

## CHAPTER 322A

## 1976 UNIFORM LIMITED PARTNERSHIP ACT

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**322A.01 DEFINITIONS.**

As used in sections 322A.01 to 322A.87, unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in section 322A.11, and the certificate as amended.

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

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 322A.32.

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

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

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(7) "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

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

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

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

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

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

**History:** 1980 c 582 art 5 s 1

## 322A.02 NAME.

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

(1) shall contain without abbreviation the words "limited partnership";

(2) may not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

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

(4) may not be the same as, or deceptively similar to, the name of a domestic corporation or limited partnership or a foreign corporation or limited partnership authorized or registered to do business in this state or a name the right to which is reserved or provided for in the manner provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of non-use, of the kind required by section 302A.115, subdivision 1, paragraph (d); and

(5) may not contain the following words: corporation, incorporated.

The secretary of state shall determine whether a name is "deceptively similar" to another name for purposes of this section and section 322A.03. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

**History:** 1980 c 582 art 5 s 2; 1984 c 618 s 32

## 322A.03 RESERVATION OF NAME.

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

(1) any person intending to organize a limited partnership under sections 322A.01 to 322A.87 and to adopt that name;

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

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

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

(b) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may not again reserve the same name until more than 60 days after the expiration of the last 120-day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

**History:** 1980 c 582 art 5 s 3

## **322A.04 SPECIFIED OFFICE AND AGENT.**

Each limited partnership shall continuously maintain in this state:

(1) an office, which may but need not be a place of its business in this state, at which shall be kept the records required by section 322A.05 to be maintained; and

(2) an agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

**History:** 1980 c 582 art 5 s 4

## **322A.05 RECORDS TO BE KEPT.**

Each limited partnership shall keep at the office referred to in section 322A.04, clause (1), the following: (1) a current list of the full name and last known business address of each partner set forth in alphabetical order, (2) a copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed, (3) copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the three most recent years, and (4) copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years. Those records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

**History:** 1980 c 582 art 5 s 5

## **322A.06 NATURE OF BUSINESS.**

A limited partnership may carry on any business that a partnership without limited partners may carry on.

**History:** 1980 c 582 art 5 s 6

## **322A.07 BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP.**

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

**History:** 1980 c 582 art 5 s 7

**322A.11 CERTIFICATE OF LIMITED PARTNERSHIP.**

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

- (1) the name of the limited partnership;
- (2) the general character of its business;
- (3) the address of the office and the name and address of the agent for service of process required to be maintained by section 322A.04;
- (4) the name and the business address of each partner (specifying separately the general partners and limited partners);
- (5) the amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future;
- (6) the times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;
- (7) any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;
- (8) if agreed upon, the time at which or the events on the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;
- (9) any right of a partner to receive distributions of property, including cash from the limited partnership;
- (10) any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution;
- (11) any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;
- (12) any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner; and
- (13) any other matters the partners determine to include therein.

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

**History:** 1980 c 582 art 5 s 8

**322A.12 AMENDMENT TO CERTIFICATE.**

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

- (1) the name of the limited partnership;
- (2) the date of filing the certificate; and
- (3) the amendment to the certificate.

(b) Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

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

(2) the admission of a new partner;

(3) the withdrawal of a partner; or

(4) the continuation of the business under section 322A.63 after an event of withdrawal of a general partner.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, but an amendment to show a change of address of a limited partner need be filed only once every 12 months.

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

(e) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (b) if the amendment is filed within the 30-day period specified in subsection (b).

**History:** 1980 c 582 art 5 s 9

### 322A.13 CANCELLATION OF CERTIFICATE.

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

(1) the name of the limited partnership;

(2) the date of filing of its certificate of limited partnership;

(3) the reason for filing the certificate of cancellation;

(4) the effective date (which shall be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and

(5) any other information the general partners filing the certificate determine.

**History:** 1980 c 582 art 5 s 10

### 322A.14 EXECUTION OF CERTIFICATES.

(a) Each certificate required by sections 322A.11 to 322A.19 to be filed in the office of the secretary of state shall be executed in the following manner:

(1) an original certificate of limited partnership must be signed by all partners named therein;

(2) a certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased; and

(3) a certificate of cancellation must be signed by all general partners.

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

(c) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

**History:** 1980 c 582 art 5 s 11

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## **322A.15 AMENDMENT OR CANCELLATION BY JUDICIAL ACT.**

If a person required by section 322A.14 to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition the district court to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate of amendment or cancellation.

**History:** 1980 c 582 art 5 s 12

## **322A.16 FILING IN OFFICE OF SECRETARY OF STATE.**

(a) A signed copy of the certificate of limited partnership, of any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of a \$10 filing fee and, in the case of a certificate of limited partnership, a \$50 initial fee, the secretary shall:

(1) endorse on the original the word "Filed" and the day, month and year of the filing; and

(2) return the original to the person who filed it or his representative.

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

**History:** 1980 c 582 art 5 s 13; 1981 c 356 s 345; 1982 c 496 s 5; 1983 c 301 s 187

## **322A.17 LIABILITY FOR FALSE STATEMENT IN CERTIFICATE.**

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

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

(2) any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under section 322A.15.

**History:** 1980 c 582 art 5 s 14

## **322A.18 NOTICE.**

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

**History:** 1980 c 582 art 5 s 15

**322A.19 DELIVERY OF CERTIFICATES TO LIMITED PARTNERS.**

Upon the return by the secretary of state pursuant to section 322A.16 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate to each limited partner unless the partnership agreement provides otherwise.

*History: 1980 c 582 art 5 s 16*

**322A.24 ADMISSION OF ADDITIONAL LIMITED PARTNERS.**

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

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

(2) in the case of an assignee of a partnership interest of a partner who has the power, as provided in section 322A.58, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

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

*History: 1980 c 582 art 5 s 17*

**322A.25 VOTING.**

Subject to section 322A.26, the partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or other basis) upon any matter.

*History: 1980 c 582 art 5 s 18*

**322A.26 LIABILITY TO THIRD PARTIES.**

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

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) solely by doing one or more of the following:

(1) being a contractor for or an agent or employee of the limited partnership or of a general partner;

(2) consulting with and advising a general partner with respect to the business of the limited partnership;

(3) acting as surety for the limited partnership;

(4) approving or disapproving an amendment to the partnership agreement; or

(5) voting on one or more of the following matters:

(i) the dissolution and winding up of the limited partnership;

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(ii) the sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;

(iii) the incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(iv) a change in the nature of the business; or

(v) the removal of a general partner.

(c) The enumeration in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the business of the limited partnership.

(d) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by section 322A.02, clause (2)(i), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

**History:** 1980 c 582 art 5 s 19

## **322A.27 PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER.**

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

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

(2) withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate declaring withdrawal under this section.

(b) A person who makes a contribution of the kind described in subsection (a) is liable as a general partner to any third party who transacts business with the enterprise (i) before the person withdraws and an appropriate certificate is filed to show withdrawal, or (ii) before an appropriate certificate is filed to show his status as a limited partner and, in the case of an amendment, after expiration of the 30-day period for filing an amendment relating to the person as a limited partner under section 322A.12, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

**History:** 1980 c 582 art 5 s 20; 1984 c 448 s 1

## **322A.28 INFORMATION.**

Each limited partner has the right to:

(1) inspect and copy any of the partnership records required to be maintained by section 322A.05; and

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

**History:** 1980 c 582 art 5 s 21



**322A.31 ADMISSION OF ADDITIONAL GENERAL PARTNERS.**

After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner.

**History:** 1980 c 582 art 5 s 22

**322A.32 EVENTS OF WITHDRAWAL.**

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

(1) the general partner withdraws from the limited partnership as provided in section 322A.46;

(2) the general partner ceases to be a member of the limited partnership as provided in section 322A.56;

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

(4) unless otherwise provided in the certificate of limited partnership, the general partner:

(i) makes an assignment for the benefit of creditors;

(ii) files a voluntary petition in bankruptcy;

(iii) is adjudicated a bankrupt or insolvent;

(iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation;

(v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or

(vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;

(5) unless otherwise provided in the certificate of limited partnership, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed or within 90 days after the expiration of any such stay, the appointment is not vacated;

(6) in the case of a general partner who is a natural person:

(i) his death; or

(ii) the entry by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;

(7) in the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(8) in the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) in the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

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(10) in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

*History: 1980 c 582 art 5 s 23*

## **322A.33 GENERAL POWERS AND LIABILITIES.**

(a) Except as provided in sections 322A.01 to 322A.87 or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(b) Except as provided in sections 322A.01 to 322A.87, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the other partners and the partnership. Except as provided in sections 322A.01 to 322A.87 or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

*History: 1980 c 582 art 5 s 24; 1984 c 448 s 2*

## **322A.34 CONTRIBUTIONS BY GENERAL PARTNER.**

A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

*History: 1980 c 582 art 5 s 25*

## **322A.35 VOTING.**

The partnership agreement may grant to all or certain identified general partners the right to vote (on a per capita or any other basis), separately or with all or any class of the limited partners, on any matter.

*History: 1980 c 582 art 5 s 26*

## **322A.38 FORM OF CONTRIBUTION.**

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

*History: 1980 c 582 art 5 s 27*

## **322A.39 LIABILITY FOR CONTRIBUTION.**

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

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(b) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of sections 322A.01 to 322A.87 may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the filing of the certificate of limited partnership or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation.

**History:** 1980 c 582 art 5 s 28

## 322A.40 SHARING OF PROFITS AND LOSSES.

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

**History:** 1980 c 582 art 5 s 29

## 322A.41 SHARING OF DISTRIBUTIONS.

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

**History:** 1980 c 582 art 5 s 30

## 322A.45 INTERIM DISTRIBUTIONS.

Except as provided in sections 322A.45 to 322A.52, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof:

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

(2) if any distribution constitutes a return of any part of his contribution under section 322A.52, subsection (b), to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

**History:** 1980 c 582 art 5 s 31

## 322A.46 WITHDRAWAL OF GENERAL PARTNER.

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

**History:** 1980 c 582 art 5 s 32

**322A.47 WITHDRAWAL OF LIMITED PARTNER.**

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

*History: 1980 c 582 art 5 s 33*

**322A.48 DISTRIBUTION UPON WITHDRAWAL.**

Except as provided in sections 322A.45 to 322A.52, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement and, if not otherwise provided in the agreement, he is entitled to receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.

*History: 1980 c 582 art 5 s 34*

**322A.49 DISTRIBUTION IN KIND.**

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

*History: 1980 c 582 art 5 s 35*

**322A.50 RIGHT TO DISTRIBUTION.**

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

*History: 1980 c 582 art 5 s 36*

**322A.51 LIMITATIONS ON DISTRIBUTION.**

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

*History: 1980 c 582 art 5 s 37*

**322A.52 LIABILITY UPON RETURN OF CONTRIBUTION.**

(a) If a partner has received the return of any part of his contribution without violation of the partnership agreement or sections 322A.01 to 322A.87, he is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a partner has received the return of any part of his contribution in violation of the partnership agreement or sections 322A.01 to 322A.87, he is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully returned.

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

**History:** 1980 c 582 art 5 s 38

### **322A.55 NATURE OF PARTNERSHIP INTEREST.**

A partnership interest is personal property.

**History:** 1980 c 582 art 5 s 39

### **322A.56 ASSIGNMENT OF PARTNERSHIP INTEREST.**

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

**History:** 1980 c 582 art 5 s 40

### **322A.57 RIGHTS OF CREDITOR.**

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. Sections 322A.01 to 322A.87 do not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

**History:** 1980 c 582 art 5 s 41

### **322A.58 RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.**

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

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and sections 322A.01 to 322A.87. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in sections 322A.45 to 322A.52. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the certificate of limited partnership.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under sections 322A.17 and 322A.39.

**History:** 1980 c 582 art 5 s 42

**322A.59 POWER OF ESTATE OF DECEASED OR INCOMPETENT PARTNER.**

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

*History: 1980 c 582 art 5 s 43*

**322A.63 NONJUDICIAL DISSOLUTION.**

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

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

(2) written consent of all partners;

(3) an event of withdrawal of a general partner unless at the time there is at least one other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal, if, within 90 days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

(4) entry of a decree of judicial dissolution under section 322A.64.

*History: 1980 c 582 art 5 s 44*

**322A.64 JUDICIAL DISSOLUTION.**

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

*History: 1980 c 582 art 5 s 45*

**322A.65 WINDING UP.**

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

*History: 1980 c 582 art 5 s 46*

**322A.66 DISTRIBUTION OF ASSETS.**

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

(1) to creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section 322A.45 or 322A.48;

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(2) except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 322A.45 or 322A.48; and

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

*History: 1980 c 582 art 5 s 47*

## 322A.69 LAW GOVERNING.

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

*History: 1980 c 582 art 5 s 48*

## 322A.70 REGISTRATION.

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

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

(2) the state and date of its formation;

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

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

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

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

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

*History: 1980 c 582 art 5 s 49*

## 322A.71 ISSUANCE OF REGISTRATION.

(a) If the secretary of state finds that an application for registration conforms to law and a \$10 filing fee and a \$50 initial registration fee has been paid, the secretary shall:

(1) endorse on the application the word "Filed," and the month, day and year of the filing thereof;

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

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

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

**History:** 1980 c 582 art 5 s 50; 1981 c 356 s 346; 1983 c 301 s 188

## 322A.72 NAME.

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

**History:** 1980 c 582 art 5 s 51

## 322A.73 CHANGES AND AMENDMENTS.

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

**History:** 1980 c 582 art 5 s 52

## 322A.74 CANCELLATION OF REGISTRATION.

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

**History:** 1980 c 582 art 5 s 53

## 322A.75 TRANSACTION OF BUSINESS WITHOUT REGISTRATION.

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

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

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(d) A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

**History:** 1980 c 582 art 5 s 54

## 322A.76 ACTION BY ATTORNEY GENERAL.

The attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of sections 322A.69 to 322A.76.

**History:** 1980 c 582 art 5 s 55



**322A.79 RIGHT OF ACTION.**

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

*History: 1980 c 582 art 5 s 56*

**322A.80 PROPER PLAINTIFF.**

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

*History: 1980 c 582 art 5 s 57*

**322A.81 PLEADING.**

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

*History: 1980 c 582 art 5 s 58*

**322A.82 EXPENSES.**

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

*History: 1980 c 582 art 5 s 59*

**322A.85 SHORT TITLE.**

Sections 322A.01 to 322A.87 may be cited as the 1976 Uniform Limited Partnership Act.

*History: 1980 c 582 art 5 s 60*

**322A.86 RELATIONSHIP TO SECTIONS 322.01 TO 322.31.**

A domestic limited partnership existing on January 1, 1981, shall be governed by sections 322.01 to 322.31 unless (1) the limited partnership elects to come under the provisions of sections 322A.01 to 322A.85, and the certificate of limited partnership is amended to reflect the intention, the election and a certified copy of all previously filed limited partnership documents is filed with the secretary of state, and the election is filed with the county recorder; and (2) to so elect is not prohibited by the terms of the certificate of limited partnership in effect prior to January 1, 1981. A domestic limited partnership formed after December 31, 1980 shall be governed by sections 322A.01 to 322A.85.

*History: 1980 c 582 art 5 s 61; 1984 c 618 s 33*

**322A.87 RULES FOR CASES NOT PROVIDED FOR IN SECTIONS 322A.01 TO 322A.87.**

In any case not provided for in sections 322A.01 to 322A.87 the provisions of chapter 323, the Uniform Partnership Act govern.

*History: 1980 c 582 art 5 s 62*