abandonment takes effect
23 upon filing, and the merger is abandoned and does not become effective. The statement of
24 abandonment must contain:

1 its public organic record, as an attachment;

2 (7) if the surviving entity is created by the merger and is a domestic limited

3 liability partnership, its [statement of qualification], as an attachment; and

4 (8) if the surviving entity is a foreign entity that is not a qualified foreign entity, a

5 mailing address to which the [Secretary of State] may send any process served on the [Secretary

6 of State] pursuant to Section 926(e).

7 (c) In addition to the requirements of subsection (b), a statement of merger may contain

8 any other provision not prohibited by law.

9 (d) If the surviving entity is a domestic entity, its public organic record, if any, must

10 satisfy the requirements of the law of this state, except that it does not need to be signed and may

11 omit any provision that is not required to be included in a restatement of the public organic

12 record.

13 (e) A plan of merger that is signed on behalf of all of the merging entities and meets all of

14 the requirements of subsection (b) may be delivered to the [Secretary of State] for filing instead

15 of a statement of merger and upon filing has the same effect. If a plan of merger is filed as

16 provided in this subsection, references in this [article] to a statement of merger refer to the plan of

17 merger filed under this subsection.

18 **Reporters' Note**

19 Patterned after harmonized META § 205.

20 **SECTION 926. EFFECT OF MERGER.**

22 (a) When a merger becomes effective:

23 (1) the surviving entity continues or comes into existence;

24 (2) each merging entity that is not the surviving entity ceases to exist;

1 (3) all property of each merging entity vests in the surviving entity without
2 transfer, reversion, or impairment;

3 (4) all debts, obligations and other liabilities of each merging entity are debts,
4 obligations and other liabilities of the surviving entity;

5 (5) except as otherwise provided by law or the plan of merger, all of the rights,
6 privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;

7 (6) if the surviving entity exists before the merger:

8 (A) all of its property continues to be vested in it without transfer,
9 reversion or impairment;

10 (B) it remains subject to all of its debts, obligations and other liabilities;
11 and

12 (C) all of its rights, privileges, immunities, powers, and purposes continue
13 to be vested in it;

14 (7) the name of the surviving entity may be substituted for the name of any
15 merging entity that is a party to any pending action or proceeding;

16 (8) if the surviving entity exists before the merger:

17 (A) its public organic record, if any, is amended as provided in the
18 statement of merger; and

19 (B) its private organic rules that are to be in a record, if any, are amended
20 to the extent provided in the plan of merger;

21 (9) if the surviving entity is created by the merger:

22 (A) its public organic record, if any, is effective; and
23 (B) its private organic rules are effective; and

24 (10) the interests in each merging entity that are to be converted in the merger are

1 converted, and the interest holders of those interests are entitled only to the rights provided to
2 them under the plan of merger and to any appraisal rights they have under Section 908 and the
3 merging entity's organic law.

4 (b) Except as otherwise provided in the organic law or organic rules of a merging entity,
5 the merger does not give rise to any rights that an interest holder, governor, or third party would
6 otherwise have upon a dissolution, liquidation, or winding-up of the merging entity.

7 (c) When a merger becomes effective, a person that did not have interest holder liability
8 with respect to any of the merging entities and that becomes subject to interest holder liability
9 with respect to a domestic entity as a result of a merger has interest holder liability only to the
10 extent provided by the organic law of that entity and only for those debts, obligations and other
11 liabilities that arise after the merger becomes effective.

12 (d) When a merger becomes effective, the interest holder liability of a person that ceases
13 to hold an interest in a domestic merging entity with respect to which the person had interest
14 holder liability is as follows:

15 (1) the merger does not discharge any interest holder liability under the organic
16 law of the domestic merging entity to the extent the interest holder liability arose before the
17 merger became effective;

18 (2) the person does not have interest holder liability under the organic law of the
19 domestic merging entity for any liability that arises after the merger becomes effective;

20 (3) the organic law of the domestic merging entity continues to apply to the
21 release, collection, or discharge of any interest holder liability preserved under paragraph (1) as if
22 the merger had not occurred and the surviving entity were the domestic merging entity; and

23 (4) the person has whatever rights of contribution from any other person as are
24 provided by other law or the organic rules of the domestic merging entity with respect to any

1 interest holder liability preserved under paragraph (1) as if the merger had not occurred.

2 (e) When a merger becomes effective, a foreign entity that is the surviving entity:

3 (1) may be served with process in this state for the collection and enforcement of
4 any debts, obligations or other liabilities of a domestic merging entity; and

5 (2) appoints the [Secretary of State] as its agent for service of process for
6 collecting or enforcing those debts, obligations and other liabilities.

7 (f) When a merger becomes effective, the registration to do business or other foreign
8 qualification in this state of any foreign merging entity that is not the surviving entity is canceled.

9 **Reporters' Note**

10 Patterned after harmonized META § 206.

11
12 **[PART] 3**

13 **INTEREST EXCHANGE**

14
15 **SECTION 931. INTEREST EXCHANGE AUTHORIZED.**

16 (a) Except as otherwise provided in this section, by complying with this [part]:

17 (1) a domestic partnership may acquire all of one or more classes or series of
18 interests of another domestic or foreign entity in exchange for interests, securities, obligations,
19 rights to acquire interests or securities, cash, or other property, or any combination of the
20 foregoing; or

21 (2) all of one or more classes or series of interests of a domestic partnership may
22 be acquired by another domestic or foreign entity in exchange for interests, securities,
23 obligations, rights to acquire interests or securities, cash, or other property, or any combination of
24 the foregoing.

25 (b) Except as otherwise provided in this section, by complying with the provisions of this

1 [part] applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an
2 interest exchange under this [part] if the interest exchange is authorized by the law of the foreign
3 entity's jurisdiction of formation.

4 (c) If a protected agreement contains a provision that applies to a merger of a domestic
5 partnership but does not refer to an interest exchange, the provision applies to an interest
6 exchange in which the domestic partnership is the acquired entity as if the interest exchange were
7 a merger until the provision is amended after the effective date of this [act].

8 [(d) The following entities may not participate in an interest exchange under this [part]:

9 (1)

10 (2).1

11 **Reporters' Note**

12 Patterned after harmonized META § 301(a) – (c) and (e).

13 **SECTION 932. PLAN OF INTEREST EXCHANGE.**

14 (a) A domestic partnership may be the acquired entity in an interest exchange under this
15 [part] by approving a plan of interest exchange. The plan must be in a record and contain:

16 (1) the name of the acquired entity;

17 (2) the name, jurisdiction of formation, and type of the acquiring entity;

18 (3) the manner of converting the interests in the acquired entity into interests,
19 securities, obligations, rights to acquire interests or securities, cash, or other property, or any
20 combination of the foregoing;

21 (4) any proposed amendments to the partnership agreement that are, or are
22 proposed to be, in a record of the acquired entity;

23 (5) the other terms and conditions of the interest exchange; and
24

1 of the acquiring entity are not required to approve the interest exchange.

2 **Reporters' Note**

3 Subsection (a) is a simplified version of harmonized META § 303(a). Subsection (b) is
4 new and supplies some of the provisions of harmonized META § 303(a). Subsections (c) and (d)
5 are patterned after harmonized META § 303(b) and (c).
6

7 **SECTION 934. AMENDMENT OR ABANDONMENT OF PLAN OF INTEREST**

8 **EXCHANGE.**

9 (a) A plan of interest exchange of a domestic acquired partnership may be amended:

10 (1) in the same manner as the plan was approved, if the plan does not provide for
11 the manner in which it may be amended; or

12 (2) by the partners of the partnership in the manner provided in the plan, but an
13 interest holder that was entitled to vote on or consent to approval of the interest exchange is
14 entitled to vote on or consent to any amendment of the plan that will change:

15 (A) the amount or kind of interests, securities, obligations, rights to
16 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
17 received by any of the partners of the acquired partnership under the plan;

18 (B) the partnership agreement of the acquired partnership that will be in
19 effect immediately after the interest exchange becomes effective, except for changes that do not
20 require approval of the partners of the acquired partnership under this Act or the partnership
21 agreement; or

22 (C) any other terms or conditions of the plan, if the change would
23 adversely affect the partner in any material respect.

24 (b) After a plan of interest exchange has been approved by a domestic acquired
25 partnership and before a statement of interest exchange becomes effective, the plan may be

1 abandoned:

2 (1) as provided in the plan; or

3 (2) unless prohibited by the plan, in the same manner as the plan was approved.

4 (c) If a plan of interest exchange is abandoned after a statement of interest exchange has
5 been delivered to the [Secretary of State] for filing and before the statement becomes effective, a
6 statement of abandonment, signed by the acquired partnership, must be delivered to the
7 [Secretary of State] for filing before the statement of interest exchange becomes effective. The
8 statement of abandonment takes effect upon filing, and the interest exchange is abandoned and
9 does not become effective. The statement of abandonment must contain:

10 (1) the name of the acquired partnership;

11 (2) the date on which the statement of interest exchange was delivered to the
12 [Secretary of State] for filing; and

13 (3) a statement that the interest exchange has been abandoned in accordance with
14 this section.

15 **Reporters' Note**

16 Patterned after harmonized META § 304.

17 **SECTION 935. STATEMENT OF INTEREST EXCHANGE; EFFECTIVE DATE.**

19 (a) A statement of interest exchange must be signed by a domestic acquired partnership
20 and delivered to the [Secretary of State] for filing.

21 (b) A statement of interest exchange must contain:

22 (1) the name of the acquired partnership;

23 (2) the name, jurisdiction of formation, and type of the acquiring entity;

1 in a record, if any, are amended to the extent provided in the plan of interest exchange.

2 (b) Except as otherwise provided in the partnership agreement of a domestic acquired
3 partnership, the interest exchange does not give rise to any rights that a partner or third party
4 would otherwise have upon a dissolution, liquidation, or winding-up of the acquired entity.

5 (c) When an interest exchange becomes effective, a person that did not have interest
6 holder liability with respect to a domestic acquired partnership and that becomes subject to
7 interest holder liability with respect to a domestic entity as a result of the interest exchange has
8 interest holder liability only to the extent provided by the organic law of the entity and only for
9 those debts, obligations and liabilities that arise after the interest exchange becomes effective.

10 (d) When an interest exchange becomes effective, the interest holder liability of a person
11 that ceases to hold an interest in a domestic acquired partnership with respect to which the person
12 had interest holder liability is as follows:

13 (1) the interest exchange does not discharge any interest holder liability to the
14 extent the interest holder liability arose before the interest exchange became effective;

15 (2) the person does not have interest holder liability for any liability that arises
16 after the interest exchange becomes effective; and

17 (3) the person has whatever rights of contribution from any other person as are
18 provided by other law or the partnership agreement of the acquired entity with respect to any
19 interest holder liability preserved under paragraph (1) as if the interest exchange had not
20 occurred.

21 **Reporters' Note**

22 Patterned after harmonized META § 306.

1 [PART] 4

2 CONVERSION

3
4 SECTION 941. CONVERSION AUTHORIZED.

5 (a) Except as otherwise provided in this part, by complying with this [part], a domestic
6 partnership may become:

7 (1) a domestic entity of a different type; or

8 (2) a foreign entity of a different type, if the conversion is authorized by the law
9 of the foreign jurisdiction.

10 (b) Except as otherwise provided in this section, by complying with the provisions of this
11 [part] applicable to foreign entities a foreign entity that is not a foreign partnership may become a
12 domestic partnership if the conversion is authorized by the law of the foreign entity's jurisdiction
13 of formation.

14 (c) If a protected agreement contains a provision that applies to a merger of a domestic
15 partnership but does not refer to a conversion, the provision applies to a conversion of the entity
16 as if the conversion were a merger until the provision is amended after the effective date of this
17 [act].

18 [(d) The following entities may not engage in a conversion under this [part]]

19 (1)

20 (2).1

21 **Reporters' Note**

22 Patterned after harmonized META § 401.

23
24 SECTION 942. PLAN OF CONVERSION.

25 (a) A domestic partnership may convert to a different type of entity under this [part] by

1 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
2 received by any of the interest holders of the converting entity under the plan;

3 (B) the public organic record or private organic rules of the converted
4 entity that will be in effect immediately after the conversion becomes effective, except for
5 changes that do not require approval of the interest holders of the converted entity under its
6 organic law or organic rules; or

7 (C) any other terms or conditions of the plan, if the change would
8 adversely affect the interest holder in any material respect.

9 (b) After a plan of conversion has been approved by a domestic converting partnership
10 and before a statement of conversion becomes effective, the plan may be abandoned:

11 (1) as provided in the plan; or

12 (2) unless prohibited by the plan, in the same manner as the plan was approved.

13 (c) If a plan of conversion is abandoned after a statement of conversion has been
14 delivered to the [Secretary of State] for filing and before the filing becomes effective, a statement
15 of abandonment, signed by the entity, must be delivered to the [Secretary of State] for filing
16 before the time the statement of conversion becomes effective. The statement of abandonment
17 takes effect upon filing, and the conversion is abandoned and does not become effective. The
18 statement of abandonment must contain:

19 (1) the name of the converting partnership;

20 (2) the date on which the statement of conversion was delivered to the [Secretary
21 of State] for filing; and

22 (3) a statement that the conversion has been abandoned in accordance with this
23 section.

1 **Reporters' Note**

2 Patterned after harmonized META § 404.

3 **SECTION 945. STATEMENT OF CONVERSION; EFFECTIVE DATE.**

4 (a) A statement of conversion must be signed by the converting entity and delivered to
5 the [Secretary of State] for filing.

6 (b) A statement of conversion must contain:

7 (1) the name, jurisdiction of formation, and type of the converting entity;

8 (2) the name, jurisdiction of formation, and type of the converted entity;

9 (3) if the converting entity is a domestic entity, a statement that the plan of
10 conversion was approved in accordance with this [part] or, if the converting entity is a foreign
11 entity, a statement that the conversion was approved by the foreign converting entity in
12 accordance with the law of its jurisdiction of formation;

13 (4) if the converted entity is a domestic filing entity, the text of its public organic
14 record, as an attachment;

15 (5) if the converted entity is a domestic limited liability partnership, the text of its
16 [statement of qualification], as an attachment; and

17 (6) if the converted entity is a foreign entity that is not a qualified foreign entity, a
18 mailing address to which the [Secretary of State] may send any process served on the [Secretary
19 of State] pursuant to Section 946(e).

20 (c) In addition to the requirements of subsection (b), a statement of conversion may
21 contain any other provision not prohibited by law.

22 (d) If the converted entity is a domestic entity, its public organic record, if any, must
23 satisfy the requirements of the law of this state, except that it does not need to be signed and may
24

1 omit any provision that is not required to be included in a restatement of the public organic
2 record.

3 (e) A plan of conversion that is signed by a domestic converting entity and meets all of
4 the requirements of subsection (b) may be delivered to the [Secretary of State] for filing instead
5 of a statement of conversion and upon filing has the same effect. If a plan of conversion is filed
6 as provided in this subsection, references in this [article] to a statement of conversion refer to the
7 plan of conversion filed under this subsection.

8 **Reporters' Note**

9 Patterned after harmonized META § 405(a) – (e).

10 **SECTION 946. EFFECT OF CONVERSION.**

11
12 (a) When a conversion in which the converted entity is a domestic partnership becomes
13 effective:

14 (1) the converted entity is:

15 (A) organized under and subject to the organic law of the converted entity;

16 and

17 (B) the same entity without interruption as the converting entity;

18 (2) all property of the converting entity continues to be vested in the converted
19 entity without transfer, reversion, or impairment;

20 (3) all debts, obligations and liabilities of the converting entity continue as debts,
21 obligations and liabilities of the converted entity;

22 (4) except as otherwise provided by law or the plan of conversion, all of the
23 rights, privileges, immunities, powers, and purposes of the converting entity remain in the
24 converted entity;

1 (5) the name of the converted entity may be substituted for the name of the
2 converting entity in any pending action or proceeding;

3 (6) if a converted entity is a filing entity, its public organic record is effective;

4 (7) if the converted entity is a limited liability partnership, its [statement of
5 qualification] is effective simultaneously;

6 (8) the private organic rules of the converted entity that are to be in a record, if
7 any, approved as part of the plan of conversion are effective; and

8 (9) the interests in the converting entity are converted, and the interest holders of
9 the converting entity are entitled only to the rights provided to them under the plan of conversion
10 and to any appraisal rights they have under Section 908 and the converting entity's organic law.

11 (b) Except as otherwise provided in the partnership agreement of a domestic converting
12 partnership, the conversion does not give rise to any rights that a partner, or third party would
13 otherwise have upon a dissolution, liquidation, or winding-up of the converting entity.

14 (c) When a conversion becomes effective, a person that did not have interest holder
15 liability with respect to the converting entity and that becomes subject to interest holder liability
16 with respect to a domestic entity as a result of a conversion has interest holder liability only to the
17 extent provided by the organic law of the entity and only for those debts, obligations and
18 liabilities that arise after the conversion becomes effective.

19 (d) When a conversion becomes effective, the interest holder liability of a person that
20 ceases to hold an interest in a domestic partnership with respect to which the person had interest
21 holder liability is as follows:

22 (1) the conversion does not discharge any interest holder liability to the extent the
23 interest holder liability arose before the conversion became effective;

1 partnership that are proposed to be in a record;
2 (6) the other terms and conditions of the domestication; and
3 (7) any other provision required by the law of this state or the partnership
4 agreement of the domesticating limited liability partnership.

5 (b) A plan of domestication may contain any other provision not prohibited by law.

6 **Reporters' Note**

7 Patterned after harmonized META § 502.

8
9 **SECTION 953. APPROVAL OF DOMESTICATION.**

10 (a) A plan of domestication of a domestic domesticating limited liability partnership is
11 not effective unless it has been approved:

12 (1) by all of the partners entitled to vote on or consent to any matter; and
13 (2) in a record, by each interest holder that will have interest holder liability for
14 debts, obligations and liabilities that arise after the domestication becomes effective, unless:

15 (A) the partnership agreement of the entity in a record provide for the
16 approval of a domestication or merger in which some or all of its interest holders become subject
17 to interest holder liability by the vote or consent of fewer than all of the interest holders; and

18 (B) the interest holder voted for or consented in a record to that provision
19 of the partnership agreement or became an interest holder after the adoption of that provision.

20 (b) A domestication of a foreign domesticating limited liability partnership is not
21 effective unless it is approved in accordance with the law of the foreign limited liability
22 partnership's jurisdiction of formation.

23 **Reporters' Note**

24 Subsection (a) is a simplified version of harmonized META § 503(a). Subsection (b) is
25 patterned after harmonized META § 503(b).

1 **SECTION 954. AMENDMENT OR ABANDONMENT OF PLAN OF**
2 **DOMESTICATION.**

3 (a) A plan of domestication of a domestic domesticating limited liability partnership may
4 be amended:

5 (1) in the same manner as the plan was approved, if the plan does not provide for
6 the manner in which it may be amended; or

7 (2) by the partners of the limited liability partnership in the manner provided in
8 the plan, but an interest holder that was entitled to vote on or consent to approval of the
9 domestication is entitled to vote on or consent to any amendment of the plan that will change:

10 (A) the amount or kind of interests, securities, obligations, rights to
11 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
12 received by any of the interest holders of the domesticating limited liability partnership under the
13 plan;

14 (B) the partnership agreement of the domesticated limited liability
15 partnership that will be in effect immediately after the domestication becomes effective, except
16 for changes that do not require approval of the interest holders of the domesticated limited
17 liability partnership under its organic law or partnership agreement; or

18 (C) any other terms or conditions of the plan, if the change would
19 adversely affect the interest holder in any material respect.

20 (b) After a plan of domestication has been approved by a domestic domesticating limited
21 liability partnership and before a statement of domestication becomes effective, the plan may be
22 abandoned:

23 (1) as provided in the plan; or

24 (2) unless prohibited by the plan, in the same manner as the plan was approved.

1 [part] or, if the domesticating limited liability partnership is a foreign limited liability partnership,
2 a statement that the domestication was approved in accordance with the law of its jurisdiction of
3 formation; and

4 (4) if the domesticated foreign limited liability partnership is not a registered
5 foreign limited liability partnership, a mailing address to which the [Secretary of State] may send
6 any process served on the [Secretary of State] pursuant to Section 1005.

7 (c) In addition to the requirements of subsection (b), a statement of domestication may
8 contain any other provision not prohibited by law.

9 (d) A plan of domestication that is signed by a domesticating domestic limited liability
10 partnership and meets all of the requirements of subsection (b) may be delivered to the [Secretary
11 of State] for filing instead of a statement of domestication and upon filing has the same effect. If
12 a plan of domestication is filed as provided in this subsection, references in this [article] to a
13 statement of domestication refer to the plan of domestication filed under this subsection.

14 **Reporters' Note**

15 Patterned after harmonized META § 505(a) – (e).

16 **SECTION 956. EFFECT OF DOMESTICATION.**

17 (a) When a domestication becomes effective:

18 (1) the domesticated limited liability partnership is:

19 (A) organized under and subject to the organic law of the domesticated
20 limited liability partnership; and

21 (B) the same entity without interruption as the domesticating limited
22 liability partnership;

23 (2) all property of the domesticating limited liability partnership continues to be
24

1 vested in the domesticated entity without transfer, reversion, or impairment;

2 (3) all debts, obligations, and liabilities of the domesticating limited liability
3 partnership continue as debts, obligations, and liabilities of the domesticated limited liability
4 partnership;

5 (4) except as otherwise provided by law or the plan of domestication, all of the
6 rights, privileges, immunities, powers, and purposes of the domesticating limited liability
7 partnership remain in the domesticated limited liability partnership;

8 (5) the name of the domesticated limited liability partnership may be substituted
9 for the name of the domesticating limited liability partnership in any pending action or
10 proceeding;

11 (6) the provisions of the partnership agreement of the domesticated limited
12 liability partnership that are to be in a record, if any, approved as part of the plan of domestication
13 are effective; and

14 (7) the interests in the domesticating limited liability partnership are converted to
15 the extent and as approved in connection with the domestication, and the interest holders of the
16 domesticating limited liability partnership are entitled only to the rights provided to them under
17 the plan of domestication and to any appraisal rights they have under Section 908.

18 (b) Except as otherwise provided in the organic law or partnership agreement of the
19 domesticating limited liability partnership, the domestication does not give rise to any rights that
20 an interest holder or third party would otherwise have upon a dissolution, liquidation, or winding-
21 up of the domesticating limited liability partnership.

22 (c) When a domestication becomes effective, a person that did not have interest holder
23 liability with respect to the domesticating limited liability partnership and that becomes subject to
24 interest holder liability with respect to a domestic entity as a result of the domestication has

1 interest holder liability only to the extent provided by the organic law of the entity and only for
2 those debts, obligations and other liabilities that arise after the domestication becomes effective.

3 (d) When a domestication becomes effective:

4 (1) the domestication does not discharge any interest holder liability under this
5 [article] to the extent the interest holder liability arose before the domestication became effective;

6 (2) a person does not have interest holder liability under this [article] for any
7 debts, obligations, and liabilities that arise after the domestication becomes effective;

8 (3) a person has whatever rights of contribution from any other person as are
9 provided by other law or the partnership agreement of a domestic domesticating limited liability
10 partnership with respect to any interest holder liability preserved under paragraph (1) as if the
11 domestication had not occurred.

12 (e) When a domestication becomes effective, a foreign limited liability partnership that is
13 the domesticated limited liability partnership:

14 (1) may be served with process in this state for the collection and enforcement of
15 any of its debts, obligations, and liabilities; and

16 (2) appoints the [Secretary of State] as its agent for service of process for
17 collecting or enforcing those debts, obligations and liabilities.

18 (f) If the domesticating limited liability partnership is a registered foreign limited liability
19 partnership, the registration of the limited liability partnership is canceled when the domestication
20 becomes effective.

21 (g) A domestication does not require the limited liability partnership to wind up its affairs
22 and does not constitute or cause the dissolution of the limited liability partnership.

23 **Reporters' Note**

24 **Patterned after harmonized META § 506.**

1 [ARTICLE] 10

2 LIMITED LIABILITY PARTNERSHIP

3 SECTION 1001. STATEMENT OF QUALIFICATION.
4

5 (a) A partnership may become a limited liability partnership pursuant to this section.

6 (b) The terms and conditions on which a partnership becomes a limited liability
7 partnership must be approved by the vote necessary to amend the partnership agreement except,
8 in the case of a partnership agreement that expressly considers obligations to contribute to the
9 partnership, the vote necessary to amend those provisions.

10 (c) After the approval required by subsection (b), a partnership may become a limited
11 liability partnership by filing a statement of qualification. The statement must contain:

12 (1) the name of the partnership;

13 (2) the street address of the partnership's ~~chief executive~~ principal office and, if
14 different, the street address of an office in this ~~State~~ state, if any;

15 (3) ~~if the partnership does not have an office in this State,~~ the name and street
16 address of the partnership's registered agent for ~~service of process~~;

17 (4) a statement that the partnership elects to be a limited liability partnership; and

18 (5) a deferred effective date, if any.

19 ~~(d) The agent of a limited liability partnership for service of process must be an individual~~
20 ~~who is a resident of this State state or other person authorized to do business in this State state.~~

21 ~~(e)~~ (d) The status of a partnership as a limited liability partnership is effective on the later
22 of the filing of the statement or a date specified in the statement. The status remains effective,
23 regardless of changes in the partnership, until it is canceled pursuant to Section ~~405(d)~~ 107(g) or
24 revoked pursuant to Section 1003.

1 by similar commercial delivery service, addressed to the ~~entity~~ partnership at its principal office
2 in accordance with any applicable judicial rules and procedures ~~and with the envelope~~
3 ~~conspicuously marked “important legal notice” or with words of similar import. Service is~~
4 effected under this subsection on the earliest of:

5 (1) the date the partnership receives the mail or delivery by a similar commercial
6 delivery service;

7 (2) the date shown on the return receipt, if signed on behalf of the partnership; or

8 (3) five days after its deposit with the United States Postal Service, or similar
9 commercial delivery service, if correctly addressed and with sufficient postage or payment.

10 (c) If process, notice, or demand cannot be served on a partnership or foreign limited
11 liability partnership pursuant to subsection (a) or (b), service may be made by handing a copy to
12 the ~~supervisor, administrator, clerk, or other~~ individual in charge of any regular place of business
13 of the partnership if the individual served is not a plaintiff in the action.

14 (d) Service of process, notice, or demand on a registered agent must be in a written record.
15 Receipt of a written process, notice, or demand by the registered agent of a limited liability
16 partnership or foreign limited liability partnership is receipt by the partnership.

17 (e) Service of process, notice, or demand may be made by other means under law other
18 than this [act].

19 ~~(f) This section does not affect the right to serve process, notice, or demand in any other~~
20 ~~manner provided by law.~~

21 **Reporters’ Note**

22 Section 1004 conforms to RULLCA Section 116.
23
24

25 **SECTION ~~1002~~ 1006. NAME.** The name of a limited liability partnership must end

1 with “Registered Limited Liability Partnership”, “Limited Liability Partnership”, “R.L.L.P.”,
2 “L.L.P.”, “RLLP”, or “LLP”.

3 **SECTION ~~1003~~ 1007. ANNUAL REPORT FOR SECRETARY OF STATE.**

4 (a) ~~A~~ Each limited liability partnership and a foreign limited liability partnership
5 ~~authorized to transact~~ registered to do business in this State ~~state~~ shall ~~file an annual report in the~~
6 ~~office of~~ deliver to the [Secretary of State] for filing an annual report ~~which contains~~ that states:

7 (1) ~~the name of the limited liability partnership and the State or other jurisdiction~~
8 ~~under whose laws the foreign limited liability partnership is formed;~~

9 (2) ~~the street address of the partnership’s chief executive office and, if different,~~
10 ~~the street address of an office of the partnership in this State, if any; and~~ the name and street and
11 mailing addresses in this state of its registered agent;

12 (3) ~~if the partnership does not have an office in this State~~ state, ~~the name and~~
13 ~~street address of the partnership’s current agent for service of process.~~ the street and mailing
14 addresses of its principal office; and

15 (4) in the case of a foreign limited liability partnership, the state or other
16 jurisdiction under whose law the partnership is formed and any alternate name adopted under
17 Section 1106.

18 (b) Information in an annual report under this section must be current as of the date the
19 report is signed on behalf of the limited liability partnership or foreign limited liability
20 partnership.

21 (b) (c) ~~An annual report must be filed between [January 1 and April 1] of each year~~
22 ~~following the calendar year in which a partnership files a statement of qualification or a foreign~~
23 ~~partnership becomes authorized to transact business in this State.~~ The first annual report must
24 be delivered to the [Secretary of State] after [January 1] and before [April 1] of the year

1 following the calendar year in which a limited liability partnership was formed or a foreign
2 limited liability partnership is registered to do business in this state. Subsequent annual reports
3 must be delivered to the [Secretary of State] after [January 1] and before [April 1] of each
4 calendar year thereafter.

5 (d) If an annual report under this section does not contain the information required by
6 subsection (a), the [Secretary of State] shall promptly notify the reporting limited liability
7 partnership or foreign limited liability partnership in a record and send the report to the
8 partnership for correction.

9 (e) If an annual report under this section contains the name or address of an agent of a
10 registered agent which differs from the information shown in the records of the [Secretary of
11 State] immediately before the annual report becomes effective, the differing information in the
12 annual report is considered a statement of change under Section 1003.

13 (e) (f) The [Secretary of State] may commence a proceeding under subsections (g) and
14 (h) to revoke the statement of qualification of a partnership ~~administratively that fails to file an~~
15 annual report when due or pay the required filing fee. ~~if the partnership does not:~~

16 (1) pay any fee, tax, or penalty required to be paid to the [Secretary of State] not
17 later than [six months] after it is due;

18 (2) deliver an annual report to the [Secretary of State] not later than [six months]
19 after it is due; or

20 (3) have a registered agent in this state for [60] consecutive days.

21 (g) ~~To do so, the [Secretary of State] shall provide the partnership at least 60 days' written~~
22 notice of intent to revoke the statement. ~~The notice m be mailed to the partnership at its chief~~
23 executive office set forth in the last filed statement of qualification or annual report. ~~The notice~~
24 must specify the annual report that has not been filed, the fee that has not been paid, and the

1 ~~effective date of the revocation. The revocation is not effective if the annual report is filed and the~~
2 ~~fee is paid before the effective date of the revocation.~~ If the [Secretary of State] determines that
3 one or more grounds exist for revoking a statement of qualification, the [Secretary of State] shall
4 serve the partnership notice in a record of the [Secretary of State's] determination.

5 (h) If a limited liability partnership, not later than [60] days after service of the notice is
6 effected pursuant to subsection (g), does not correct each ground for revocation or demonstrate
7 to the satisfaction of the [Secretary of State] that each ground determined by the [Secretary of
8 State] does not exist, the [Secretary of State] shall revoke the statement of qualification
9 administratively by, signing, a declaration of dissolution that recites the ground or grounds for
10 revocation and its effective date. The [Secretary of State] shall file the original of the declaration
11 and serve a copy on the partnership.

12 ~~(d)~~ (i) A revocation under subsection ~~(e)~~ (h) only affects a partnership's status as a limited
13 liability partnership and is not an event of dissolution of the partnership.

14 ~~(e)~~ (j) A partnership whose statement of qualification has been revoked administratively
15 under subsection (h) may apply to the [Secretary of State] for reinstatement ~~within two years~~ [not
16 later than two years] after the effective date of the revocation. The application must state:

17 (1) the name of the partnership ~~and the effective date of the revocation;~~ and at the
18 time of its administrative revocation;

19 (2) the address of the principal office of the limited liability partnership and the
20 name and address of its registered agent;

21 (3) the effective date of the limited liability partnership's revocation of statement
22 of qualification; and

23 ~~(2)~~ (4) that the ~~ground~~ grounds for revocation either did not exist or ~~has~~ have been
24 ~~corrected~~ eliminated.

1 [ARTICLE] 11

2 FOREIGN LIMITED LIABILITY PARTNERSHIP

3 SECTION 1101. LAW GOVERNING FOREIGN LIMITED LIABILITY

4 PARTNERSHIP.

5 (a) The law under which a foreign limited liability partnership is formed governs ~~relations~~
6 among the partners and between the partners and the partnership and the liability of partners for
7 obligations of the partnership:

8 (1) the internal affairs of the limited liability partnership; and

9 (2) the liability of a partner as partner for the debts, obligations a debt, obligation,
10 or other liabilities liability of the partnership.

11 (b) ~~A foreign limited liability partnership may not be denied a statement of foreign~~
12 ~~qualification by reason of any difference between the law under which the partnership was~~
13 ~~formed and the law of this State. A foreign limited liability partnership may is not be precluded~~
14 from registering to do business in this state because of any difference between the law of the
15 limited liability partnership's jurisdiction of formation and the laws law of this state.

16 (c) ~~A statement of foreign qualification does not authorize a foreign limited liability~~
17 ~~partnership to engage in any business or exercise any power that a partnership may not engage in~~
18 ~~or exercise in this State as a limited liability partnership. Registration as a foreign limited~~
19 liability partnership to do business in this state does not authorize that the partnership to engage
20 in any business or exercise any power that a limited liability partnership may not engage in or
21 exercise in this state.

22 **Reporters' Note**

23 Section 1101 conforms to HUB Section 1-501. Section 1101(a)(2) conforms to RULLCA
24 Section 106.
25
26

1 ~~business in this State without a statement of foreign qualification.~~

2 ~~(d) If a foreign limited liability partnership transacts business in this State without a~~
3 ~~statement of foreign qualification, the [Secretary of State] is its agent for service of process with~~
4 ~~respect to a right of action arising out of the transaction of business in this State.~~

5 ~~**SECTION 1104. ACTIVITIES NOT CONSTITUTING TRANSACTING**~~
6 ~~**BUSINESS.**~~

7 ~~(a) Activities of a foreign limited liability partnership which do not constitute transacting~~
8 ~~business for the purpose of this [article] include:~~

9 ~~(1) maintaining, defending, or settling an action or proceeding;~~

10 ~~(2) holding meetings of its partners or carrying on any other activity concerning~~
11 ~~its internal affairs;~~

12 ~~(3) maintaining bank accounts;~~

13 ~~(4) maintaining offices or agencies for the transfer, exchange, and registration of~~
14 ~~the partnership's own securities or maintaining trustees or depositories with respect to those~~
15 ~~securities;~~

16 ~~(5) selling through independent contractors;~~

17 ~~(6) soliciting or obtaining orders, whether by mail or through employees or agents~~
18 ~~or otherwise, if the orders require acceptance outside this State before they become contracts;~~

19 ~~(7) creating or acquiring indebtedness, with or without a mortgage, or other~~
20 ~~security interest in property;~~

21 ~~(8) collecting debts or foreclosing mortgages or other security interests in~~
22 ~~property securing the debts, and holding, protecting, and maintaining property so acquired;~~

23 ~~(9) conducting an isolated transaction that is completed within 30 days and is not~~
24 ~~one in the course of similar transactions; and~~

1 outside this state before they become contracts;

2 (7) creating or acquiring indebtedness, mortgages, or security interests in

3 property;

4 (8) securing or collecting debts or enforcing mortgages or other security interests

5 in property securing the debts and holding, protecting, or maintaining property so acquired;

6 (9) conducting an isolated transaction that is not in the course of similar

7 transactions;

8 (10) owning, without more, real or personal property; and

9 (11) doing business in interstate commerce.

10 (b) This section does not apply in determining the contacts or activities that may subject a

11 foreign limited liability partnership to service of process, taxation, or regulation under law of this

12 state other than this [act].

13 **Reporters' Note**

14 Section 1105 conforms RULLCA Section 804.

15 **SECTION 1106. NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY**

16 **PARTNERSHIP.**

17 (a) A foreign limited liability partnership whose name does not comply with Section 1005

18 may not register to do business in this state until it adopts, for the purpose of doing business in

19 this state, an alternate name that complies with Section 1005. A foreign limited liability

20 partnership that registers under an alternate name under this subsection need not comply with

21 [this state's fictitious or assumed name statute]. After registering to do business in this state with

22 an alternate name, a foreign limited liability partnership may do business in this state under:

23 (1) the alternate name;

1 the public filing of a record, other than a limited liability partnership. The statement must state:

2 (1) the name of the foreign limited liability partnership and the name of the

3 jurisdiction under whose law it was formed before the conversion;

4 (2) the type of entity to which it has converted and the jurisdiction whose laws

5 govern the entity's internal affairs;

6 (3) that the foreign limited liability partnership surrenders its registration to do

7 business in this state;

8 (4) that the foreign limited liability revokes the authority of its registered agent to

9 accept service on its behalf; and

10 (5) a mailing address to which service of process may be made under subsection

11 (b).

12 (b) After a withdrawal is effective under this section, service of process in any action or

13 proceeding based on a cause of action arising during the time the foreign limited liability

14 partnership was registered to do business in this state may be made pursuant to Section 1111(b).

15 **Reporters' Note**

16 Section 1108 conforms to HUB Section 1-509 and RULLCA Section 807.

17 **SECTION 1109. TRANSFER OF REGISTRATION.**

18 (a) ~~A~~When a foreign limited liability partnership registered to do business in this state

19 ~~which merges into or converts~~has merged into a foreign limited liability partnership that is not

20 registered to do business in this state or has converted to a foreign entity required to register

21 with the [Secretary of State] to do business in this state the partnership shall deliver to the

22 [Secretary of State] for filing an application for transfer of registration. The application must

23 state:

1 partnership to do business in this state in the manner provided in subsections (b) and (c) if the
2 partnership does not:

3 (1) pay, not later than 60 days after the due date, any fee, tax, or penalty required
4 to be paid to the [Secretary of State] under this [act] or law other than this [act];

5 (2) deliver, not later than 60 days after the due date, its annual report required
6 under Section 1003;

7 (3) appoint and maintain a registered agent as required by Section 1003; or

8
9 (4) deliver to the [Secretary of State] for filing a statement of a change under
10 Section 1003 not later than 30 days after a change has occurred in the name or address of the
11 registered agent.

12 (b) The [Secretary of State] may terminate the registration of a foreign limited liability
13 partnership by filing a notice of termination or noting the termination in the record of the
14 [Secretary of State] and by sending a copy of the notice or the information in the notation to the
15 partnership's registered agent in this state, or if the partnership does not appoint and maintain a
16 proper registered agent in this state, to the partnership's office. The notice must state:

17 (1) the effective date of the termination, which must be at least [60 days] after the
18 date the [Secretary of State] sends the copy; and

19 (2) the grounds for termination under subsection (a).

20 (c) The authority of a foreign limited liability partnership to do business in this state
21 ceases on the effective date of the notice of termination unless before that date the partnership
22 cures each ground for termination stated in the notice of termination or the notated information.
23 If the partnership cures each ground, the [Secretary of State] shall file a record so stating.

1 **Reporters' Note**

2
3 Section 1110 conforms to HUB Section 1-511 and RULLCA Section 809.

4
5 **SECTION 1102 1111. STATEMENT OF FOREIGN QUALIFICATION**

6 **WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY.**

7 (a) ~~Before transacting business in this State, a foreign limited liability partnership must~~
8 ~~file a statement of foreign qualification. The statement must contain:~~

9 (1) ~~the name of the foreign limited liability partnership which satisfies the~~
10 ~~requirements of the State or other jurisdiction under whose law it is formed and ends with~~
11 ~~“Registered Limited Liability Partnership”, “Limited Liability Partnership”, “R.L.L.P.”, “L.L.P.”;~~
12 ~~“RLLP,” or “LLP”;~~

13 (2) ~~the street address of the partnership’s chief executive office and, if different,~~
14 ~~the street address of an office of the partnership in this State, if any;~~

15 (3) ~~if there is no office of the partnership in this State, the name and street~~
16 ~~address of the partnership’s agent for service of process; and~~

17 (4) ~~a deferred effective date, if any.~~

18 (b) ~~The agent of a foreign limited liability company for service of process must be an~~
19 ~~individual who is a resident of this State or other person authorized to do business in this State.~~

20 (c) ~~The status of a partnership as a foreign limited liability partnership is effective on the~~
21 ~~later of the filing of the statement of foreign qualification or a date specified in the statement.~~
22 ~~The status remains effective, regardless of changes in the partnership, until it is canceled~~
23 ~~pursuant to Section 105(d) or revoked pursuant to Section 1003.~~

24 (d) ~~An amendment or cancellation of a statement of foreign qualification is effective when it is~~
25 ~~filed or on a deferred effective date specified in the amendment or cancellation.~~

1 (a) A foreign entity registered to do business in this state may withdraw its registration
2 by delivering a statement of withdrawal to the [Secretary of State] for filing. The statement of
3 withdrawal must set forth:

4 (1) the name of the foreign entity and the name of the jurisdiction under whose
5 law it is formed;

6 (2) that the entity is not doing business in this state and that it withdraws its
7 registration to do business in this state;

8 (3) that the entity revokes the authority of its registered agent to accept service on
9 its behalf; and

10 (4) an address to which service of process may be made under subsection (b).

11 (b) After the withdrawal of the registration of a foreign limited liability partnership,
12 service of process in any action or proceeding based on a cause of action arising during the time
13 the partnership was registered to do business in this state may be made by registered or certified
14 mail, return receipt requested, or by similar commercial delivery service, addressed to the limited
15 liability partnership at its principal office in accordance with any applicable judicial rules and
16 procedures and with the envelope conspicuously marked “important legal notice” or with words
17 of similar import. Service is effected under this subsection on the earliest of:

18 (1) the date the entity receives the mail or delivery by a similar commercial
19 delivery service;

20 (2) the date shown on the return receipt, if signed on behalf of the limited liability
21 partnership; or

22 (3) five days after its deposit with the United States Postal Service, or similar
23 commercial delivery service, if correctly addressed and with sufficient postage or payment. (c)

24 If process, notice, or demand cannot be served on a foreign limited liability partnership

1 ~~pursuant to subsection (b), service may be made by handing a copy to a supervisor, clerk, or~~
2 ~~other individual in charge of any regular place of business of the partnership if the individual~~
3 ~~served is not a plaintiff in the action.~~ pursuant to Section 1005.

4 **Reporters' Note**

5 Section 1111 conforms to HUB Section 1-507 and RULLCA Section 807.
6
7

8 **SECTION ~~1105~~ 1112. ACTION BY [ATTORNEY GENERAL].** The [Attorney
9 General] may maintain an action to ~~restrain~~ enjoin a foreign limited liability partnership from
10 ~~transacting~~ doing business in this State state in violation of this ~~{article}~~ [act].

11

1 [ARTICLE] 12

2 MISCELLANEOUS PROVISIONS

3
4 SECTION 1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

5 This [Act] shall be applied and construed to effectuate its general purpose to make uniform the
6 law with respect to the subject of this [Act] among States enacting it. In applying and construing
7 this uniform act, consideration must be given to the need to promote uniformity of the law with
8 respect to its subject matter among states that enact it.

9 SECTION 1202. SHORT TITLE. This [Act] may be cited as the Uniform Partnership
10 Act (1997).

11 SECTION 1202. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
12 AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal
13 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but
14 does not modify, limit, or supersede Section 101(c) of that act, 15 U. S.C. Section 7001(c), or
15 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
16 U.S.C. Section 7003(b).

17 ~~SECTION 1203. SEVERABILITY CLAUSE.~~ If any provision of this [Act] or its
18 application to any person or circumstance is held invalid, the invalidity does not affect other
19 provisions or applications of this [Act] which can be given effect without the invalid provision or
20 application, and to this end the provisions of this [Act] are severable.

21 ~~SECTION 1204. EFFECTIVE DATE.~~ This [Act] takes effect

22 ~~SECTION 1205. REPEALS.~~ Effective January 1, ____, the following acts and parts of
23 acts are repealed: [the State Partnership Act as amended and in effect immediately before the
24 effective date of this [Act]].

1 **SECTION 1206 1203. APPLICABILITY TO EXISTING RELATIONSHIPS.**

2 ~~(a) Before January 1, _____, this [Act] governs only a partnership formed:~~

3 ~~(1) after the effective date of this [Act], except a partnership that is continuing the~~
4 ~~business of a dissolved partnership under [Section 41 of the superseded Uniform Partnership~~
5 ~~Act]; and~~

6 ~~(2) before the effective date of this [Act], that elects, as provided by subsection~~
7 ~~(c), to be governed by this [Act].~~

8 ~~(b) On and after January 1, _____, this [Act] governs all partnerships.~~

9 ~~(c) Before January 1, _____, a partnership voluntarily may elect, in the manner provided in~~
10 ~~its partnership agreement or by law for amending the partnership agreement, to be governed by~~
11 ~~this [Act]. The provisions of this [Act] relating to the liability of the partnership's partners to~~
12 ~~third parties apply to limit those partners' liability to a third party who had done business with~~
13 ~~the partnership within one year before the partnership's election to be governed by this [Act]~~
14 ~~only if the third party knows or has received a notification of the partnership's election to be~~
15 ~~governed by this [Act].~~

16 (a) Before [all-inclusive date], this [act] governs only:

17 (1) a partnership formed on or after [the effective date of this act]; and

18 (2) a partnership formed before [the effective date of this act] which elects, in the
19 manner provided in its partnership agreement or by law for amending the partnership agreement,
20 to be subject to this [act].

21 (b) On and after [all-inclusive date] this [act] governs all partnerships.

22 **SECTION 1207 1204. SAVINGS CLAUSE.** This [Act] [act] does not affect an
23 action commenced, or proceeding ~~commenced~~ brought, or right accrued before this [Act] [act]
24 takes effect.

1 ~~{Sections 1208 through 1211 are necessary only for jurisdictions adopting Uniform Limited~~
2 ~~Liability Partnership Act Amendments after previously adopting Uniform Partnership Act~~
3 ~~(1994)}~~

4 **SECTION ~~1208~~ 1205. EFFECTIVE DATE.** These [Amendments] take effect ...

5 **SECTION ~~1209~~ 1206. REPEALS.** Effective January 1, __, [all-inclusive date], the
6 following acts and parts of acts are repealed: [the ~~Limited Liability Partnership~~ amendments to
7 the ~~State~~ state ~~Partnership~~ partnership [Act] [act], as amended, and in effect immediately before
8 the effective date of these [Amendments] this [act].

9 **~~SECTION 1210. APPLICABILITY.~~**

10 (a) ~~Before January 1, __, these [Amendments] govern only a limited liability partnership~~
11 ~~formed:~~

12 ~~(1) on or after the effective date of these [Amendments], unless that partnership is~~
13 ~~continuing the business of a dissolved limited liability partnership; and~~

14 ~~(2) before the effective date of these [Amendments], that elects, as provided by~~
15 ~~subsection (c), to be governed by these [Amendments].~~

16 ~~(b) On and after January 1, __, these [Amendments] govern all partnerships.~~

17 ~~(c) Before January 1, __, a partnership voluntarily may elect, in the manner provided in~~
18 ~~its partnership agreement or by law for amending the partnership agreement, to be governed by~~
19 ~~these [Amendments]. The provisions of these [Amendments] relating to the liability of the~~
20 ~~partnership's partners to third parties apply to limit those partners' liability to a third party who~~
21 ~~had done business with the partnership within one year before the partnership's election to be~~
22 ~~governed by these [Amendments], only if the third party knows or has received a notification of~~
23 ~~the partnership's election to be governed by these [Amendments].~~

