

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1398 Session of
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INTRODUCED BY A. HARRIS, THOMAS, MACKENZIE, STAATS, MILLARD,
LONGIETTI, GIBBONS, ROZZI, MCGINNIS, GREINER, BARBIN, COHEN,
MILNE, MARSICO, PETRI, DeLISSIO, DAVIDSON, JAMES, PEIFER,
DAY, GROVE, FARRY, ELLIS, BENNINGHOFF, P. COSTA, F. KELLER,
R. BROWN, D. PARKER, KORTZ, EVERETT, SCHEMEL AND MICCARELLI,
JUNE 24, 2015

SENATOR BROWNE, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 18, 2016

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated
2 Associations) and 54 (Names) of the Pennsylvania Consolidated
3 Statutes, modernizing the law on limited liability
4 partnerships, general partnerships, limited partnerships and
5 limited liability companies; and making conforming changes
6 with respect to associations, corporations, unincorporated
7 nonprofit associations and business trusts by doing the
8 following:
9 As to general provisions, making conforming changes by
10 revising provisions on application of title, definitions,
11 defense of usury, tax clearance of certain fundamental
12 transactions and fee schedule.
13 As to entities generally, making conforming changes by
14 revising requirements for foreign association names.
15 As to entity transactions, making conforming changes by
16 revising provisions on regulatory conditions and required
17 notices and approvals, nature of transactions, approval by
18 limited partnership, effect of merger, statement of division
19 and effectiveness, effect of division and effect of
20 domestication.
21 As to foreign associations, making conforming changes by
22 revising provisions on governing law.
23 As to corporations, making conforming changes by revising
24 provisions on distributions by business corporations and by
25 adding provisions on derivative actions and the use of

1 special litigation committees by business corporations and
2 nonprofit corporations.

3 As to partnerships generally:

4 extensively revising provisions on:

5 interchangeability of partnership, limited
6 liability company and corporate forms of
7 organization; and

8 ownership of certain professional partnerships;

9 and

10 adding a provision on failure to observe formalities.

11 As to limited liability partnerships:

12 extensively revising provisions on:

13 scope;

14 definitions;

15 limitation on liability of partners;

16 extraterritorial application of subchapter;

17 foreign registered limited liability

18 partnerships; and

19 annual registration; and

20 adding provisions on:

21 distributions; and

22 dissolution.

23 As to general partnerships, repealing existing Chapter 83
24 and replacing it with a new Chapter 84 relating to:

25 general provisions;

26 nature of partnership;

27 relations of partners to persons dealing with

28 partnership;

29 relations of partners to each other and to

30 partnership;

31 transferable interests and rights of transferees and

32 creditors;

33 dissociation;

34 dissociation as partner if business not wound up; and

35 dissolution and winding up.

36 As to limited partnerships, repealing existing Chapter 85
37 and replacing it with a new Chapter 86 relating to:

38 general provisions;

39 formation and filings;

40 limited partners;

41 general partners;

42 contributions and distributions;

43 dissociation;

44 transferable interests and rights of transferees and

45 creditors;

46 dissolution and winding up; and

47 actions by partners.

48 As to limited liability companies:

49 repealing existing Subchapters A, B, C, D, E, F, I

50 and K of Chapter 89 and replacing them with a new Chapter

51 88 relating to:

1 general provisions;
2 formation and filings;
3 relations of members and managers to persons
4 dealing with limited liability company;
5 relations of members to each other and to limited
6 liability company;
7 transferable interests and rights of transferees
8 and creditors;
9 dissociation;
10 dissolution and winding up;
11 actions by members; and
12 benefit companies;
13 and
14 revising provisions on restricted professional
15 companies.

16 As to unincorporated nonprofit associations, making
17 conforming amendments by revising provisions on ownership and
18 transfer of property.

19 As to business trusts, making conforming changes by
20 revising provisions on application and effect of chapter and
21 liability of trustees and beneficiaries.

22 As to names, revising provisions on register established.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 101(c) of Title 15 of the Pennsylvania
26 Consolidated Statutes is amended to read:

27 § 101. Short title and application of title.

28 * * *

29 (c) References to prior statutes.--A reference in the
30 [articles or bylaws or other organic documents] organic rules of
31 an association to any provision of law supplied or repealed by
32 this title shall be deemed to be a reference to the superseding
33 provision of this title.

34 Section 1.1. The definitions of "association," "general
35 partnership," "limited liability company" and "limited
36 partnership" in section 102(a) of Title 15, amended October 22,
37 2014 (P.L.2640, No.172), are amended and the section is amended
38 by adding definitions to read:

39 § 102. Definitions.

1 (a) Defined terms.--Subject to additional or inconsistent
2 definitions contained in subsequent provisions of this title
3 that are applicable to specific provisions of this title, the
4 following words and phrases when used in this title shall have,
5 unless the context clearly indicates otherwise, the meanings
6 given to them in this section:

7 * * *

8 "Association." A corporation, for profit or not-for-profit,
9 a partnership, a limited liability company, a business or
10 statutory trust, an entity or two or more persons associated in
11 a common enterprise or undertaking. The term does not include:

12 (1) a testamentary trust or an inter vivos trust as
13 defined in 20 Pa.C.S. § 711(3) (relating to mandatory
14 exercise of jurisdiction through orphans' court division in
15 general);

16 (2) an association or relationship that:

17 (i) is not a person that has:

18 (A) a legal existence separate from any interest
19 holder of the person; or

20 (B) the power to acquire an interest in real
21 property in its own name; and

22 (ii) is not a partnership under the rules stated in
23 section [8312 (relating to rules for determining the
24 existence of partnership)] 8422(c) (relating to formation
25 of partnership) or a similar provision of the laws of
26 another jurisdiction;

27 (3) a decedent's estate; or

28 (4) a government or a governmental subdivision, agency
29 or instrumentality.

30 * * *

1 "Charitable purposes." The relief of poverty, the
2 advancement and provision of education, including postsecondary
3 education, the advancement of religion, the prevention and
4 treatment of disease or injury, including mental retardation and
5 mental disorders, governmental or municipal purposes and any
6 other purpose the accomplishment of which is recognized as
7 important and beneficial to the public.

8 * * *

9 "Debtor in bankruptcy." A person that is the subject of:

10 (1) an order for relief under 11 U.S.C. (relating to
11 bankruptcy) or a comparable order under a successor statute
12 of general application; or

13 (2) a comparable order under Federal, State or foreign
14 law governing insolvency.

15 * * *

16 "General partnership." [A domestic or foreign partnership as
17 defined in section 8311 (relating to partnership defined),
18 whether or not it is a limited liability partnership or electing
19 partnership.] Either of the following:

20 (1) A partnership as defined in section 8412 (relating
21 to definitions).

22 (2) An association whose internal affairs are governed
23 by the laws of a jurisdiction other than this Commonwealth
24 which would be a partnership if its internal affairs were
25 governed by the laws of this Commonwealth.

26 * * *

27 "Limited liability company." [A domestic or foreign limited
28 liability company as defined in section 8903 (relating to
29 definitions and index of definitions).] Either of the following:

30 (1) A limited liability company as defined in section

1 8812 (relating to definitions).

2 (2) An association whose internal affairs are governed
3 by the laws of a jurisdiction other than this Commonwealth
4 which would be a limited liability company if its internal
5 affairs were governed by the laws of this Commonwealth.

6 * * *

7 "Limited partnership." [A domestic or foreign limited
8 partnership as defined in section 8503 (relating to definitions
9 and index of definitions), whether or not it is a limited
10 liability limited partnership or electing partnership.] Either
11 of the following:

12 (1) A limited partnership as defined in section 8612
13 (relating to definitions).

14 (2) An association whose internal affairs are governed
15 by the laws of a jurisdiction other than this Commonwealth
16 which would be a limited partnership if its internal affairs
17 were governed by the laws of this Commonwealth.

18 * * *

19 Section 1.2. Title 15 is amended by adding a section to
20 read:

21 § 114. Defense of usury.

22 A domestic association other than a business corporation
23 shall be subject to section 1510 (relating to certain
24 specifically authorized debt terms) with respect to obligations,
25 as defined in that section, governed by the laws of this
26 Commonwealth or affecting real property situated in this
27 Commonwealth, to the same extent as if the domestic association
28 were a domestic business corporation.

29 Section 2. Sections 139(a) and (c), 152, 153(a)(2) and (3),
30 206, 314(a), (d) and (e), 315, 324(a) and (c) and 336(a)(2) of

1 Title 15 are amended to read:

2 § 139. Tax clearance of certain fundamental transactions.

3 (a) Requirement.--Except as provided in subsection (c) or
4 (d), clearance certificates from the Department of Revenue and
5 the Department of Labor and Industry, evidencing the payment by
6 the association of all taxes and charges due the Commonwealth
7 required by law, must be delivered to the department for filing
8 when any of the following is delivered to the department for
9 filing:

10 (1) Articles or a statement or certificate of merger
11 merging a domestic association into a nonregistered foreign
12 association.

13 (2) Articles or a statement or certificate of conversion
14 or domestication effecting a conversion or domestication of a
15 domestic association into a nonregistered foreign
16 association.

17 (3) Articles [or] of dissolution, a certificate of
18 dissolution or termination or a statement of revival of a
19 domestic association.

20 (4) An application for termination of registration,
21 statement of withdrawal or similar document by a registered
22 foreign association.

23 (5) Articles or a statement or certificate of division
24 dividing a domestic association solely into foreign
25 associations.

26 * * *

27 (c) [Alternative provisions.--If clearance certificates are
28 filed with the court as required under subsection (b), it shall
29 not be necessary to file the clearance certificates with the
30 Department of State.] Exceptions.--It shall not be necessary to

1 file tax clearance certificates with the Department of State:

2 (1) If clearance certificates are filed with the court
3 as required under subsection (b).

4 (2) With articles of dissolution under section 1971
5 (relating to voluntary dissolution by shareholders or
6 incorporators).

7 (3) With a certificate of dissolution under section
8 8482(b)(2)(i) (relating to winding up and filing of
9 certificates).

10 (4) With a certificate of termination under section
11 8681.1 (relating to voluntary termination by partners).

12 (5) With a certificate of dissolution under section
13 8872(b)(2)(i) (relating to winding up and filing of
14 certificates).

15 (6) With a certificate of termination under section 8878
16 (relating to voluntary termination by members or organizers).

17 * * *

18 § 152. Definitions.

19 The following words and phrases when used in this subchapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Ancillary transaction." Includes:

23 (1) preclearance of document;

24 (2) amendment of articles, charter, certificate or other
25 organic document, restatement of articles, charter,
26 certificate or other organic document;

27 (3) dissolution, cancellation or termination of an
28 association;

29 (4) withdrawal or transfer of registration by foreign
30 association;

1 (5) [withdrawal by] dissociation as a partner;
2 (5.1) statement or certificate of authority and denial
3 or negation of authority;

4 (6) any transaction similar to any item listed in
5 paragraphs (1) through [(5)] (5.1);

6 (6.1) withdrawal, abandonment or termination of a
7 document which has been delivered to the department for
8 filing but has not yet become effective; or

9 (7) delivery to the department for filing in, by or with
10 the department or the Secretary of the Commonwealth of any
11 articles, statements, proceedings, agreements or any similar
12 papers affecting associations under the statutes of this
13 Commonwealth for which a specific fee is not set forth in
14 section 153 (relating to fee schedule) or other applicable
15 statute.

16 § 153. Fee schedule.

17 (a) General rule.--The nonrefundable fees of the bureau,
18 including fees for the public acts and transactions of the
19 Secretary of the Commonwealth administered through the bureau,
20 shall be as follows:

21 * * *

22 (2) Foreign associations:

23 (i) Registration statement or similar
24 qualifications to do business..... 250

25 (ii) Amendment of registration statement or
26 similar change in qualification to do business.... 250

27 (iii) Domestication of alien association
28 under section 161 (relating to domestication of
29 certain alien associations)..... 250

30 [(iv) Statement of merger, division or

1	conversion or similar instrument reporting	
2	occurrence of merger, division or conversion not	
3	effected by a filing in the department.....	70]
4	(v) Additional fee for each [qualified]	
5	<u>registered</u> foreign association which is named in a	
6	statement of merger or similar instrument.....	40
7	(vi) Each ancillary transaction.....	70
8	(3) Partnerships and limited liability companies:	
9	(i) Certificate of limited partnership or	
10	certificate of organization of a limited liability	
11	company.....	125
12	(ii) Statement of registration of	
13	[registered] limited liability partnership <u>or</u>	
14	<u>limited liability limited partnership</u> or statement	
15	of election as an electing partnership.....	125
16	(iii) Each ancillary transaction.....	70

17 * * *

18 § 206. Requirements for foreign association names.

19 (a) General rule.--The department shall not file a
20 registration statement pursuant to section 412 (relating to
21 foreign registration statement) for a foreign association that,
22 except as provided under subsection (b), has a name that is
23 rendered unavailable for use by a covered association [under
24 section 202(a), (b) or (c)(1)(i), (iii), (iv) or (v) or (2)
25 (relating to requirements for names generally)] by any provision
26 of this subchapter.

27 (b) Exception.--The provisions of section 202(b) and (c)
28 (relating to requirements for names generally) shall not prevent
29 the filing of a registration statement of a foreign association
30 [setting forth a name that is prohibited] whose name in its

1 jurisdiction of formation would be prohibited from use in this
2 Commonwealth by section 202(b) and (c) if the foreign
3 association [delivers to the department for filing a resolution
4 of its governors adopting] adopts a name for use in registering
5 to do business in this Commonwealth that is available for use by
6 a covered association.

7 § 314. Regulatory conditions and required notices and
8 approvals.

9 (a) Regulatory approvals.--If [laws] the law of this
10 Commonwealth other than this chapter requires notice to or the
11 approval of a governmental agency or officer of the Commonwealth
12 in connection with the participation under an organic law that
13 is not part of this title by a domestic or foreign association
14 in a transaction which is a form of transaction authorized by
15 this chapter, the notice must be given or the approval obtained
16 by the association before it may participate in any form of
17 transaction under this chapter.

18 * * *

19 (d) Preservation of transfers.--[A] Subject to subsection
20 (c) and section 5550 (relating to devises, bequests and gifts
21 after certain fundamental changes), a bequest, devise, gift,
22 grant or promise contained in a will or other instrument of
23 donation, subscription or conveyance that is made to:

24 (1) a merging association that is not the surviving
25 association and that takes effect or remains payable after
26 the merger inures to the surviving association[.]; and

27 (2) a dividing association may be allocated in the
28 division as if it were an asset of the dividing association
29 and, if the bequest, devise, gift, grant or promise takes
30 effect or remains payable after the division, vests as

1 provided in section 367(a)(4) (relating to effect of
2 division).

3 (e) Trust obligations.--A trust obligation that would govern
4 property:

5 (1) if transferred to a merging association that is not
6 the surviving association applies to property that is
7 transferred after a merger to the surviving association[.];
8 and

9 (2) if transferred to a dividing association that is not
10 a resulting association applies to property that is
11 transferred after a division to a resulting association.

12 [(e)] (f) Cross reference.--See section 318 (relating to
13 excluded entities and transactions).

14 § 315. Nature of transactions.

15 (a) General rule.--The fact that a sale or conversion of the
16 interests in or assets of an association or a transaction under
17 a particular subchapter produces a result that could be
18 accomplished in any other manner permitted by a different
19 subchapter or other law shall not be a basis for
20 recharacterizing the sale, conversion or transaction as a
21 different form of sale, conversion or transaction under any
22 other subchapter or other law.

23 (b) Business purpose not required.--A transaction under this
24 chapter does not require an independent business purpose in
25 order for the transaction to be lawful.

26 § 324. Approval by limited partnership.

27 (a) Proposal of plan.--[A] Except as provided in the organic
28 rules, a plan shall be proposed in the case of a domestic
29 limited partnership by the adoption by a unanimous vote of the
30 general partners of a resolution approving the plan. Except

1 where the approval of the limited partners is unnecessary under
2 this chapter or the organic rules, the general partners shall
3 submit the plan to a vote of the limited partners entitled to
4 vote thereon at a regular or special meeting of the limited
5 partners.

6 * * *

7 (c) Required vote by limited partners.--[The] Except as
8 provided in the organic rules:

9 (1) A plan shall be adopted upon receiving [a majority
10 of the votes cast by all limited partners, if any, entitled
11 to vote thereon] the affirmative vote or consent of limited
12 partners owning the rights to receive a majority of the
13 distributions as limited partners of each domestic limited
14 partnership that is a party to the proposed transaction under
15 the plan and, if any class of limited partners is entitled to
16 vote thereon as a class, [a majority of the votes cast] the
17 affirmative vote or consent of limited partners owning the
18 rights to receive a majority of the distributions as limited
19 partners in each class vote.

20 (2) A proposed plan [may] shall not be deemed to have
21 been adopted by the limited partnership unless it has also
22 been approved by the general partners, regardless of the fact
23 that the general partners have directed or suffered the
24 submission of the plan to the limited partners for action.

25 * * *

26 § 336. Effect of merger.

27 (a) General rule.--When a merger under this subchapter
28 becomes effective, all of the following apply:

29 * * *

30 (2) [Each] The separate existence of each merging

1 association that is not the surviving association ceases [to
2 exist].

3 * * *

4 Section 2.1. Section 366(h) of Title 15, added October 22,
5 2014 (P.L.2640, No.172), is amended and the section is amended
6 by adding a subsection to read:

7 § 366. Statement of division; effectiveness.

8 * * *

9 (h) Coordination of transactions.--A new association may be
10 a party to another transaction under this chapter that takes
11 effect simultaneously with the division. The new association
12 shall be deemed to exist before the effectiveness of the other
13 transaction, but solely for the purpose of being a party to the
14 other transaction. The plan relating to the other transaction
15 shall be deemed to have been approved by the new association if
16 the plan is approved by the dividing association in connection
17 with its approval of the plan of division. The statement that is
18 delivered to the department for filing with respect to the other
19 transaction shall state that it was approved by the new
20 association under this subsection.

21 [(h)] (i) Cross references.--See sections 134 (relating to
22 docketing statement) and 135 (relating to requirements to be met
23 by filed documents).

24 Section 2.2. Sections 367(a)(2) and (6), 368(j) and 376(f)
25 of Title 15 are amended to read:

26 § 367. Effect of division.

27 (a) General rule.--When a division becomes effective, all of
28 the following apply:

29 * * *

30 (2) If the dividing association is not to survive the

1 division, the separate existence of the dividing association
2 ceases [to exist].

3 * * *

4 (6) The liabilities of the dividing association are
5 allocated between or among the resulting associations as
6 provided in section 368 (relating to allocation of
7 liabilities in division)[.] and the resulting associations to
8 which liabilities are allocated are liable for those
9 liabilities as successors to the dividing association, and
10 not by transfer, whether directly, indirectly or by operation
11 of law.

12 * * *

13 § 368. Allocation of liabilities in division.

14 * * *

15 (j) Taxes.--Any taxes, interest, penalties and public
16 accounts of the Commonwealth claimed against the dividing
17 association for periods prior to the effective date of the
18 division that are settled, assessed or determined prior to or
19 after the division shall be the liability of all of the
20 resulting associations and, together with interest thereon,
21 shall be a lien against the franchises and property of each
22 resulting association. Upon the application of the dividing
23 association, the Department of Revenue, with the concurrence of
24 the Department of Labor and Industry, shall release one or more,
25 but less than all, of the resulting associations from liability
26 and liens for all taxes, interest, penalties and public accounts
27 of the dividing association due the Commonwealth for periods
28 prior to the effective date of the division if those departments
29 are satisfied that the public revenues will be adequately
30 secured.

1 § 376. Effect of domestication.

2 * * *

3 [(f) Service of process.--When a domestication becomes
4 effective, a foreign domesticated entity may be served with
5 process in this Commonwealth for the collection and enforcement
6 of any of its debts, obligations and other liabilities in
7 accordance with applicable law.]

8 * * *

9 Section 2.3. Section 402 of Title 15 is amended by adding a
10 subsection to read:

11 § 402. Governing law.

12 * * *

13 (g) Defense of usury.--A foreign association shall be
14 subject to section 1510 (relating to certain specifically
15 authorized debt terms) with respect to obligations, as defined
16 in that section, governed by the laws of this Commonwealth or
17 affecting real property situated in this Commonwealth, to the
18 same extent as if the foreign association were a domestic
19 business corporation.

20 Section 3. Sections 521, 522 and 523(a) and (b) of Title 15
21 are amended to read:

22 § 521. Pensions and allowances.

23 A banking institution [or a savings association] may grant
24 allowances or pensions to officers, directors and employees for
25 faithful and long-continued services and, after the death of the
26 officer, director or employee either while in the service of the
27 corporation or after retirement, pensions or allowances may be
28 granted or continued to their dependents. The allowances to
29 dependents shall be reasonable in amount and paid only for a
30 limited time and, unless part of an employee benefit plan or

1 employment contract in effect at the time of retirement or death
2 of the officer, director or employee, shall not exceed in total
3 the amount of the compensation paid to the officer, director or
4 employee during the 12 months preceding retirement or death.

5 § 522. Indemnification of authorized representatives.

6 A banking institution [or a savings association] shall be
7 governed by the provisions of Subchapter D of Chapter 17
8 (relating to indemnification).

9 § 523. Actions by shareholders or members to enforce a
10 secondary right.

11 (a) General rule.--In any action brought to enforce a
12 secondary right on the part of one or more shareholders or
13 members against any officer or director or former officer or
14 director of a banking institution [or a savings association],
15 because the corporation refuses to enforce rights which may
16 properly be asserted by it, the plaintiff or plaintiffs must
17 aver and it must be made to appear that the plaintiff or each
18 plaintiff was a shareholder or was a member of the corporation
19 at the time of the transaction of which he complains or that his
20 stock or membership devolved upon him by operation of law from a
21 person who was a shareholder or member at that time.

22 (b) Security for costs.--In any such action instituted or
23 maintained by a holder or holders of less than 5% of the
24 outstanding shares of any class of the corporation or voting
25 trust certificates therefor, or by a member or members of a
26 corporation organized without capital stock which has
27 outstanding contracts or accounts with its members if the value
28 of the contracts or accounts held or owned by the member or
29 members instituting or maintaining the suit is less than 5% of
30 the value of all the contracts or accounts outstanding, the

1 corporation in whose right the action is brought shall be
2 entitled, at any stage of the proceedings, to require the
3 plaintiff or plaintiffs to give security for the reasonable
4 expenses, including attorneys' fees, which may be incurred by
5 [it] the corporation in connection therewith [and] or for which
6 it may become liable pursuant to section 522 (relating to
7 indemnification of authorized representatives) (but only insofar
8 as relates to mandatory indemnification in actions by or in the
9 right of the corporation) to which security the corporation
10 shall have recourse in such amount as the court having
11 jurisdiction shall determine upon the termination of the action.
12 The amount of the security may, from time to time, be increased
13 or decreased in the discretion of the court having jurisdiction
14 of the action upon showing that the security provided has or
15 [may] is likely to become inadequate or excessive. The security
16 may be denied or limited by the court if the court finds after
17 an evidentiary hearing that undue hardship on plaintiffs and
18 serious injustice would result.

19 * * *

20 Section 4. Section 1551(b) of Title 15 is amended and the
21 section is amended by adding a subsection to read:

22 § 1551. Distributions to shareholders.

23 * * *

24 (b) Limitation.--A distribution, including a distribution
25 under Subchapter F (relating to voluntary dissolution and
26 winding up) or H (relating to postdissolution provision for
27 liabilities) of Chapter 19, may not be made if, after giving
28 effect thereto:

29 (1) the corporation would be unable to pay its debts as
30 they become due in the usual course of its business; or

1 (2) the total assets of the corporation would be less
2 than the sum of its total liabilities plus (unless otherwise
3 provided in the articles) the amount that would be needed, if
4 the corporation were to be dissolved at the time as of which
5 the distribution is measured, to satisfy the preferential
6 rights upon dissolution of shareholders whose preferential
7 rights are superior to those receiving the distribution.

8 * * *

9 (d.1) Distribution in winding up.--In measuring the effect
10 of a distribution under Subchapter F or H of Chapter 19, the
11 liabilities of a dissolved corporation do not include any
12 liabilities for which adequate provision has been made or any
13 claim that has been barred under those subchapters.

14 * * *

15 Section 5. Sections 1781 and 1782 heading and (c) of Title
16 15 are amended to read:

17 § 1781. [(Reserved).] Derivative action.

18 (a) General rule.--Subject to section 1782 (relating to
19 eligible shareholder plaintiffs and security for costs) and
20 subsection (b), a plaintiff may maintain a derivative action to
21 enforce a right of a business corporation only if:

22 (1) the plaintiff first makes a demand on the
23 corporation or the board of directors requesting that it
24 cause the corporation to bring an action to enforce the
25 right, and:

26 (i) if a special litigation committee is not
27 appointed under section 1783 (relating to special
28 litigation committee), the corporation does not bring the
29 action within a reasonable time; or

30 (ii) if a special litigation committee is appointed

1 under section 1783, a determination is made:

2 (A) under section 1783(e)(1) that the
3 corporation not object to the action; or

4 (B) under section 1783(e)(5)(i) that the
5 plaintiff continue the action;

6 (2) demand is excused under subsection (b);

7 (3) the action is maintained for the limited purpose of
8 seeking court review under section 1783(f); or

9 (4) the court has allowed the action to continue under
10 the control of the plaintiff under section 1783(f)(3)(ii).

11 (b) Prior demand excused.--

12 (1) A demand under subsection (a)(1) is excused only if
13 the plaintiff makes a specific showing that immediate and
14 irreparable harm to the business corporation would otherwise
15 result.

16 (2) If demand is excused under paragraph (1), demand
17 shall be made promptly upon commencement of the action.

18 (c) Contents of demand.--A demand under this section must be
19 in record form and give notice with reasonable specificity of
20 the essential facts relied upon to support each of the claims
21 made in the demand.

22 (d) Additional claims.--If a derivative action is commenced
23 after a demand has been made under this section and includes a
24 claim that was not fairly subsumed under the demand, a new
25 demand must be made with respect to that claim. The new demand
26 shall not relate back to the date of the original demand for
27 purposes of subsection (e).

28 (e) Statute of limitations.--The making of a demand tolls
29 any applicable statute of limitations with respect to a claim
30 asserted in the demand until the earlier of the date:

1 (1) the plaintiff making the demand is notified either:

2 (i) that the board of directors has decided not to
3 bring an action and not to appoint a special litigation
4 committee; or

5 (ii) of a determination under section 1783(e) after
6 the appointment of a special litigation committee under
7 section 1783; or

8 (2) the plaintiff commences an action asserting the
9 claim.

10 (f) Certain provisions of articles ineffective.--This
11 section may not be relaxed by any provision of the articles.

12 § 1782. [Actions against directors and officers] Eligible
13 shareholder plaintiffs and security for costs.

14 * * *

15 (c) Security for costs.--In any action or proceeding
16 instituted or maintained by holders or owners of less than 5% of
17 the outstanding shares of any class of the corporation, unless
18 the shares held or owned by the holders or owners have an
19 aggregate fair market value in excess of \$200,000, the
20 corporation in whose right the action or proceeding is brought
21 shall be entitled at any stage of the proceedings to require the
22 plaintiffs to give security for the reasonable expenses,
23 including attorneys' fees, that may be incurred by [it] the
24 corporation in connection therewith or for which it may become
25 liable pursuant to section 1743 (relating to mandatory
26 indemnification) (but only insofar as relates to actions by or
27 in the right of the corporation) to which security the
28 corporation shall have recourse in such amount as the court
29 determines upon the termination of the action or proceeding. The
30 amount of security may, from time to time, be increased or

1 decreased in the discretion of the court upon showing that the
2 security provided has or [may] is likely to become inadequate or
3 excessive. The security may be denied or limited [in the
4 discretion of] by the court [upon preliminary showing to the
5 court, by application and upon such verified statements and
6 depositions as may be required by the court, establishing prima
7 facie that the requirement of full or partial security would
8 impose] if the court finds after an evidentiary hearing that
9 undue hardship on plaintiffs and serious injustice would result.

10 * * *

11 Section 6. Title 15 is amended by adding sections to read:
12 § 1783. Special litigation committee.

13 (a) General rule.--If a business corporation or the board of
14 directors receives a demand to bring an action to enforce a
15 right of the corporation, or if a derivative action is commenced
16 before demand has been made on the corporation or the board, the
17 board may appoint a special litigation committee to investigate
18 the claims asserted in the demand or action and to determine on
19 behalf of the corporation or recommend to the board whether
20 pursuing any of the claims asserted is in the best interests of
21 the corporation. The corporation shall send a notice in record
22 form to the plaintiff promptly after the appointment of a
23 committee under this section notifying the plaintiff that a
24 committee has been appointed and identifying by name the members
25 of the committee. A committee may not be appointed under this
26 section if every shareholder of the corporation is also a
27 director of the corporation.

28 (b) Discovery stay.--If the board of directors appoints a
29 special litigation committee and an action is commenced before a
30 determination has been made under subsection (e):

1 (1) On motion by the committee made in the name of the
2 business corporation, the court shall stay discovery for the
3 time reasonably necessary to permit the committee to complete
4 its investigation, except for good cause shown.

5 (2) The time for the defendants to plead shall be tolled
6 until the process provided for under subsection (f) has been
7 completed.

8 (c) Composition of committee.--A special litigation
9 committee shall be composed of two or more individuals who:

10 (1) are not interested in the claims asserted in the
11 demand or action;

12 (2) are capable as a group of objective judgment in the
13 circumstances; and

14 (3) may, but need not, be shareholders or directors.

15 (d) Appointment of committee.--A special litigation
16 committee may be appointed:

17 (1) by a majority of the directors not named as actual
18 or potential parties in the demand or action; or

19 (2) if all the directors are named as actual or
20 potential parties in the demand or action, by a majority of
21 the directors so named.

22 (e) Determination.--After appropriate investigation by a
23 special litigation committee, the committee or the board of
24 directors may determine that it is in the best interests of the
25 business corporation that:

26 (1) an action based on some or all of the claims
27 asserted in the demand not be brought by the corporation but
28 that the corporation not object to an action being brought by
29 the party that made the demand;

30 (2) an action based on some or all of the claims

1 asserted in the demand be brought by the corporation;

2 (3) some or all of the claims asserted in the demand be
3 settled on terms approved by the committee;

4 (4) an action not be brought based on any of the claims
5 asserted in the demand;

6 (5) an action already commenced continue under the
7 control of:

8 (i) the plaintiff;

9 (ii) the corporation; or

10 (iii) the committee;

11 (6) some or all the claims asserted in an action already
12 commenced be settled on terms approved by the committee; or

13 (7) an action already commenced be dismissed.

14 (f) Court review and action.--If a special litigation
15 committee is appointed and a derivative action is commenced
16 either before or after a determination is made under subsection
17 (e):

18 (1) The business corporation shall file with the court
19 after a determination is made under subsection (e) a
20 statement of the determination and a report of the committee
21 supporting the determination. The corporation shall serve
22 each party with a copy of the determination and report. If
23 the corporation moves to file the report under seal, the
24 report shall be served on the parties subject to an
25 appropriate stipulation agreed to by the parties or a
26 protective order issued by the court.

27 (2) The corporation shall file with the court a motion,
28 pleading or notice consistent with the determination under
29 subsection (e).

30 (3) If the determination is one described in subsection

1 (e) (2), (3), (4), (5) (ii), (6) or (7), the court shall
2 determine whether the members of the committee met the
3 qualifications required under subsection (c) (1) and (2) and
4 whether the committee conducted its investigation and made
5 its recommendation in good faith, independently and with
6 reasonable care. If the court finds that the members of the
7 committee met the qualifications required under subsection
8 (c) (1) and (2) and that the committee acted in good faith,
9 independently and with reasonable care, the court shall
10 enforce the determination of the committee. Otherwise, the
11 court shall:

12 (i) dissolve any stay of discovery entered under
13 subsection (b);

14 (ii) allow the action to continue under the control
15 of the plaintiff; and

16 (iii) permit the defendants to file preliminary
17 objections, other appropriate pleadings and motions.

18 (g) Certain provisions of articles ineffective.--The
19 provisions of this section may not be varied by the articles.

20 § 1784. Proceeds and expenses.

21 (a) Proceeds.--Except as provided in subsection (b):

22 (1) any proceeds or other benefits of a derivative
23 action, whether by judgment, compromise or settlement, belong
24 to the business corporation and not to the plaintiff; and

25 (2) if the plaintiff or its counsel receives any
26 proceeds, the proceeds shall be remitted immediately to the
27 corporation.

28 (b) Expenses.--If a derivative action is successful in whole
29 or in part, the court may award the plaintiff reasonable
30 expenses, including reasonable attorney fees and costs, from the

1 recovery of the business corporation, but in no event shall the
2 attorney fees awarded exceed a reasonable proportion of the
3 value of the relief, including nonpecuniary relief, obtained by
4 the plaintiff for the corporation.

5 (c) Certain provisions of articles ineffective.--This
6 section may not be relaxed by any provision of the articles.

7 Section 6.1. Sections 1971(a) and 3301(d) of Title 15 are
8 amended to read:

9 § 1971. Voluntary dissolution by shareholders or incorporators.

10 (a) General rule.--The shareholders or incorporators of a
11 business corporation that has [not commenced business] never
12 transacted business or held assets other than money received
13 from subscriptions for shares may effect the dissolution of the
14 corporation by filing articles of dissolution in the Department
15 of State. The articles of dissolution shall be executed in the
16 name of the corporation by a majority of the incorporators or a
17 majority in interest of the shareholders and shall set forth:

18 (1) The name of the corporation and, subject to section
19 109 (relating to name of commercial registered office
20 provider in lieu of registered address), the address,
21 including street and number, if any, of its registered
22 office.

23 (2) The statute under which the corporation was
24 incorporated and the date of incorporation.

25 (3) That the corporation has [not commenced business]
26 never transacted business or held assets other than money
27 received from subscriptions for shares.

28 (4) That the amount, if any, actually paid in on
29 subscriptions for its shares, less any part thereof disbursed
30 for necessary expenses, has been returned to those entitled

1 thereto.

2 (5) That all liabilities of the corporation have been
3 discharged or that adequate provision has been made therefor.

4 (6) That a majority of the incorporators or a majority
5 in interest of the shareholders elect that the corporation be
6 dissolved.

7 * * *

8 § 3301. Application and effect of chapter.

9 * * *

10 (d) Organic [records] rules may not be inconsistent.--A
11 provision of the articles or bylaws of a benefit corporation may
12 not relax, be inconsistent with or supersede any provision of
13 this chapter.

14 Section 6.2. The definitions of "benefit corporation,"
15 "benefit director," "independent," "minimum status vote" and
16 "subsidiary" in section 3302 of Title 15 are amended to read:

17 § 3302. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Benefit corporation." A business corporation that [has
22 elected to become] is subject to this chapter [and whose status
23 as a benefit corporation has not been terminated].

24 "Benefit director." [Either:

25 (1) the] The director designated as the benefit director
26 of a benefit corporation as provided in section 3322
27 (relating to benefit director).; or

28 (2) a person with one or more of the powers, duties or
29 rights of a benefit director to the extent provided in the
30 bylaws under section 3322.]

1 * * *

2 "Independent." When a person has no material relationship
3 with a benefit corporation or any of its subsidiaries, other
4 than the relationship of serving as the benefit director or
5 benefit officer. A material relationship between an individual
6 and a benefit corporation or any of its subsidiaries will be
7 conclusively presumed to exist if:

8 (1) the person is or has been within the last three
9 years an employee of the benefit corporation or any of its
10 subsidiaries, other than as a benefit officer;

11 (2) an immediate family member of the person is or has
12 been within the last three years an executive officer, other
13 than a benefit officer, of the benefit corporation or any of
14 its subsidiaries; or

15 (3) the person, or an association of which the person is
16 a [director, officer or other manager] governor or officer
17 or in which the person owns beneficially or of record 5% or
18 more of the outstanding [equity] interests, owns beneficially
19 or of record 5% or more of the outstanding shares of the
20 benefit corporation. The percentage of ownership in an
21 association shall be calculated as if all outstanding rights
22 to acquire [equity] interests in the association had been
23 exercised.

24 "Minimum status vote." As follows:

25 (1) In the case of a business corporation, in addition
26 to any other required approval or vote, the satisfaction of
27 the following conditions:

28 (i) The shareholders of every class or series must
29 be entitled, as a class, to vote on the corporate action
30 regardless of a limitation stated in the articles of

1 incorporation or bylaws on the voting rights of any class
2 or series.

3 (ii) The corporate action must be approved by a vote
4 of the shareholders of each class or series entitled to
5 cast at least two-thirds of the votes that all
6 shareholders of the class or series are entitled to cast
7 on the action.

8 (2) In the case of a domestic association other than a
9 business corporation, in addition to any other required
10 approval, vote or consent, the satisfaction of the following
11 conditions:

12 (i) The holders of every class or series of [equity]
13 interest in the association that are entitled to receive
14 a distribution of any kind from the association must be
15 entitled as a class to vote on or consent to the action
16 regardless of any otherwise applicable limitation on the
17 voting or consent rights of any class or series.

18 (ii) The action must be approved by vote or consent
19 of the holders described in subparagraph (i) entitled to
20 cast at least two-thirds of the votes or consents that
21 all of those holders are entitled to cast on the action.

22 * * *

23 "Subsidiary." An association in which a person owns
24 beneficially or of record 50% or more of the outstanding
25 [equity] interests. The percentage of ownership in an
26 association shall be calculated as if all outstanding rights to
27 acquire [equity] interests in the association had been
28 exercised.

29 * * *

30 Section 7. Sections 3321(c), 3322(e), 3323(c), 3325(b),

1 3331(a) (8) and 4146 of Title 15 are amended to read:

2 § 3321. Standard of conduct for directors.

3 * * *

4 (c) Exoneration from personal liability.--

5 (1) A director shall not be personally liable, as such,
6 for monetary damages for any action taken as a director [if
7 the director performed the duties of his or her office in
8 compliance with section 1712 and this section.] in the course
9 of performing the duties specified in subsection (a) unless
10 the action constitutes self-dealing, willful misconduct or a
11 knowing violation of law.

12 (2) A director shall not be personally liable for
13 monetary damages for failure of the benefit corporation to
14 pursue or create general public benefit or a specific public
15 benefit.

16 * * *

17 § 3322. Benefit director.

18 * * *

19 [(e) Alternative governance arrangements.--

20 (1) The bylaws of a benefit corporation must provide
21 that the persons or shareholders who perform the duties of
22 the board of directors include a person with the powers,
23 duties, rights and immunities of a benefit director if any of
24 the following apply:

25 (i) The bylaws of a benefit corporation provide that
26 the powers and duties conferred or imposed upon the board
27 of directors shall be exercised or performed by a person
28 other than the directors under section 1721(a) (relating
29 to board of directors).

30 (ii) The bylaws of a statutory close corporation

1 that is a benefit corporation provide that the business
2 and affairs of the corporation shall be managed by or
3 under the direction of the shareholders.

4 (2) A person that exercises one or more of the powers,
5 duties or rights of a benefit director under this subsection:

6 (i) does not need to be independent of the benefit
7 corporation;

8 (ii) shall have the immunities of a benefit
9 director;

10 (iii) may share the powers, duties and rights of a
11 benefit director with one or more other persons; and

12 (iv) shall not be subject to the procedures for
13 election or removal of directors in Subchapter C of
14 Chapter 17 unless:

15 (A) the person is also a director of the benefit
16 corporation; or

17 (B) the bylaws make those procedures
18 applicable.]

19 * * *

20 § 3323. Standard of conduct for officers.

21 * * *

22 (c) Exoneration from personal liability.--

23 (1) An officer shall not be personally liable, as such,
24 for monetary damages for any action taken as an officer [if
25 the officer performed the duties of the position in
26 compliance with section 1712(c) and this section.] in the
27 course of performing the duties specified in subsection (a)
28 unless the action constitutes self-dealing, willful
29 misconduct or a knowing violation of law.

30 (2) An officer shall not be personally liable for

1 monetary damages for failure of the benefit corporation to
2 pursue or create general public benefit or a specific public
3 benefit.

4 * * *

5 § 3325. Right of action.

6 * * *

7 (b) Parties with standing.--A benefit enforcement proceeding
8 may be commenced or maintained only:

9 (1) directly by the benefit corporation; or

10 (2) derivatively by:

11 (i) a shareholder that owned at least 2% of the
12 total number of shares of a class or series outstanding
13 at the time of the act complained of;

14 (ii) a director;

15 (iii) a person or group of persons that owns
16 beneficially or of record 5% or more of the [equity]
17 interests in an association of which the benefit
18 corporation is a subsidiary at the time of the act
19 complained of; or

20 (iv) such other persons as may be specified in the
21 articles or bylaws of the benefit corporation.

22 * * *

23 § 3331. Annual benefit report.

24 (a) Contents.--A benefit corporation must deliver to each
25 shareholder an annual benefit report including:

26 * * *

27 [(8) If the benefit corporation has dispensed with, or
28 restricted the discretion or powers of, the board of
29 directors, a description of:

30 (i) the persons that exercise the powers, duties and

1 rights and who have the immunities of the board of
2 directors; and
3 (ii) the benefit director, as required by section
4 3322(e).]

5 * * *

6 § 4146. Provisions applicable to all foreign corporations.

7 The following provisions of this subpart shall, except as
8 otherwise provided in this section, be applicable to every
9 foreign corporation for profit, whether or not required to
10 [procure a certificate of authority under this chapter] register
11 under Chapter 4 (relating to foreign associations):

12 Section 1503 (relating to defense of ultra vires), as to
13 contracts and conveyances governed by the laws of this
14 Commonwealth and conveyances affecting real property situated in
15 this Commonwealth.

16 Section 1506 (relating to form of execution of instruments),
17 as to instruments or other documents governed by the laws of
18 this Commonwealth or affecting real property situated in this
19 Commonwealth.

20 Section 1510 (relating to certain specifically authorized
21 debt terms), as to obligations (as defined in the section)
22 governed by the laws of this Commonwealth or affecting real
23 property situated in this Commonwealth.

24 Section 1782 (relating to [actions against directors and
25 officers] eligible shareholder plaintiffs and security for
26 costs), as to any derivative action [or proceeding] brought in a
27 court of this Commonwealth.

28 Subchapter F of Chapter 25 (relating to business
29 combinations), to the extent provided in section 2551(c)
30 (relating to continuing applicability).

1 Section 8. The definition of "charitable purposes" in
2 section 5103(a) of Title 15 is amended to read:

3 § 5103. Definitions.

4 (a) General definitions.--Subject to additional definitions
5 contained in subsequent provisions of this subpart that are
6 applicable to specific provisions of this subpart, the following
7 words and phrases when used in this subpart shall have the
8 meanings given to them in this section unless the context
9 clearly indicates otherwise:

10 * * *

11 ["Charitable purposes." The relief of poverty, the
12 advancement and provision of education, including postsecondary
13 education, the advancement of religion, the prevention and
14 treatment of disease or injury, including mental retardation and
15 mental disorders, governmental or municipal purposes, and any
16 other purpose the accomplishment of which is recognized as
17 important and beneficial to the public.]

18 * * *

19 Section 9. Title 15 is amended by adding a section to read:

20 § 5781. Derivative action.

21 (a) General rule.--Subject to section 5782 (relating to
22 eligible member plaintiffs and security for costs) and
23 subsection (b), a plaintiff may maintain a derivative action to
24 enforce a right of a nonprofit corporation only if:

25 (1) the plaintiff first makes a demand on the
26 corporation or the board of directors, requesting that it
27 cause the corporation to bring an action to enforce the
28 right, and:

29 (i) if a special litigation committee is not
30 appointed under section 5783 (relating to special

1 litigation committee), the corporation does not bring the
2 action within a reasonable time; or

3 (ii) if a special litigation committee is appointed
4 under section 5783, a determination is made:

5 (A) under section 5783(e)(1) that the
6 corporation not object to the action; or

7 (B) under section 5783(e)(5)(i) that the
8 plaintiff continue the action;

9 (2) demand is excused under subsection (b);

10 (3) the action is maintained for the limited purpose of
11 seeking court review under section 5783(f); or

12 (4) the court has allowed the action to continue under
13 the control of the plaintiff under section 5783(f)(3)(ii).

14 (b) Prior demand excused.--

15 (1) A demand under subsection (a)(1) is excused only if
16 the member makes a specific showing that immediate and
17 irreparable harm to the nonprofit corporation would otherwise
18 result.

19 (2) If demand is excused under paragraph (1), demand
20 shall be made promptly after commencement of the action.

21 (c) Contents of demand.--A demand under this section must be
22 in record form and give notice with reasonable specificity of
23 the essential facts relied upon to support each of the claims
24 made in the demand.

25 (d) Additional claims.--If a derivative action is commenced
26 after a demand has been made under this section and includes a
27 claim that was not fairly subsumed under the demand, a new
28 demand must be made with respect to that claim. The new demand
29 shall not relate back to the date of the original demand for
30 purposes of subsection (e).

1 (e) Statute of limitations.--The making of a demand tolls
2 any applicable statute of limitations with respect to a claim
3 asserted in the demand until the earlier of the date:

4 (1) the plaintiff making the demand is notified either:

5 (i) that the board of directors has decided not to
6 bring an action and not to appoint a special litigation
7 committee; or

8 (ii) of a determination under section 5783(e) after
9 the appointment of a special litigation committee under
10 section 5783; or

11 (2) the plaintiff commences an action asserting the
12 claim.

13 Section 10. Section 5782 heading and (c) of Title 15 ARE
14 amended to read:

15 § 5782. [Actions against directors, members of an other body
16 and officers] Eligible member plaintiffs and
17 security for costs.

18 * * *

19 (c) Security for costs.--In any action or proceeding
20 instituted or maintained by less than the smaller of 50 members
21 of any class or 5% of the members of any class of the
22 corporation, the corporation in whose right the action or
23 proceeding is brought shall be entitled at any stage of the
24 proceedings to require the plaintiffs to give security for the
25 reasonable expenses, including attorney fees, that may be
26 incurred by [it] the corporation in connection therewith or for
27 which it may become liable pursuant to section 5743 (relating to
28 mandatory indemnification), but only insofar as relates to
29 actions by or in the right of the corporation, to which security
30 the corporation shall have recourse in such amount as the court

1 determines upon the termination of the action or proceeding. The
2 amount of security may from time to time be increased or
3 decreased in the discretion of the court upon showing that the
4 security provided has or [may] is likely to become inadequate or
5 excessive. The security may be denied or limited [in the
6 discretion of] by the court [upon preliminary showing to the
7 court, by application and upon such verified statements and
8 depositions as may be required by the court, establishing prima
9 facie that the requirement of full or partial security would
10 impose] if the court finds after an evidentiary hearing that
11 undue hardship on plaintiffs and serious injustice would result.

12 * * *

13 Section 11. Title 15 is amended by adding sections to read:
14 § 5783. Special litigation committee.

15 (a) General rule.--If a nonprofit corporation or the board
16 of directors receives a demand to bring an action to enforce a
17 right of the corporation, or if a derivative action is commenced
18 before demand has been made on the corporation or the board, the
19 board may appoint a special litigation committee to investigate
20 the claims asserted in the demand or action and to determine on
21 behalf of the corporation or recommend to the board whether
22 pursuing any of the claims asserted is in the best interests of
23 the corporation. The corporation shall send a notice in record
24 form to the plaintiff promptly after the appointment of a
25 committee under this section notifying the plaintiff that a
26 committee has been appointed and identifying by name the members
27 of the committee.

28 (b) Discovery stay.--If the board of directors appoints a
29 special litigation committee and an action is commenced before a
30 determination has been made under subsection (e):

1 (1) On motion by the committee made in the name of the
2 nonprofit corporation, the court shall stay discovery for the
3 time reasonably necessary to permit the committee to complete
4 its investigation, except for good cause shown.

5 (2) The time for the defendants to plead shall be tolled
6 until the process provided for under subsection (f) has been
7 completed.

8 (c) Composition of committee.--A special litigation
9 committee shall be composed of two or more individuals who:

10 (1) are not interested in the claims asserted in the
11 demand or action;

12 (2) are capable as a group of objective judgment in the
13 circumstances; and

14 (3) may, but need not, be members, directors or members
15 of an other body.

16 (d) Appointment of committee.--A special litigation
17 committee may be appointed:

18 (1) by a majority of the directors not named as actual
19 or potential parties in the demand or action; or

20 (2) if all the directors are named as actual or
21 potential parties in the demand or action, by a majority of:

22 (i) the members of an other body not named as
23 parties in the proceeding if the other body has the
24 authority to appoint a special litigation committee; or

25 (ii) the directors so named.

26 (e) Determination.--After appropriate investigation by a
27 special litigation committee, the committee or the board of
28 directors may determine that it is in the best interests of the
29 nonprofit corporation that:

30 (1) an action based on some or all of the claims

1 asserted in the demand not be brought by the corporation but
2 that the corporation not object to an action being brought by
3 the party that made the demand;

4 (2) an action based on some or all of the claims
5 asserted in the demand be brought by the corporation;

6 (3) some or all of the claims asserted in the demand be
7 settled on terms approved by the committee;

8 (4) an action not be brought based on any of the claims
9 asserted in the demand;

10 (5) an action already commenced continue under the
11 control of:

12 (i) the plaintiff;

13 (ii) the corporation; or

14 (iii) the committee;

15 (6) some or all the claims asserted in an action already
16 commenced be settled on terms approved by the committee; or

17 (7) an action already commenced be dismissed.

18 (f) Court review and action.--If a special litigation
19 committee is appointed and a derivative action is commenced
20 before or after a determination is made under subsection (e):

21 (1) The nonprofit corporation shall file with the court
22 after a determination is made under subsection (e) a
23 statement of the determination and a report supporting the
24 determination. The corporation shall serve each party with a
25 copy of the determination and report. If the corporation
26 moves to file the report under seal, the report shall be
27 served on the parties subject to an appropriate stipulation
28 agreed to by the parties or a protective order issued by the
29 court.

30 (2) The corporation shall file with the court a motion,

1 pleading or notice consistent with the determination under
2 subsection (e).

3 (3) If the determination is one described in subsection
4 (e) (2), (3), (4), (5) (ii), (6) or (7), the court shall
5 determine whether the members of the committee met the
6 qualifications required under subsection (c) (1) and (2) and
7 whether the committee conducted its investigation and made
8 its recommendation in good faith, independently and with
9 reasonable care. If the court finds that the members of the
10 committee met the qualifications required under subsection
11 (c) (1) and (2) and that the committee acted in good faith,
12 independently and with reasonable care, the court shall
13 enforce the determination of the committee. Otherwise, the
14 court shall:

15 (i) dissolve any stay of discovery entered under
16 subsection (b);

17 (ii) allow the action to continue under the control
18 of the plaintiff; and

19 (iii) permit the defendants to file preliminary
20 objections, other appropriate pleadings and motions.

21 (g) Attorney General.--Nothing in this section limits the
22 rights, powers and duties of the Attorney General under other
23 applicable law with respect to a nonprofit corporation.

24 § 5784. Proceeds and expenses.

25 (a) Proceeds.--Except as provided in subsection (b):

26 (1) any proceeds or other benefits of a derivative
27 action, whether by judgment, compromise or settlement, belong
28 to the nonprofit corporation and not to the plaintiff; and

29 (2) if the plaintiff or its counsel receives any
30 proceeds, the proceeds shall be remitted immediately to the

1 corporation.

2 (b) Expenses.--If a derivative action is successful in whole
3 or in part, the court may award the plaintiff reasonable
4 expenses, including reasonable attorney fees and costs, from the
5 recovery of the nonprofit corporation, but in no event shall the
6 attorney fees awarded exceed a reasonable proportion of the
7 value of the relief, including nonpecuniary relief, obtained by
8 the plaintiff for the corporation.

9 Section 12. Sections 6146, 8102 and 8105 of Title 15 are
10 amended to read:

11 § 6146. Provisions applicable to all foreign corporations.

12 The following provisions of this subpart shall, except as
13 otherwise provided in this section, be applicable to every
14 foreign corporation not-for-profit, whether or not required to
15 [procure a certificate of authority under this chapter] register
16 under Chapter 4 (relating to foreign associations):

17 Section 5503 (relating to defense of ultra vires) as to
18 contracts and conveyances governed by the laws of this
19 Commonwealth and conveyances affecting real property situated in
20 this Commonwealth.

21 Section 5506 (relating to form of execution of instruments)
22 as to instruments or other documents governed by the laws of
23 this Commonwealth or affecting real property situated in this
24 Commonwealth.

25 Section 5510 (relating to certain specifically authorized
26 debt terms) as to obligations (as defined in the section)
27 governed by the laws of this Commonwealth or affecting real
28 property situated in this Commonwealth.

29 Section 5782 (relating to [actions against directors, members
30 of an other body and officers] eligible member plaintiffs and

1 security for costs) as to any derivative action [or proceeding]
2 brought in a court of this Commonwealth.

3 § 8102. Interchangeability of partnership, limited liability
4 company and corporate forms of organization.

5 (a) General rule.--Subject to any restrictions on a specific
6 line of business made applicable by section 103 (relating to
7 subordination of title to regulatory laws):

8 (1) Any business that may be conducted in a corporate
9 form may also be conducted as a partnership or a limited
10 liability company.

11 (2) A domestic or foreign partnership or limited
12 liability company may exercise any right, power, franchise or
13 privilege that a domestic or foreign corporation engaged in
14 the same line of business might exercise under the laws of
15 this Commonwealth, including powers conferred by section 1511
16 (relating to additional powers of certain public utility
17 corporations) or other provisions of law granting the right
18 to a duly authorized corporation to take or occupy property
19 and make compensation therefor.

20 (b) Exceptions.--Subsection (a) shall not:

21 (1) Affect any law relating to the taxation of
22 partnerships, limited liability companies or corporations.

23 (2) [Apply to a banking institution, credit union,
24 insurance corporation or savings association,] Authorize
25 acting as a banking institution, credit union or insurer
26 unless the laws relating thereto or this part expressly
27 [contemplate] permit the conduct of the regulated business in
28 partnership or limited liability company form. See [section
29 8911 (relating to purposes).] sections 8620(b) (relating to
30 characteristics of limited partnership) and 8818(b) (relating

1 to characteristics of limited liability company).

2 (3) Except as otherwise provided by law, permit a
3 partnership to provide full limited liability for all of the
4 investors therein or otherwise fail to preserve the intrinsic
5 differences between the partnership and corporate forms.

6 § 8105. Ownership of certain professional partnerships and
7 limited liability companies.

8 (a) General rule.--Except as otherwise provided by statute,
9 rule or regulation applicable to a particular profession, all of
10 the ultimate beneficial owners of the [partnership] interests in
11 a [partnership that renders one or more restricted professional
12 services shall] general partnership, limited partnership,
13 electing partnership or limited liability company, and all of
14 the governors of the entity, must be licensed persons[. As used
15 in this section, the term "restricted professional services"
16 shall have the meaning specified in section 8903 (relating to
17 definitions and index of definitions).] in the profession the
18 entity practices if the entity renders any of the following
19 professional services:

20 (1) chiropractic;

21 (2) dentistry;

22 (3) law;

23 (4) medicine and surgery;

24 (5) optometry;

25 (6) osteopathic medicine and surgery;

26 (7) podiatric medicine;

27 (8) public accounting;

28 (9) psychology; or

29 (10) veterinary medicine.

30 (b) Transitional provision.--Subsection (a) shall not apply

1 to a person that holds only a transferable interest that was
2 acquired before [the Legislative Reference Bureau shall insert
3 here the effective date of this act].

4 Section 13. Title 15 is amended by adding a section to read:
5 § 8106. Failure to observe formalities.

6 The failure of a limited liability partnership, limited
7 partnership, limited liability limited partnership, electing
8 partnership or limited liability company to observe formalities
9 relating to the exercise of its powers or management of its
10 activities and affairs is not a ground for imposing liability on
11 a partner, member or manager of the entity for a debt,
12 obligation or other liability of the entity.

13 Section 14. Chapter 82 heading of Title 15 is amended to
14 read:

15 CHAPTER 82

16 [REGISTERED] LIMITED LIABILITY PARTNERSHIPS AND
17 LIMITED LIABILITY LIMITED PARTNERSHIPS

18 Section 15. Chapter 82 Subchapter A heading of Title 15 is
19 amended to read:

20 SUBCHAPTER A

21 DOMESTIC [REGISTERED]

22 LIMITED LIABILITY PARTNERSHIPS AND
23 LIMITED LIABILITY LIMITED PARTNERSHIPS

24 Section 16. Section 8201 of Title 15 is amended to read:
25 § 8201. Scope.

26 (a) Application of subchapter.--This subchapter applies to a
27 general or limited partnership whose internal affairs are
28 governed by or that is formed under the laws of this
29 Commonwealth and that registers under this section. Any
30 partnership that desires to register under this subchapter or to

1 amend or terminate its registration shall [file in] deliver to
2 the Department of State for filing a statement of registration,
3 amendment or termination, as the case may be, which shall be
4 signed by a general partner and shall set forth:

5 (1) The name of the partnership.

6 (2) Either:

7 (i) the address of the principal place of business
8 of the partnership, in the case of a general partnership;
9 or

10 (ii) subject to section 109 (relating to name of
11 commercial registered office provider in lieu of
12 registered address), the address, including street and
13 number, if any, of the registered office of the
14 partnership, in the case of a limited partnership.

15 (3) A statement that the partnership registers under
16 this subchapter or that the registration of the partnership
17 under this subchapter shall be amended or terminated, as the
18 case may be. If the statement relates to an amendment, the
19 amendment shall restate in full the statement of
20 registration.

21 (4) A statement that:

22 (i) the registration, amendment or termination has
23 been authorized by at least a majority in interest of the
24 partners[.]; and

25 (ii) in the case of a termination, the termination
26 has also been authorized by all of the general partners.

27 (b) Effect of filing.--Upon the filing of the statement of
28 registration, amendment or termination in the department, the
29 registration under this subchapter shall be effective, amended
30 or terminated, as the case may be. The effectiveness, amendment

1 or termination of the registration of a partnership under this
2 subchapter shall not be deemed to cause a dissolution of the
3 partnership.

4 (c) Effect of registration.--As long as the registration
5 under this subchapter is in effect, the partnership shall be
6 governed by the provisions of this subchapter and, to the extent
7 not inconsistent with this subchapter, Chapter [83] 84 (relating
8 to general partnerships) [and, if a limited partnership, in
9 addition, Chapter 85] or 86 (relating to limited partnerships).
10 Without limiting the generality of the foregoing, a domestic or
11 foreign [registered] limited liability partnership or limited
12 liability limited partnership shall be treated the same as if it
13 were not registered under this subchapter for purposes of:

14 (1) determining whether it is a permissible form of
15 entity in which to conduct the practice of a profession; or

16 (2) the imposition by the Commonwealth or any political
17 subdivision of any tax or license fee on or with respect to
18 any income, property, privilege, transaction, subject or
19 occupation.

20 (d) Continuation of registration.--If a [registered] limited
21 liability partnership or limited liability limited partnership
22 is dissolved and its business is continued without liquidation
23 of the partnership affairs, the registration under this
24 subchapter of the dissolved partnership shall continue to be
25 applicable to the partnership continuing the business, and it
26 shall not be necessary to make a new filing under this section
27 until such time, if any, as the registration is to be amended or
28 terminated.

29 (e) Prohibited termination.--A registration under this
30 subchapter may not be terminated while the partnership is a

1 [bankrupt as that term is defined in section 8903 (relating to
2 definitions and index of definitions)] debtor in bankruptcy. See
3 section 8221(f) (relating to annual registration).

4 (f) Alternative procedure.--In lieu of filing a statement of
5 registration as provided in subsection (a), a limited
6 partnership may register as a [registered] limited liability
7 limited partnership by including in its certificate of limited
8 partnership, either originally or by amendment, the statements
9 required by subsection (a) (3) and (4). To terminate its
10 registration, a limited partnership that uses the procedure
11 authorized by this subsection shall amend its certificate of
12 limited partnership to delete the statements required by this
13 subsection.

14 (g) Constructive notice.--[Filing] Registration under this
15 section shall constitute constructive notice that the
16 partnership is a [registered] limited liability partnership or
17 limited liability limited partnership and that the partners are
18 entitled to the protections from liability provided by this
19 subchapter.

20 (h) Approval of termination.--In addition to any required
21 approvals under the partnership agreement, the termination of a
22 statement of registration must be approved by the affirmative
23 vote or consent of all the general partners.

24 (i) Cross references.--See sections 134 (relating to
25 docketing statement) and 135 (relating to requirements to be met
26 by filed documents).

27 Section 17. The definitions of "foreign registered limited
28 liability partnership," "partner" and "registered limited
29 liability partnership" or "domestic registered limited liability
30 partnership" in section 8202 are amended and the section is

1 amended by adding a definition to read:

2 § 8202. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Distribution." A direct or indirect transfer of money or
7 other property or incurrence of indebtedness by a limited
8 liability partnership to a person on account of a transferable
9 interest or in a person's capacity as a partner. The term:

10 (1) includes:

11 (i) a redemption or other purchase by a partnership
12 of a transferable interest; and

13 (ii) a transfer to a partner in return for the
14 partner's relinquishment of any right to participate as a
15 partner in the management or conduct of the partnership's
16 business or to have access to records or other
17 information concerning the partnership's business; and

18 (2) does not include:

19 (i) amounts constituting reasonable compensation for
20 present or past service or payments made in the ordinary
21 course of business under a bona fide retirement plan or
22 other bona fide benefits program;

23 (ii) the making of, or payment or performance on, a
24 guaranty or similar arrangement by a partnership for the
25 benefit of any or all of its partners;

26 (iii) a direct or indirect allocation or transfer
27 effected under Chapter 3 (relating to entity
28 transactions) with the approval of the partners; or

29 (iv) a direct or indirect transfer of:

30 (A) a governance or transferable interest; or

1 (B) options, rights or warrants to acquire a
2 governance or transferable interest.

3 ["Foreign registered limited liability partnership." A
4 partnership that has registered under a law of any jurisdiction
5 other than this Commonwealth similar to this subchapter, whether
6 or not the partnership is required to register under section
7 8211 (relating to foreign registered limited liability
8 partnerships).]

9 "Partner." Includes a person who is or was a partner in a
10 [registered] limited liability partnership or a general partner
11 in a limited liability limited partnership at any time while the
12 registration of the partnership under this subchapter is or was
13 in effect.

14 ["Registered limited liability partnership" or "domestic
15 registered limited liability partnership." A partnership as to
16 which a registration under section 8201(a) (relating to scope)
17 is in effect.]

18 Section 18. Section 8204 of Title 15 is amended to read:

19 § 8204. Limitation on liability of partners.

20 (a) General rule.--Except as provided in subsection (b), a
21 partner in a [registered] limited liability partnership or
22 limited liability limited partnership shall not be
23 [individually] liable directly or indirectly, whether by way of
24 indemnification, contribution or otherwise, [for debts and
25 obligations] under an order of court or in any other manner for
26 any debts, obligations or other liabilities of, or chargeable
27 to, the partnership, whether sounding in contract or tort or
28 otherwise, that arise [from any negligent or wrongful acts or
29 misconduct committed by another partner or other representative
30 of the partnership] while the registration of the partnership

1 under this subchapter is in effect.

2 (b) Exceptions.--

3 (2) Subsection (a) shall not affect the liability of a
4 partner:

5 (i) Individually for any negligent or wrongful acts
6 or misconduct committed by [him or by any person under
7 his direct supervision and control] the partner.

8 (ii) For any debts [or], obligations or other
9 liabilities of the partnership:

10 [(A) arising from any cause other than those
11 specified in subsection (a); or]

12 (B) as to which the partner has agreed in
13 [writing] record form to be liable[.]; or

14 (C) that:

15 (I) arose before [the Legislative Reference
16 Bureau shall insert here the effective date of
17 this clause]; and

18 (II) did not arise from any negligent or
19 wrongful acts or misconduct committed by a
20 partner or other representative of the
21 partnership.

22 (iii) To the extent expressly undertaken in the
23 partnership agreement or the certificate of limited
24 partnership.

25 (3) Subsection (a) shall not affect in any way:

26 (i) the liability of the partnership itself for all
27 its debts [and obligations], obligations and other
28 liabilities;

29 (ii) the availability of the entire assets of the
30 partnership to satisfy its debts [and obligations],

1 obligations and other liabilities; or

2 (iii) any obligation undertaken by a partner in
3 [writing] record form to individually indemnify another
4 partner of the partnership or to individually contribute
5 toward a liability of another partner.

6 (c) Continuation of limited liability.--Neither the
7 termination of the registration of a partnership under this
8 subchapter nor the dissolution, winding up or termination of the
9 partnership shall affect the limitation on the liability of a
10 partner in the partnership under this section with respect to
11 [negligent or wrongful acts or misconduct occurring] debts,
12 obligations and other liabilities that arose while the
13 registration under this subchapter was in effect.

14 (d) Proper parties.--A partner in a limited liability
15 partnership or limited liability limited partnership is not a
16 proper party to an action or proceeding by or against the
17 partnership, the object of which is to recover damages or
18 enforce debts, obligations or other liabilities for which the
19 partner is not liable.

20 (e) Cross reference.--See section 103 (relating to
21 subordination of title to regulatory laws).

22 Section 19. Section 8205 of Title 15 is repealed:

23 [§ 8205. Liability of withdrawing partner.

24 (a) General rule.--Except as provided in subsection (b), if
25 the business of a registered limited liability partnership is
26 continued without liquidation of the partnership affairs
27 following the dissolution of the partnership as a result of the
28 withdrawal for any reason of a partner, the withdrawing partner
29 shall not be individually liable directly or indirectly, whether
30 by way of indemnification, contribution or otherwise, for the

1 debts and obligations of either the dissolved partnership or any
2 partnership continuing the business if a statement of withdrawal
3 is filed as provided in this section.

4 (b) Exceptions.--Subsection (a) shall not affect the
5 liability of a partner:

6 (1) Individually for any negligent or wrongful acts or
7 misconduct committed by him or by any person under his direct
8 supervision and control.

9 (2) For any debts or obligations of the partnership as
10 to which the withdrawing partner has agreed in writing to be
11 liable.

12 (3) To the partnership for damages if the partnership
13 agreement prohibits the withdrawal of the partner or the
14 withdrawal otherwise violates the partnership agreement.

15 (4) Under section 8334 (relating to partner accountable
16 as fiduciary).

17 (5) To the extent a debt or obligation of the
18 partnership has been expressly undertaken by the partner in
19 the partnership agreement or the certificate of limited
20 partnership.

21 (6) If the partnership subsequently dissolves within one
22 year after the date of withdrawal of the partner and the
23 business of the partnership is not continued following such
24 subsequent dissolution. This paragraph shall not be
25 applicable in the case of a withdrawal caused by:

26 (i) the death of the partner; or

27 (ii) the retirement of the partner pursuant to a
28 retirement policy of the dissolved partnership that has
29 been in effect prior to the retirement of the partner for
30 the shorter of one year or the period that the

1 partnership has been in existence.

2 (7) For any obligation undertaken by a partner in
3 writing to individually indemnify another partner of the
4 partnership or to individually contribute toward a liability
5 of another partner.

6 (c) Statement of withdrawal.--A statement of withdrawal
7 shall be executed by the withdrawing partner or his personal
8 representative and shall set forth:

9 (1) The name of the registered limited liability
10 partnership.

11 (2) The name of the withdrawing partner.

12 (d) Filing and effectiveness.--The statement of withdrawal
13 shall be filed in the Department of State and shall be effective
14 upon filing. The withdrawing partner shall send a copy of the
15 filed statement of withdrawal to the registered limited
16 liability partnership.

17 (e) Permissive filing.--Filing under this section is
18 permissive, and failure to make a filing under this section by a
19 partner entitled to do so shall not affect the right of that
20 partner to the limitation on liability provided by section 8204
21 (relating to limitation on liability of partners).

22 (f) Constructive notice.--Filing under this section shall
23 constitute constructive notice that the partner has withdrawn
24 from the partnership and is entitled to the protection from
25 liability provided by this section.

26 (g) Variation of section.--A written provision of the
27 partnership agreement may restrict or condition the application
28 of this section to some or all of the partners of the
29 partnership.

30 (h) Application of section.--A partner in a foreign

1 registered limited liability partnership, regardless of whether
2 or not it has registered to do business in this Commonwealth
3 under section 8211 (relating to foreign registered limited
4 liability partnerships), shall not be entitled to make a filing
5 under this section with regard to that partnership.

6 (i) Cross references.--See sections 134 (relating to
7 docketing statement) and 135 (relating to requirements to be met
8 by filed documents).]

9 Section 20. Section 8207 of Title 15 is amended to read:

10 § 8207. Extraterritorial application of subchapter.

11 [(a) Legislative intent.--It is the intent of the General
12 Assembly in enacting this subchapter that the legal existence of
13 registered limited liability partnerships organized in this
14 Commonwealth be recognized outside the boundaries of this
15 Commonwealth and that, subject to any reasonable requirement of
16 registration, a domestic registered limited liability
17 partnership transacting business outside this Commonwealth be
18 granted protection of full faith and credit under the
19 Constitution of the United States.]

20 (b) Basis for determining liability of partners.--The
21 liability of partners in a [registered] domestic limited
22 liability partnership or domestic limited liability limited
23 partnership shall at all times be determined under Chapters [83]
24 84 (relating to general partnerships) and [85] 86 (relating to
25 limited partnerships) as modified by the provisions of this
26 subchapter.

27 (c) Conflict of laws.--The personal liability of a partner
28 of a [registered] domestic limited liability partnership or
29 domestic limited liability limited partnership to any person or
30 in any action or proceeding for the debts, obligations or other

1 liabilities of the partnership or for the acts or omissions of
2 other partners or representatives of the partnership shall be
3 governed solely and exclusively by the laws of this
4 Commonwealth. Whenever a conflict arises between the laws of
5 this Commonwealth and the laws of any other state with regard to
6 the liability of partners of a [registered] domestic limited
7 liability partnership [registered under this subchapter] or
8 domestic limited liability limited partnership for the debts,
9 obligations and other liabilities of the partnership or for the
10 acts or omissions of the other partners or representatives of
11 the partnership, the laws of this Commonwealth shall govern in
12 determining such liability.

13 Section 21. Subchapter B of Chapter 82 of Title 15 is
14 repealed:

15 [SUBCHAPTER B
16 FOREIGN REGISTERED
17 LIMITED LIABILITY PARTNERSHIPS

18 § 8211. Foreign registered limited liability partnerships.

19 (a) Governing law.--Subject to the Constitution of
20 Pennsylvania:

21 (1) The laws of the jurisdiction under which a foreign
22 registered limited liability partnership is organized govern
23 its organization and internal affairs and the liability of
24 its partners except as provided in subsection (c).

25 (2) A foreign registered limited liability partnership
26 may not be denied registration by reason of any difference
27 between those laws and the laws of this Commonwealth.

28 (c) Exception.--The liability of the partners in a foreign
29 registered limited liability partnership shall be governed by
30 the laws of the jurisdiction under which it is organized, except

1 that the partners shall not be entitled to greater protection
2 from liability than is available to the partners in a domestic
3 registered limited liability partnership.]

4 Section 22. Section 8221 of Title 15 is amended to read:
5 § 8221. Annual registration.

6 (a) General rule.--Every domestic [registered] limited
7 liability partnership or limited liability limited partnership
8 in existence on December 31 of any year and every foreign
9 [registered] limited liability partnership or limited liability
10 limited partnership that is registered to do business in this
11 Commonwealth on December 31 of any year shall [file in] deliver
12 to the Department of State for filing with respect to that year,
13 and on or before April 15 of the following year, a certificate
14 of annual registration on a form provided by the department,
15 signed by a general partner and accompanied by the annual
16 registration fee prescribed by subsection (b). The department
17 shall not charge a fee other than the annual registration fee
18 for filing the certificate of annual registration.

19 (b) Annual registration fee.--

20 (1) The annual registration fee to be paid when filing a
21 certificate of annual registration shall be equal to a base
22 fee of \$200 times the number of persons who were general
23 partners of the partnership on December 31 of the year with
24 respect to which the certificate of annual registration is
25 being filed and who:

26 (i) in the case of a natural person, had his
27 principal residence on that date in this Commonwealth; or

28 (ii) in the case of any other person, was
29 incorporated or otherwise organized or existing on that
30 date under the laws of this Commonwealth.

1 (2) The base fee of \$200 shall be increased on December
2 31, 1997, and December 31 of every third year thereafter by
3 the percentage increase in the Consumer Price Index for Urban
4 Workers during the most recent three calendar years for which
5 that index is available on the date of adjustment. Each
6 adjustment under this paragraph shall be rounded up to the
7 nearest \$10.

8 (c) Notice of annual registration.--Not later than February
9 1 of each year, the department shall give notice to every
10 partnership required to file a certificate of annual
11 registration with respect to the preceding year of the
12 requirement to file the certificate. The notice shall state the
13 amount of the base fee payable under subsection (b)(1), as
14 adjusted pursuant to subsection (b)(2), if applicable, and shall
15 be accompanied by the form of certificate of annual registration
16 to be filed. Failure by the department to give notice to any
17 party, or failure by any party to receive notice, of the annual
18 registration requirement shall not relieve the party of the
19 obligation to file the certificate of annual registration.

20 (d) Credit to Corporation Bureau Restricted Account.--The
21 annual registration fee shall not be deemed to be an amount
22 received by the department under Subchapter C of Chapter 1 for
23 purposes of section 155 (relating to disposition of funds),
24 except that \$25 of the fee shall be credited to the Corporation
25 Bureau Restricted Account.

26 (e) Failure to file or pay annual fee.--

27 (1) Failure to file the certificate of annual
28 registration required by this section for five consecutive
29 years shall result in the automatic termination of:

30 (i) the status of the [registered] limited liability

1 partnership [as such.] or limited liability limited
2 partnership as such, if it is a domestic partnership; or
3 (ii) the registration of the limited liability
4 partnership or limited liability limited partnership, if
5 it is a foreign partnership.

6 (1.1) [In addition, any] Any annual registration fee
7 that is not paid when due shall be a lien in the manner
8 provided in this subsection from the time the annual
9 registration fee is due and payable. If a certificate of
10 annual registration is not filed within 30 days after the
11 date on which it is due, the department shall assess a
12 penalty of \$500 against the partnership, which shall also be
13 a lien in the manner provided in this subsection. The
14 imposition of that penalty shall not be construed to relieve
15 the partnership from liability for any other penalty or
16 interest provided for under other applicable law.

17 (2) If the annual registration fee paid by a [registered
18 limited liability] partnership is subsequently determined to
19 be less than should have been paid because it was based on an
20 incorrect number of general partners or was otherwise
21 incorrectly computed, that fact shall not affect the
22 existence [or status of the registered limited liability
23 partnership as such], status or foreign registration of the
24 partnership, but the amount of the additional annual
25 registration fee that should have been paid shall be a lien
26 in the manner provided in this subsection from the time the
27 incorrect payment is discovered by the department.

28 (3) The annual registration fee shall bear simple
29 interest from the date that it becomes due and payable until
30 paid. The interest rate shall be that provided for in section

1 806 of the act of April 9, 1929 (P.L.343, No.176), known as
2 The Fiscal Code, with respect to unpaid taxes. The penalty
3 provided for in paragraph (1) shall not bear interest. The
4 payment of interest shall not relieve the [registered limited
5 liability] partnership from liability for any other penalty
6 or interest provided for under other applicable law.

7 (4) The lien created by this subsection shall attach to
8 all of the property and proceeds thereof of the [registered
9 limited liability] partnership in which a security interest
10 can be perfected in whole or in part by filing in the
11 department under 13 Pa.C.S. Div. 9 (relating to secured
12 transactions; sales of accounts, contract rights and chattel
13 paper), whether the property and proceeds are owned by the
14 partnership at the time the annual registration fee or any
15 penalty or interest becomes due and payable or whether the
16 property and proceeds are acquired thereafter. Except as
17 otherwise provided by statute, the lien created by this
18 subsection shall have priority over all other liens, security
19 interests or other charges, except liens for taxes or other
20 charges due the Commonwealth. The lien created by this
21 subsection shall be entered on the records of the department
22 and indexed in the same manner as a financing statement filed
23 under 13 Pa.C.S. Div. 9. At the time an annual registration
24 fee, penalty or interest that has resulted in the creation of
25 a lien under this subsection is paid, the department shall
26 terminate the lien with respect to that annual registration
27 fee, penalty or interest without requiring a separate filing
28 by the partnership for that purpose.

29 (5) If the annual registration fee paid by a [registered
30 limited liability] partnership is subsequently determined to

1 be more than should have been paid for any reason, no refund
2 of the additional fee shall be made.

3 (6) Termination of the status [of a registered limited
4 liability partnership as such] or foreign registration of a
5 partnership under this section, whether voluntarily or
6 involuntarily, shall not release it from the obligation to
7 pay any accrued fees, penalties and interest and shall not
8 release the lien created by this subsection.

9 (f) Exception for bankrupt partnerships.--A partnership that
10 would otherwise be required to pay the annual registration fee
11 set forth in subsection (b) shall not be required to pay that
12 fee with respect to any year during any part of which the
13 partnership is a [bankrupt as defined in section 8903 (relating
14 to definitions and index of definitions)] debtor in bankruptcy.
15 The partnership shall, instead, indicate on its certificate of
16 annual registration for that year that it is exempt from payment
17 of the annual registration fee pursuant to this subsection. If
18 the partnership fails to file timely a certificate of annual
19 registration, a lien shall be entered on the records of the
20 department pursuant to subsection (e) which shall not be removed
21 until the partnership files a certificate of annual registration
22 indicating its entitlement to an exemption from payment of the
23 annual registration fee as provided in this subsection. See
24 section 8201(e) (relating to scope).

25 Section 23. Chapter 82 of Title 15 is amended by adding
26 subchapters to read:

27 SUBCHAPTER D

28 DISTRIBUTIONS

29 Sec.

30 8231. Limitations on distributions by limited liability

1 partnership.

2 8232. Liability for improper distributions by limited liability
3 partnership.

4 § 8231. Limitations on distributions by limited liability
5 partnership.

6 (a) General rule.--A domestic limited liability partnership
7 may not make a distribution, including a distribution under
8 section 8486 (relating to disposition of assets in winding up
9 and required contributions), if after the distribution:

10 (1) the partnership would not be able to pay its debts
11 as they become due in the ordinary course of the
12 partnership's business; or

13 (2) the partnership's total assets would be less than
14 the sum of its total liabilities plus the amount that would
15 be needed, if the partnership were to be dissolved and wound
16 up at the time of the distribution, to satisfy the
17 preferential rights upon dissolution and winding up of
18 partners and transferees whose preferential rights are
19 superior to the rights of persons receiving the distribution.

20 (b) Valuation.--A domestic limited liability partnership may
21 base a determination that a distribution is not prohibited under
22 subsection (a) (2) on:

23 (1) the book values of the assets and liabilities of the
24 partnership, as reflected on its books and records;

25 (2) a valuation that takes into consideration unrealized
26 appreciation and depreciation or other changes in value of
27 the assets and liabilities of the partnership;

28 (3) the current value of the assets and liabilities of
29 the partnership, either valued separately or valued in
30 segments or as an entirety as a going concern; or

1 (4) any other method that is reasonable in the
2 circumstances.

3 (c) Excluded liabilities.--In determining whether a
4 distribution is prohibited under subsection (a)(2), the
5 partnership need not consider obligations and liabilities unless
6 they are required to be reflected on a balance sheet, not
7 including the notes to the balance sheet, prepared on the basis
8 of generally accepted accounting principles, or other such
9 accounting practices and principles as are used generally by the
10 partnership in the maintenance of its books and records and as
11 are reasonable in the circumstances.

12 (d) Measuring date of distribution.--Except as provided in
13 subsection (e), the effect of a distribution under subsection
14 (a) is measured:

15 (1) as of the date specified by the partnership when it
16 authorizes the distribution if the distribution occurs within
17 125 days of the earlier of the date so specified or the date
18 of authorization; or

19 (2) as of the date of distribution in all other cases.

20 (e) Date of redemption.--In the case of a distribution as
21 described in paragraph (1) of the definition of "distribution"
22 in section 8202 (relating to definitions), the distribution is
23 deemed to occur as of the earlier of the date money or other
24 property is transferred or debt is incurred by the partnership,
25 or the date the person entitled to the distribution ceases to
26 own the interest or right being acquired by the partnership in
27 return for the distribution.

28 (f) Status of distribution debt.--The indebtedness of a
29 domestic limited liability partnership to a partner or
30 transferee incurred by reason of a distribution made in

1 accordance with this section shall be at least on a parity with
2 the partnership's indebtedness to its general, unsecured
3 creditors, except to the extent subordinated by agreement.

4 (g) Certain subordinated debt.--The indebtedness of a
5 domestic limited liability partnership, including indebtedness
6 issued as a distribution, is not a liability for purposes of
7 subsection (a) if the terms of the indebtedness provide that
8 payment of principal and interest is made only if and to the
9 extent that a payment of a distribution could then be made under
10 this section. If the indebtedness is issued as a distribution,
11 each payment of principal or interest is treated as a
12 distribution, the effect of which is measured on the date the
13 payment is made.

14 (h) Distributions in winding up.--In measuring the effect of
15 a distribution under section 8486, the liabilities of a
16 dissolved domestic limited liability partnership do not include
17 any claim that has been barred under section 8241 (relating to
18 known claims against dissolved limited liability partnership) or
19 8242 (relating to other claims against dissolved limited
20 liability partnership) or for which security has been provided
21 under section 8243 (relating to court proceedings).

22 (i) Cross references.--See sections 8415(d)(1) (relating to
23 contents of partnership agreement) and 8447 (relating to
24 standards of conduct for partners).

25 § 8232. Liability for improper distributions by limited
26 liability partnership.

27 (a) General rule.--If a partner of a limited liability
28 partnership consents to a distribution made in violation of
29 section 8231 (relating to limitations on distributions by
30 limited liability partnership) and in consenting to the

1 distribution fails to comply with section 8447 (relating to
2 standards of conduct for partners), the partner is personally
3 liable to the partnership for the amount of the distribution
4 which exceeds the amount that could have been distributed
5 without the violation of section 8231.

6 (b) Recipients.--A person that receives a distribution
7 knowing that the distribution violated section 8231 is
8 personally liable to the limited liability partnership, but only
9 to the extent that the distribution received by the person
10 exceeded the amount that could have been properly paid under
11 section 8231.

12 (c) Contribution.--A person against which an action is
13 commenced because the person is liable under subsection (a) may:

14 (1) join any other person that is liable under
15 subsection (a) and seek to enforce a right of contribution
16 from the person; and

17 (2) join any person that received a distribution in
18 violation of subsection (b) and seek to enforce a right of
19 contribution from the person in the amount the person
20 received in violation of subsection (b).

21 (d) Statute of repose.--An action under this section is
22 barred unless commenced within two years after the distribution.

23 SUBCHAPTER E

24 DISSOLUTION

25 Sec.

26 8241. Known claims against dissolved limited liability
27 partnership.

28 8242. Other claims against dissolved limited liability
29 partnership.

30 8243. Court proceedings.

1 8244. Liability of partner when claim against partnership
2 barred.

3 § 8241. Known claims against dissolved limited liability
4 partnership.

5 (a) General rule.--Except as provided in subsection (d), a
6 dissolved limited liability partnership may give notice of a
7 known claim under subsection (b), which has the effect provided
8 in subsection (c).

9 (b) Notice.--A dissolved limited liability partnership may
10 notify in record form its known claimants of the dissolution.

11 The notice must:

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

14 (2) state that a claim must be in writing and provide a
15 mailing address to which the claim is to be sent;

16 (3) state the deadline for receipt of a claim, which may
17 not be less than 120 days after the date the notice is
18 received by the claimant;

19 (4) state that the claim will be barred if not received
20 by the deadline; and

21 (5) unless the partnership has been throughout its
22 existence a limited liability partnership, state that the
23 barring of a claim against the partnership will also bar any
24 corresponding claim against any partner or person dissociated
25 as a partner which is based on section 8436 (relating to
26 partner's liability).

27 (c) Claims barred.--A claim against a dissolved limited
28 liability partnership is barred if the requirements of
29 subsection (b) are met and:

30 (1) the claim is not received by the specified deadline;

1 or

2 (2) if the claim is timely received but rejected by the
3 partnership:

4 (i) the partnership causes the claimant to receive a
5 notice in record form stating that the claim is rejected
6 and will be barred unless the claimant commences an
7 action against the partnership to enforce the claim
8 within 90 days after the claimant receives the notice;
9 and

10 (ii) the claimant does not commence the required
11 action within 90 days after the claimant receives the
12 notice.

13 (d) Later arising claims.--This section shall not apply to a
14 claim based on an event occurring after the date of dissolution
15 or a liability that on that date is contingent.

16 § 8242. Other claims against dissolved limited liability
17 partnership.

18 (a) Permissive notice.--A dissolved limited liability
19 partnership may publish notice of its dissolution and request
20 persons having claims against the partnership to present them in
21 accordance with the notice.

22 (b) Notice procedure.--A notice under subsection (a) must:

23 (1) be officially published one time;

24 (2) describe the information required to be contained in
25 a claim, state that the claim must be in writing and provide
26 a mailing address to which the claim is to be sent;

27 (3) state that a claim against the partnership is barred
28 unless an action to enforce the claim is commenced within two
29 years after publication of the notice; and

30 (4) unless the partnership has been throughout its

1 existence a limited liability partnership, state that the
2 barring of a claim against the partnership will also bar any
3 corresponding claim against any partner or person dissociated
4 as a partner which is based on section 8436 (relating to
5 partner's liability).

6 (c) Claims barred.--If a dissolved limited liability
7 partnership publishes a notice in accordance with subsection
8 (b), the claim of each of the following claimants is barred
9 unless the claimant commences an action to enforce the claim
10 against the partnership within two years after the publication
11 date of the notice:

12 (1) a claimant that did not receive notice in record
13 form under section 8241 (relating to known claims against
14 dissolved limited liability partnership);

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

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

19 (d) Claims not barred.--A claim not barred under this
20 section or section 8241 may be enforced:

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

23 (2) except as provided in section 8243 (relating to
24 court proceedings), if assets of the partnership have been
25 distributed after dissolution, against a partner or
26 transferee to the extent of that person's proportionate share
27 of the claim or of the partnership's assets distributed to
28 the partner or transferee after dissolution, whichever is
29 less, except that a person's total liability for all claims
30 under this paragraph may not exceed the total amount of

1 assets distributed to the person after dissolution; and
2 (3) against any person liable on the claim under
3 sections 8436, 8473 (relating to liability of person
4 dissociated as partner to other persons) and 8485 (relating
5 to liability after dissolution).

6 § 8243. Court proceedings.

7 (a) Determination of security.--A dissolved limited
8 liability partnership that has published a notice under section
9 8242 (relating to other claims against dissolved limited
10 liability partnership) may file an application with the court of
11 common pleas embracing the county where the partnership's
12 principal office is located or, if the principal office is not
13 located in this Commonwealth, where its registered office is or
14 was last located, for a determination of the amount and form of
15 security to be provided for payment of claims that are
16 reasonably expected to arise after the date of dissolution based
17 on facts known to the partnership and:

18 (1) at the time of the application:

19 (i) are contingent; or

20 (ii) have not been made known to the partnership; or

21 (2) are based on an event occurring after the date of
22 dissolution.

23 (b) When security not required.--Security is not required
24 for any claim that is or is reasonably anticipated to be barred
25 under section 8241 (relating to known claims against dissolved
26 limited liability partnership).

27 (c) Notice.--Within 10 days after the filing of an
28 application under subsection (a), the dissolved limited
29 liability partnership shall give notice of the proceeding to
30 each claimant holding a contingent claim known to the

1 partnership.

2 (d) Guardian ad litem.--In any proceeding under this
3 section, the court may appoint a guardian ad litem to represent
4 all claimants whose identities are unknown. The reasonable fees
5 and expenses of the guardian, including all reasonable expert
6 witness fees, must be paid by the dissolved limited liability
7 partnership.

8 (e) Effect on contingent claims.--A dissolved limited
9 liability partnership that provides security in the amount and
10 form ordered by the court under subsection (a) satisfies the
11 partnership's obligations with respect to claims that are
12 contingent, have not been made known to the partnership or are
13 based on an event occurring after the date of dissolution. The
14 claims may not be enforced against a partner or transferee on
15 account of assets received in liquidation.

16 § 8244. Liability of partner when claim against partnership
17 barred.

18 If a claim against a dissolved limited liability partnership
19 is barred under this subchapter, any corresponding claim under
20 sections 8436 (relating to partner's liability), 8473 (relating
21 to liability of person dissociated as partner to other person)
22 and 8485 (relating to liability after dissolution) is also
23 barred.

24 Section 24. Repeals are as follows:

25 (1) The General Assembly finds and declares as follows:

26 (i) Over the last 25 years, there have been
27 significant changes in the business model for
28 partnerships; and statutory law must be updated to deal
29 with the new business model.

30 (ii) Statutory law on general partnerships has not

1 8415. Contents of partnership agreement.

2 8416. Application of partnership agreement.

3 8417. Amendment and effect of partnership agreement.

4 8418. Signing of filed documents.

5 8419. Liability of general partner or other person for false or
6 missing information in filed document.

7 § 8411. Short title and application of chapter.

8 (a) Short title.--This chapter shall be known and may be
9 cited as the Pennsylvania Uniform Partnership Act of 2016.

10 (b) Initial application.--Before April 1, 2017, this chapter
11 governs only:

12 (1) a partnership formed on or after [the Legislative
13 Reference Bureau shall insert here the effective date of this
14 chapter]; and

15 (2) except as provided in subsection (d), a partnership
16 formed before [the Legislative Reference Bureau shall insert
17 here the effective date of this chapter] which elects, in the
18 manner provided in its partnership agreement or by law for
19 amending the partnership agreement, to be subject to this
20 chapter.

21 (c) Full effective date.--Except as provided under
22 subsection (d), on and after April 1, 2017, this chapter governs
23 all partnerships.

24 (d) Liabilities to third parties.--With respect to a
25 partnership that elects under subsection (b)(2) to be subject to
26 this chapter, after the election takes effect the provisions of
27 this chapter relating to the liability of the partnership's
28 partners to third parties apply:

29 (1) before April 1, 2017, to:

30 (i) a third party that had not done business with

1 the partnership in the year before the election took
2 effect; and

3 (ii) a third party that had done business with the
4 partnership in the year before the election took effect
5 only if the third party knows or has been notified of the
6 election; and

7 (2) on and after April 1, 2017, to all third parties,
8 except that those provisions remain inapplicable to any
9 obligation incurred while those provisions were inapplicable
10 under paragraph (1)(ii).

11 (e) Cross reference.--See section 8415(c)(5) (relating to
12 contents of partnership agreement).

13 § 8412. Definitions.

14 (a) General definitions.--The following words and phrases
15 when used in this chapter shall have the meanings given to them
16 in this subsection unless the context clearly indicates
17 otherwise:

18 "Business." Includes every trade, occupation and profession.

19 "Contribution." Property or a benefit described in section
20 8443 (relating to form of contribution) which is provided by a
21 person to a partnership to become a partner or in the person's
22 capacity as a partner.

23 "Distribution." A transfer of money or other property from a
24 partnership to a person on account of a transferable interest or
25 in a person's capacity as a partner. The term:

26 (1) includes:

27 (i) a redemption or other purchase by a partnership
28 of a transferable interest; and

29 (ii) a transfer to a partner in return for the
30 partner's relinquishment of any right to participate as a

1 partner in the management or conduct of the partnership's
2 business or have access to records or other information
3 concerning the partnership's business; and

4 (2) does not include:

5 (i) amounts constituting reasonable compensation for
6 present or past service or payments made in the ordinary
7 course of business under a bona fide retirement plan or
8 other bona fide benefits program;

9 (ii) the making of, or payment or performance on, a
10 guaranty or similar arrangement by a partnership for the
11 benefit of any or all of its partners;

12 (iii) a direct or indirect allocation or transfer
13 effected under Chapter 3 (relating to entity
14 transactions) with the approval of the partners; or

15 (iv) a direct or indirect transfer of:

16 (A) a governance or transferable interest; or

17 (B) options, rights or warrants to acquire a
18 governance or transferable interest.

19 "Partner." A person that:

20 (1) has become a partner in a partnership under section
21 8442 (relating to becoming partner) or was a partner in a
22 partnership when the partnership became subject to this
23 chapter under section 8411 (relating to short title and
24 application of chapter); and

25 (2) has not dissociated as a partner under section 8461
26 (relating to events causing dissociation).

27 "Partnership." An association of two or more persons to
28 carry on as co-owners a business for profit formed under this
29 chapter or that becomes subject to this chapter under Chapter 3
30 (relating to entity transactions) or section 8411. The term

1 includes a limited liability partnership or an electing
2 partnership that is not also a limited partnership.

3 "Partnership agreement." The agreement, whether or not
4 referred to as a partnership agreement and whether oral,
5 implied, in record form or in any combination thereof, of all
6 the partners of a partnership concerning the matters described
7 in section 8415(a) (relating to contents of partnership
8 agreement). The term includes the agreement as amended or
9 restated.

10 "Partnership at will." A partnership in which the partners
11 have not agreed to remain partners until the expiration of a
12 definite term or the completion of a particular undertaking.

13 "Transferable interest." The right, as initially owned by a
14 person in the person's capacity as a partner, to receive
15 distributions from a partnership, whether or not the person
16 remains a partner or continues to own any part of the right. The
17 term applies to any fraction of the interest, by whomever owned.

18 "Transferee." A person to which all or part of a
19 transferable interest has been transferred, whether or not the
20 transferor is a partner.

21 (b) Index of definitions.--The following is a nonexclusive
22 list of definitions in section 102 (relating to definitions)
23 that apply to this chapter:

24 "Act" or "action."

25 "Court."

26 "Debtor in bankruptcy."

27 "Department."

28 "Jurisdiction."

29 "Jurisdiction of formation."

30 "Obligation."

1 "Principal office."
2 "Professional services."
3 "Property."
4 "Record form."
5 "Sign."
6 "Transfer."

7 § 8413. Knowledge and notice.

8 (a) Knowledge.--A person knows a fact if the person:

9 (1) has actual knowledge of it; or

10 (2) is deemed to know it under subsection (d)(1) or law
11 other than this chapter.

12 (b) Notice.--A person has notice of a fact if the person:

13 (1) has reason to know the fact from all the facts known
14 to the person at the time in question; or

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

17 (c) Notification.--Except as provided under section 113(b)

18 (relating to delivery of document), a person notifies another

19 person of a fact by taking steps reasonably required to inform

20 the other person in ordinary course, whether or not those steps
21 cause the other person to know the fact.

22 (d) Constructive knowledge or notice.--A person not a
23 partner is deemed:

24 (1) to know of a limitation on authority to transfer
25 real property as provided in section 8433(g) (relating to
26 certificate of partnership authority); and

27 (2) to have notice of:

28 (i) a person's dissociation as a partner 90 days
29 after a certificate of dissociation under section 8474
30 (relating to certificate of dissociation) becomes

1 effective;

2 (ii) the dissolution of the partnership 90 days
3 after a certificate of dissolution under section 8482(b)
4 (2)(i) (relating to winding up and filing of
5 certificates) is effective;

6 (iii) the termination of the partnership 90 days
7 after a certificate of termination under section 8482(b)
8 (2)(vi) is effective; and

9 (iv) participation in a merger, interest exchange,
10 conversion, division or domestication, 90 days after a
11 statement of merger, interest exchange, conversion,
12 division or domestication under Chapter 3 (relating to
13 entity transactions) is effective.

14 (e) Effect of partner's knowledge or notice.--A partner's
15 knowledge or notice of a fact relating to the partnership is
16 effective immediately as knowledge of or notice to the
17 partnership, except in the case of a fraud on the partnership
18 committed by or with the consent of that partner.

19 § 8414. Governing law.

20 (a) General rule.--The internal affairs of a partnership and
21 the liability of a partner as a partner for the debts,
22 obligations or other liabilities of the partnership are governed
23 by:

24 (1) in the case of a limited liability partnership, the
25 laws of this Commonwealth; and

26 (2) in the case of a partnership that is not a limited
27 liability partnership, the laws of:

28 (i) the jurisdiction chosen by a provision of the
29 partnership agreement in record form; or

30 (ii) the jurisdiction in which the partnership has

1 its principal office if there is no choice of law under
2 subparagraph (i).

3 (b) Enforceability of chosen law.--A choice of law under
4 subsection (a) (2) (i) is enforceable even though:

5 (1) The chosen jurisdiction has no substantial
6 relationship to the partners or the partnership and there is
7 no other reasonable basis for the parties' choice.

8 (2) Application of the chosen law would be contrary to a
9 fundamental policy of a jurisdiction that has a materially
10 greater interest in the determination of the particular issue
11 than does the jurisdiction whose law has been chosen.

12 (c) Cross reference.--See section 8415(c) (6) (relating to
13 contents of partnership agreement).

14 § 8415. Contents of partnership agreement.

15 (a) Scope of partnership agreement.--Except as provided in
16 subsections (c) and (d), the partnership agreement governs:

17 (1) relations among the partners as partners and between
18 the partners and the partnership;

19 (2) the rights and duties under this title of a person
20 in the capacity of a partner;

21 (3) the business of the partnership and the conduct of
22 that business;

23 (4) the means and conditions for amending the
24 partnership agreement; and

25 (5) the means and conditions for approving a transaction
26 under Chapter 3 (relating to entity transactions).

27 (b) Title applies generally.--To the extent the partnership
28 agreement does not provide for a matter described in subsection
29 (a), this title governs the matter.

30 (c) Limitations.--A partnership agreement may not do any of

1 the following:

2 (1) Vary a provision of Chapter 1 (relating to general
3 provisions) or Subchapter A of Chapter 2 (relating to names).

4 (2) Vary the right of a partner to approve a merger,
5 interest exchange, conversion, division or domestication
6 under section 333(a)(2) (relating to approval of merger),
7 343(a)(2) (relating to approval of interest exchange), 353(a)
8 (3) (relating to approval of conversion), 363(a)(2) (relating
9 to approval of division) or 373(a)(2) (relating to approval
10 of domestication).

11 (3) Vary the required contents of a plan of merger under
12 section 332(a) (relating to plan of merger), plan of interest
13 exchange under section 342(a) (relating to plan of interest
14 exchange), plan of conversion under section 352(a) (relating
15 to plan of conversion), plan of division under section 362(a)
16 (relating to plan of division) or plan of domestication under
17 section 372(a) (relating to plan of domestication).

18 (4) Vary a provision of Chapter 81 (relating to general
19 provisions) or 82 (relating to limited liability partnerships
20 and limited liability limited partnerships), except as
21 provided in subsection (d).

22 (5) Vary the provisions of section 8411(b), (c) and (d)
23 (relating to short title and application of chapter).

24 (6) Vary the law applicable under section 8414(a)(1)
25 (relating to governing law).

26 (7) Vary any requirement, procedure or other provision
27 of this title pertaining to:

28 (i) registered offices; or

29 (ii) the department, including provisions pertaining
30 to documents authorized or required to be delivered to

1 the department for filing under this title.

2 (8) Vary the provisions of section 8437 (relating to
3 actions by and against partnership and partners).

4 (9) Unreasonably restrict the duties and rights under
5 section 8446 (relating to rights to information), except as
6 provided in subsection (d).

7 (10) Eliminate the duty of loyalty provided for under
8 section 8447(b)(1)(i) or (ii) or (2) (relating to standards
9 of conduct for partners) or the duty of care, except as
10 provided in subsection (d).

11 (11) Vary the contractual obligation of good faith and
12 fair dealing under section 8447(d), except as provided under
13 subsection (d).

14 (12) Unreasonably restrict the right of a person to
15 maintain an action under section 8448(b) (relating to actions
16 by partnership and partners).

17 (13) Provide indemnification or exoneration in violation
18 of the limitations in sections 8441(m) (relating to partner's
19 rights and duties) and 8447(i).

20 (14) Vary the power of a person to dissociate as a
21 partner under section 8462(a) (relating to power to
22 dissociate as partner and wrongful dissociation), except to
23 require that the notice under section 8461(1) (relating to
24 events causing dissociation) be in record form.

25 (15) Vary the causes of dissolution specified in section
26 8481(a)(4) or (5) (relating to events causing dissolution).

27 (16) Vary the requirement to wind up the partnership's
28 business as specified in section 8482(a), (b)(1) and (d)
29 (relating to winding up and filing of certificates).

30 (17) Except as provided in section 8417(b) (relating to

1 amendment and effect of partnership agreement), restrict the
2 rights under this title of a person other than a partner.

3 (d) Permitted terms.--Subject to subsection (c)(13), the
4 following rules apply:

5 (1) The partnership agreement may:

6 (i) specify the method by which a specific act or
7 transaction that would otherwise violate the duty of
8 loyalty may be authorized or ratified by one or more
9 disinterested and independent persons after full
10 disclosure of all material facts;

11 (ii) alter the prohibition in section 8231(a)(2)
12 (relating to limitations on distributions by limited
13 liability partnership) so that the prohibition requires
14 only that the partnership's total assets not be less than
15 the sum of its total liabilities; and

16 (iii) impose reasonable restrictions on the
17 availability and use of information obtained under
18 section 8446 and may define appropriate remedies,
19 including liquidated damages, for a breach of any
20 reasonable restriction on use.

21 (2) To the extent the partnership agreement expressly
22 relieves a partner of a responsibility that the partner would
23 otherwise have under this title and imposes the
24 responsibility on one or more other partners, the agreement
25 also may eliminate or limit any fiduciary duty of the partner
26 relieved of the responsibility which would have pertained to
27 the responsibility.

28 (3) If not manifestly unreasonable, the partnership
29 agreement may:

30 (i) alter the aspects of the duty of loyalty stated

1 in section 8447(b)(1)(i) or (ii) or (2);

2 (ii) prescribe the standards by which the
3 performance of the contractual obligation of good faith
4 and fair dealing under section 8447(d) is to be measured;

5 (iii) identify specific types or categories of
6 activities that do not violate the duty of loyalty;

7 (iv) alter the duty of care; and

8 (v) alter or eliminate any other fiduciary duty.

9 (e) Determination of manifest unreasonableness.--The court
10 shall decide as a matter of law whether a term of a partnership
11 agreement is manifestly unreasonable under subsection (d)(3).

12 The court:

13 (1) shall make its determination as of the time the
14 challenged term became part of the partnership agreement and
15 by considering only circumstances existing at that time; and

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

19 (i) the objective of the term is unreasonable; or

20 (ii) the term is an unreasonable means to achieve
21 the term's objective.

22 § 8416. Application of partnership agreement.

23 (a) Partnership bound.--A partnership is bound by and may
24 enforce the partnership agreement, whether or not the
25 partnership has itself manifested assent to the agreement.

26 (b) Deemed assent.--A person that becomes a partner is
27 deemed to assent to the partnership agreement.

28 (c) Preformation agreement.--Two or more persons intending
29 to become the initial partners of a partnership may make an
30 agreement providing that upon the formation of the partnership

1 the agreement will become the partnership agreement.

2 (d) Cross reference.--See section 8422(a) (relating to
3 formation of partnership).

4 § 8417. Amendment and effect of partnership agreement.

5 (a) Approval of amendments.--A partnership agreement may
6 specify that its amendment requires the approval of a person
7 that is not a party to the agreement or the satisfaction of a
8 condition. An amendment is ineffective if its adoption does not
9 include the required approval or satisfy the specified
10 condition. See section 8441(j) (relating to partner's rights and
11 duties).

12 (b) Obligations to nonpartners.--The obligations of a
13 partnership and its partners to a person in the person's
14 capacity as a transferee or person dissociated as a partner are
15 governed by the partnership agreement. Except as provided in
16 section 8445(d) (relating to sharing of and right to
17 distribution before dissolution) or in a court order issued
18 under section 8454(b) (2) (relating to charging order) to
19 effectuate a charging order, an amendment to the partnership
20 agreement made after a person becomes a transferee or is
21 dissociated as a partner:

22 (1) is effective with regard to any debt, obligation or
23 other liability of the partnership or its partners to the
24 person in the person's capacity as a transferee or person
25 dissociated as a partner; and

26 (2) is not effective to the extent the amendment:

27 (i) imposes a new debt, obligation or other
28 liability on the transferee or person dissociated as a
29 partner; or

30 (ii) prejudices the rights under section 8471

1 (relating to purchase of interest of person dissociated
2 as partner) of a person that dissociated as a partner
3 before the amendment was made.

4 (c) Provisions in filed documents.--If a document delivered
5 by a partnership to the department for filing becomes effective
6 and contains a provision that would be ineffective under section
7 8415(c) or (d) (3) (relating to contents of partnership
8 agreement) if contained in the partnership agreement, the
9 provision is ineffective in the document.

10 (d) Conflicts with partnership agreement.--Subject to
11 subsection (c), if a document delivered by a partnership to the
12 department for filing becomes effective and conflicts with a
13 provision of the partnership agreement:

14 (1) the agreement prevails as to partners, persons
15 dissociated as partners and transferees; and

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

18 (e) Prohibition of oral amendments.--If a provision of a
19 partnership agreement in record form provides that the
20 partnership agreement cannot be amended, modified or rescinded
21 except in record form, an oral agreement, amendment,
22 modification or rescission shall not be enforceable.

23 § 8418. Signing of filed documents.

24 (a) Required signatures.--Except as provided in this title,
25 a document delivered to the department for filing under this
26 title relating to a partnership must be signed as follows:

27 (1) Except as provided under paragraphs (2) and (3), a
28 document signed on behalf of a partnership must be signed by
29 a person authorized by the partnership.

30 (2) A document filed on behalf of a dissolved

1 partnership that has no partner must be signed by the person
2 winding up the partnership's business under section 8482(c)
3 (relating to winding up and filing of certificates) or a
4 person appointed under section 8482(d) to wind up the
5 business.

6 (3) A certificate of denial by a person under section
7 8434 (relating to certificate of denial) must be signed by
8 that person.

9 (4) Any other document delivered on behalf of a person
10 to the department for filing must be signed by that person.

11 (b) Cross reference.--See section 142 (relating to effect of
12 signing filings).

13 § 8419. Liability of general partner or other person for false
14 or missing information in filed document.

15 (a) General rule.--If a document delivered to the department
16 for filing under this title and filed by the department contains
17 a materially false statement or fails to state a material fact
18 required to be stated, a person that suffers loss by reasonable
19 reliance on the statement or failure to state a material fact
20 may recover damages for the loss from:

21 (1) a person that signed the document or caused another
22 to sign it on the person's behalf and knew there was false or
23 missing information in the document at the time it was
24 signed; and

25 (2) subject to subsection (b), a partner if:

26 (i) the document was delivered for filing on behalf
27 of the partnership; and

28 (ii) the partner knew or had notice there was false
29 or missing information for a reasonably sufficient time
30 before the document was relied upon so that, before the

1 reliance, the partner reasonably could have:

2 (A) filed a petition under section 144 (relating
3 to signing and filing pursuant to judicial order); or

4 (B) delivered to the department for filing a
5 statement of correction under section 138 (relating
6 to statement of correction) or a statement of
7 abandonment under section 141 (relating to
8 abandonment of filing before effectiveness).

9 (b) Partner relieved of responsibility.--To the extent the
10 partnership agreement expressly relieves a partner of
11 responsibility for maintaining the accuracy of information
12 contained in records delivered on behalf of the partnership to
13 the department for filing under this title and imposes that
14 responsibility on one or more other partners, the liability
15 stated in subsection (a) (2) applies to those other partners and
16 not to the partner that the partnership agreement relieves of
17 the responsibility.

18 (c) Cross reference.--See section 143 (relating to liability
19 for inaccurate information in filing).

20 SUBCHAPTER B

21 NATURE OF PARTNERSHIP

22 Sec.

23 8421. Partnership as entity.

24 8422. Formation of partnership.

25 8423. Partnership property.

26 8424. When property is partnership property.

27 § 8421. Partnership as entity.

28 (a) General rule.--A partnership is an entity distinct from
29 its partners.

30 (b) Limited liability partnership.--A partnership is the

1 same entity regardless of whether the partnership has a
2 statement of registration in effect under section 8201 (relating
3 to scope).

4 § 8422. Formation of partnership.

5 (a) General rule.--Except as provided in subsection (b), the
6 association of two or more persons to carry on as co-owners a
7 business for profit forms a partnership, whether or not the
8 persons intend to form a partnership.

9 (b) Excluded associations.--An association formed under a
10 statute other than this chapter, a predecessor statute or a
11 comparable statute of another jurisdiction is not a partnership
12 under this chapter.

13 (c) Rules for determining formation of partnership.--In
14 determining whether a partnership is formed, the following rules
15 apply:

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

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

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

27 (i) of a debt by installments or otherwise;

28 (ii) for services as an independent contractor or of
29 wages or other compensation to an employee;

30 (iii) of rent;

1 (iv) of an annuity or other retirement or health
2 benefit to a deceased or retired partner or a
3 beneficiary, representative or designee of a deceased or
4 retired partner;

5 (v) of interest or other charge on a loan, even if
6 the amount of payment varies with the profits of the
7 business, including a direct or indirect present or
8 future ownership of the collateral, rights to income,
9 proceeds or increase in value derived from the
10 collateral; or

11 (vi) for the sale of the goodwill of a business or
12 other property by installments or otherwise.

13 (d) Cross reference.--See section 8416(c) (relating to
14 application of partnership agreement).

15 § 8423. Partnership property.

16 Property owned by a partnership is partnership property and
17 is not owned by the partners individually.

18 § 8424. When property is partnership property.

19 (a) General rule.--Property is owned by a partnership and
20 not by the partners individually if the property is acquired in
21 the name of:

22 (1) the partnership by a transfer to:

23 (i) the partnership in its name; or

24 (ii) one or more partners in their capacity as
25 partners in the partnership, if the name of the
26 partnership is indicated in the instrument transferring
27 title to the property; or

28 (2) one or more partners with an indication in the
29 instrument transferring title to the property of the person's
30 capacity as a partner or of the existence of a partnership

1 but without an indication of the name of the partnership.

2 (b) Property purchased with partnership assets.--Property is
3 presumed to be partnership property if purchased with
4 partnership assets, even if not acquired in the name of the
5 partnership or of one or more partners with an indication in the
6 instrument transferring title to the property of the person's
7 capacity as a partner or of the existence of a partnership.

8 (c) Property acquired in name of partner.--Property acquired
9 in the name of one or more of the partners is presumed to be
10 separate property owned by the individual partner or partners,
11 even if used for partnership purposes, if the property is
12 acquired without:

13 (1) an indication in the instrument transferring title
14 to the property of the person's capacity as a partner or of
15 the existence of a partnership; and

16 (2) use of partnership assets.

17 SUBCHAPTER C

18 RELATIONS OF PARTNERS TO PERSONS

19 DEALING WITH PARTNERSHIP

20 Sec.

21 8431. Partner agent of partnership.

22 8432. Transfer of partnership property.

23 8433. Certificate of partnership authority.

24 8434. Certificate of denial.

25 8435. Partnership liable for partner's actionable conduct.

26 8436. Partner's liability.

27 8437. Actions by and against partnership and partners.

28 8438. Liability of purported partner.

29 § 8431. Partner agent of partnership.

30 Subject to the effect of a certificate of partnership

1 authority under section 8433 (relating to certificate of
2 partnership authority), the following rules apply:

3 (1) Each partner is an agent of the partnership for the
4 purpose of its business. An act of a partner, including the
5 signing of an instrument in the partnership name, for
6 apparently carrying on in the ordinary course the partnership
7 business or business of the kind carried on by the
8 partnership binds the partnership, unless the partner did not
9 have authority to act for the partnership in the particular
10 matter and the person with which the partner was dealing knew
11 or had notice that the partner lacked authority.

12 (2) An act of a partner which is not apparently for
13 carrying on in the ordinary course the partnership's business
14 or business of the kind carried on by the partnership binds
15 the partnership only if the partner had actual authority to
16 take the action.

17 § 8432. Transfer of partnership property.

18 (a) General rule.--Partnership property may be transferred
19 as follows:

20 (1) Subject to the effect of a certificate of
21 partnership authority under section 8433 (relating to
22 certificate of partnership authority), partnership property
23 held in the name of the partnership may be transferred by an
24 instrument of transfer signed by a partner in the partnership
25 name.

26 (2) Partnership property held in the name of one or more
27 partners with an indication in the instrument transferring
28 the property to them of their capacity as partners or of the
29 existence of a partnership, but without an indication of the
30 name of the partnership, may be transferred by an instrument

1 of transfer signed by the persons in whose name the property
2 is held.

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

9 (b) Recovery of property by partnership.--A partnership may
10 recover partnership property from a transferee only if it proves
11 that the signing of the instrument of initial transfer did not
12 bind the partnership under section 8431 (relating to partner
13 agent of partnership) and:

14 (1) as to a subsequent transferee who gave value for
15 property transferred under subsection (a) (1) or (2), proves
16 that the subsequent transferee knew or had notice that the
17 person who signed the instrument of initial transfer lacked
18 authority to bind the partnership; or

19 (2) as to a transferee who gave value for property
20 transferred under subsection (a) (3), proves that the
21 transferee knew or had notice that the property was
22 partnership property and that the person who signed the
23 instrument of initial transfer lacked authority to bind the
24 partnership.

25 (c) Subsequent transferees.--A partnership may not recover
26 partnership property from a subsequent transferee if the
27 partnership would not have been entitled to recover the property
28 under subsection (b) from any earlier transferee of the
29 property.

30 (d) Sole partner.--If one person holds all the interests in

1 a partnership, all the partnership property vests in that
2 person. The person may sign a document in the name of the
3 partnership to evidence vesting of the property in that person
4 and may file or record the document.

5 § 8433. Certificate of partnership authority.

6 (a) General rule.--A partnership may deliver to the
7 department for filing a certificate of partnership authority.

8 The certificate:

9 (1) must include the name of the partnership and:

10 (i) if the partnership is not a registered foreign
11 limited liability partnership, the street and mailing
12 addresses of its principal office; or

13 (ii) if the partnership is a registered foreign
14 limited liability partnership, subject to section 109
15 (relating to name of commercial registered office
16 provider in lieu of registered address), the address,
17 including street and number, if any, of its registered
18 office;

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

23 (i) sign an instrument transferring real property
24 held in the name of the partnership; or

25 (ii) enter into other transactions on behalf of, or
26 otherwise act for or bind, the partnership; and

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

29 (i) sign an instrument transferring real property
30 held in the name of the partnership; or

1 (ii) enter into other transactions on behalf of, or
2 otherwise act for or bind, the partnership.

3 (b) Amendment or cancellation.--To amend or cancel a
4 certificate of authority filed by the department, a partnership
5 must deliver to the department for filing an amendment or
6 cancellation stating:

7 (1) the name of the partnership;

8 (2) if the partnership is not a registered foreign
9 limited liability partnership, the street and mailing
10 addresses of the partnership's principal office;

11 (3) if the partnership is a registered foreign limited
12 liability partnership, subject to section 109, the address,
13 including street and number, if any, of its registered
14 office;

15 (4) the date the certificate being affected became
16 effective; and

17 (5) the contents of the amendment or a statement that
18 the certificate is canceled.

19 (c) Effect of certificate.--A certificate of authority:

20 (1) affects only the power of a person to bind a
21 partnership to persons that are not partners; and

22 (2) is not binding on the department for purposes of the
23 administration of this title or any other provision of law.

24 (d) Effect of limitation on authority.--Subject to
25 subsection (c) and section 8413(d)(1) (relating to knowledge and
26 notice), and except as provided in subsections (f), (g) and (h),
27 a limitation on the authority of a person or a position
28 contained in an effective certificate of authority is not by
29 itself evidence of any person's knowledge or notice of the
30 limitation.

1 (e) Authority not relating to real property.--A grant of
2 authority not pertaining to transfers of real property and
3 contained in an effective certificate of authority is conclusive
4 in favor of a person that gives value in reliance on the grant,
5 unless when the person gives value:

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

7 (2) the certificate has been canceled or restrictively
8 amended under subsection (b); or

9 (3) a limitation on the grant is contained in another
10 certificate of authority that became effective after the
11 certificate containing the grant became effective.

12 (f) Authority relating to real property.--An effective
13 certificate of authority that grants authority to transfer real
14 property held in the name of the partnership, a certified copy
15 of which certificate is recorded in the office of the recorder
16 of deeds for the county in which the real property is located,
17 is conclusive in favor of a person that gives value in reliance
18 on the grant without knowledge to the contrary, except to the
19 extent that when the person gives value:

20 (1) the certificate has been canceled or restrictively
21 amended under subsection (b), and a certified copy of the
22 cancellation or restrictive amendment has been recorded in
23 the office of the recorder of deeds for the county in which
24 the real property is located; or

25 (2) a limitation on the grant is contained in another
26 certificate of authority that became effective after the
27 certificate containing the grant became effective and a
28 certified copy of the later-effective certificate is recorded
29 in the office of the recorder of deeds for the county in
30 which the real property is located.

1 (g) Constructive knowledge of limitation.--Subject to
2 subsection (c), if a certified copy of an effective certificate
3 containing a limitation on the authority to transfer real
4 property held in the name of a partnership is recorded in the
5 office of the recorder of deeds for the county in which real
6 property is located, all persons are deemed to know of the
7 limitation.

8 (h) Effect of certificate of dissolution.--Subject to
9 subsection (i), an effective certificate of dissolution is a
10 cancellation of any filed certificate of authority for the
11 purposes of subsection (f) and is a limitation on authority for
12 purposes of subsection (g).

13 (i) Post-dissolution certificate of authority.--After a
14 certificate of dissolution becomes effective, a partnership may
15 deliver to the department for filing and, if appropriate, may
16 record a certificate of authority that is designated as a post-
17 dissolution certificate of authority. The certificate operates
18 as provided in subsections (f) and (g).

19 (j) Cancellation by operation of law.--Unless canceled
20 earlier, an effective certificate of authority is canceled by
21 operation of law five years after the date on which the
22 certificate, or its most recent amendment, becomes effective.
23 The cancellation is effective without recording under subsection
24 (f) or (g).

25 (k) Effect of certificate of denial.--An effective
26 certificate of denial under section 8434 (relating to
27 certificate of denial):

28 (1) operates as a restrictive amendment under this
29 section and a certified copy may be recorded as provided in
30 subsection (f)(1) by the partnership or the person that

1 delivered the certificate of denial to the department for
2 filing; and

3 (2) affects only the authority of a person to bind a
4 partnership with respect to persons that are not partners.

5 (1) Foreign partnerships.--A foreign partnership, regardless
6 of whether it is registered to do business in this Commonwealth,
7 may deliver a certificate of authority to the department for
8 filing and may record a copy as provided in this section in the
9 same manner and with the same effect as if it were a domestic
10 partnership.

11 (m) Cross references.--See:

12 Section 134 (relating to docketing statement).

13 Section 135 (relating to requirements to be met by filed
14 documents).

15 Section 136(c) (relating to processing of documents by
16 Department of State).

17 Section 8418 (relating to signing of filed documents).

18 Section 8482 (relating to winding up and filing of
19 certificates).

20 § 8434. Certificate of denial.

21 (a) General rule.--A person named in a filed certificate of
22 authority granting that person authority may deliver to the
23 department for filing a certificate of denial that:

24 (1) provides the name of the partnership and:

25 (i) if the partnership is not a registered foreign
26 limited liability partnership, the street and mailing
27 addresses of its principal office; or

28 (ii) if the partnership is a registered foreign
29 limited liability partnership, subject to section 109
30 (relating to name of commercial registered office

1 provider in lieu of registered address), the address,
2 including street and number, if any, of its registered
3 office;

4 (2) states the caption of the certificate of authority
5 to which the certificate of denial pertains; and

6 (3) denies the grant of authority.

7 (b) Cross references.--See:

8 Section 134 (relating to docketing statement).

9 Section 135 (relating to requirements to be met by filed
10 documents).

11 Section 136(c) (relating to processing of documents by
12 Department of State).

13 Section 8418 (relating to signing of filed documents).

14 § 8435. Partnership liable for partner's actionable conduct.

15 (a) General rule.--A partnership is liable for loss or
16 injury caused to a person, or for a penalty incurred, as a
17 result of a wrongful act or other actionable conduct, of a
18 partner acting in the ordinary course of business of the
19 partnership or with the actual or apparent authority of the
20 partnership.

21 (b) Misapplication of property.--If, in the course of the
22 partnership's business or while acting with actual or apparent
23 authority of the partnership, a partner receives or causes the
24 partnership to receive money or property of a person not a
25 partner and the money or property is misapplied by a partner,
26 the partnership is liable for the loss.

27 § 8436. Partner's liability.

28 (a) General rule.--Except as provided in subsection (b) or
29 section 8204 (relating to limitation on liability of partners),
30 all partners are jointly and severally liable for all debts,

1 obligations and other liabilities of the partnership unless
2 otherwise agreed by the claimant or provided by law.

3 (b) Preexisting liabilities.--A person that becomes a
4 partner is not personally liable for a debt, obligation or other
5 liability of the partnership incurred before the person became a
6 partner.

7 § 8437. Actions by and against partnership and partners.

8 (a) Partnership as party.--A partnership may sue and be sued
9 in the name of the partnership.

10 (b) Partner as party.--To the extent not inconsistent with
11 section 8436 (relating to partner's liability), a partner may be
12 joined in an action against the partnership or named in a
13 separate action.

14 (c) Judgment against partnership only.--A judgment against a
15 partnership:

16 (1) is not by itself a judgment against a partner; and

17 (2) except as provided in subsection (d), may not be
18 satisfied from a partner's assets.

19 (d) Judgment against partnership and partner.--If there is a
20 judgment against a partnership and a partner on the same claim,
21 the judgment creditor may levy execution against the assets of
22 the partner if both of the following apply:

23 (1) The partner is personally liable for the claim under
24 section 8436.

25 (2) One of the following subparagraphs applies:

26 (i) A writ of execution on the judgment against the
27 partnership has been returned unsatisfied in whole or in
28 part.

29 (ii) The partnership is a debtor in bankruptcy.

30 (iii) The partner has agreed that the creditor need

1 not exhaust partnership assets.

2 (iv) A court grants permission to levy execution
3 based on a finding that:

4 (A) partnership assets subject to execution are
5 clearly insufficient to satisfy the judgment;

6 (B) exhaustion of partnership assets is
7 excessively burdensome; or

8 (C) the grant of permission is an appropriate
9 exercise of the court's equitable powers.

10 (v) Liability is imposed on the partner by law or
11 contract independent of the existence of the partnership.

12 (e) Liability for representations.--This section also
13 applies to any debt, liability or other obligation of a
14 partnership which results from a representation by a partner or
15 purported partner under section 8438 (relating to liability of
16 purported partner).

17 (f) Cross reference.--See section 8415(c)(8) (relating to
18 contents of partnership agreement).

19 § 8438. Liability of purported partner.

20 (a) General rule.--If a person, by words or conduct,
21 purports to be a partner, or consents to being represented by
22 another as a partner, in a partnership or with one or more
23 persons not partners, the purported partner is liable to a
24 person to whom the representation is made, if that person,
25 relying on the representation, enters into a transaction with
26 the actual or purported partnership. If the representation,
27 either by the purported partner or by a person with the
28 purported partner's consent, is made in a public manner, the
29 purported partner is liable to a person who relies upon the
30 purported partnership even if the purported partner is not aware

1 of being held out as a partner to the claimant. If partnership
2 liability results, the purported partner is liable with respect
3 to that liability as if the purported partner were a partner. If
4 no partnership liability results, the purported partner is
5 jointly and severally liable, with any other person consenting
6 to the representation, with respect to that liability.

7 (b) Authority of purported partner.--If a person is
8 represented in the manner described in subsection (a) to be a
9 partner in an existing partnership, or with one or more persons
10 not partners, the purported partner is an agent of persons
11 consenting to the representation to bind them to the same extent
12 and in the same manner as if the purported partner were a
13 partner with respect to persons who enter into transactions in
14 reliance upon the representation. If all the partners of the
15 existing partnership consent to the representation, a
16 partnership act or obligation results. If fewer than all the
17 partners of the existing partnership consent to the
18 representation, the person acting and the partners consenting to
19 the representation are jointly and severally liable.

20 (c) Effect of certificate of partnership authority.--A
21 person is not liable as a partner merely because the person is
22 named by another as a partner in a certificate of partnership
23 authority.

24 (d) No effect of failure to disclaim authority.--A person
25 does not continue to be liable as a partner merely because of a
26 failure to file a certificate of dissociation or to amend a
27 certificate of partnership authority to indicate the person's
28 dissociation as a partner.

29 (e) Nonliability of persons not partners.--Except as
30 provided in subsections (a) and (b), persons who are not

1 partners as to each other are not liable as partners to other
2 persons.

3 SUBCHAPTER D

4 RELATIONS OF PARTNERS TO EACH OTHER

5 AND TO PARTNERSHIP

6 Sec.

7 8441. Partner's rights and duties.

8 8442. Becoming a partner.

9 8443. Form of contribution.

10 8444. Liability for contribution.

11 8445. Sharing of and right to distribution before dissolution.

12 8446. Rights to information.

13 8447. Standards of conduct for partners.

14 8448. Actions by partnership and partners.

15 8449. Continuation of partnership beyond definite term or
16 particular undertaking.

17 § 8441. Partner's rights and duties.

18 (a) Distributions and losses.--Each partner is entitled to
19 share in distributions as provided in section 8445 (relating to
20 sharing of and right to distribution before dissolution).

21 (b) Reimbursement.--A partnership shall reimburse a partner
22 for:

23 (1) Any payment made by the partner in the course of
24 the partner's activities on behalf of the partnership, if the
25 partner complied with this section and section 8447 (relating
26 to standards of conduct for partners) in making the payment.

27 (2) An advance to the partnership beyond the amount of
28 capital the partner agreed to contribute.

29 (c) Indemnification.--A partnership shall indemnify and hold
30 harmless a person with respect to any claim or demand against

1 the person and any debt, obligation or other liability incurred
2 by the person by reason of the person's former or present
3 capacity as partner, if the claim, demand, debt, obligation or
4 other liability does not arise from the person's breach of this
5 section or section 8232 (relating to liability for improper
6 distributions by limited liability partnership) or 8447.

7 (d) Advances.--In the ordinary course of its business, a
8 partnership may advance expenses, including attorney fees and
9 costs, incurred by a person in connection with a claim or demand
10 against the person by reason of the person's former or present
11 capacity as a partner, if the person promises to repay the
12 partnership if the person ultimately is determined not to be
13 entitled to be indemnified under subsection (c).

14 (e) Insurance.--A partnership may purchase and maintain
15 insurance on behalf of a partner against liability asserted
16 against or incurred by the partner in that capacity or arising
17 from that status even if, under subsection (m), the partnership
18 agreement could not eliminate or limit the person's liability to
19 the partnership for the conduct giving rise to the liability.

20 (f) Loan to partnership.--A payment or advance made by a
21 partner which gives rise to a partnership obligation under
22 subsection (b) constitutes a loan to the partnership which
23 accrues interest from the date of the payment or advance.

24 (g) Management rights.--Each partner has equal rights in the
25 management and conduct of the partnership's business.

26 (h) Rights to property.--A partner may use or possess
27 partnership property only on behalf of the partnership.

28 (i) Compensation for services.--A partner is not entitled to
29 remuneration for services performed for the partnership, except
30 for reasonable compensation for services rendered in winding up

1 the business of the partnership.

2 (j) Required approvals by partners.--A difference arising as
3 to a matter in the ordinary course of business of a partnership
4 may be decided by a majority of the partners. An act outside the
5 ordinary course of business of a partnership and an amendment to
6 the partnership agreement may be undertaken only with the
7 affirmative vote or consent of all the partners.

8 (k) Nonexclusivity.--The rights provided by subsections (b),
9 (c), (d) and (e) shall not be deemed exclusive of any other
10 rights to which a person seeking reimbursement, indemnification,
11 advancement of expenses or insurance may be entitled under the
12 partnership agreement, vote of partners, contract or otherwise,
13 both as to action in his official capacity and as to action in
14 another capacity while holding that position. Section 8447(f)
15 shall be applicable to a vote, contract or other action under
16 this subsection. A partnership may create a fund of any nature,
17 which may, but need not be, under the control of a trustee, or
18 otherwise secure or insure in any manner its indemnification
19 obligations, whether arising under this section or otherwise.

20 (l) Grounds.--Indemnification under subsection (k) may be
21 granted for any action taken and may be made whether or not the
22 partnership would have the power to indemnify the person under
23 any other provision of law except as provided in this section
24 and whether or not the indemnified liability arises or arose
25 from any threatened, pending or completed action by or in the
26 right of the partnership. Indemnification under subsection (k)
27 is declared to be consistent with the public policy of this
28 Commonwealth.

29 (m) Limitation.--Indemnification under this section shall
30 not be made in any case where the act giving rise to the claim

1 for indemnification is determined by a court to constitute
2 recklessness, willful misconduct or a knowing violation of law.
3 § 8442. Becoming a partner.

4 (a) Upon formation.--Upon formation of a partnership, a
5 person becomes a partner under section 8422(a) (relating to
6 formation of partnership).

7 (b) After formation.--After formation of a partnership, a
8 person becomes a partner:

9 (1) as provided in the partnership agreement;

10 (2) as a result of a transaction effective under Chapter
11 3 (relating to entity transactions); or

12 (3) with the affirmative vote or consent of all the
13 partners.

14 (c) Noneconomic partners.--A person may become a partner
15 without:

16 (1) acquiring a transferable interest; or

17 (2) making or being obligated to make a contribution to
18 the partnership.

19 (d) Nature of interest.--The interest of a partner in a
20 partnership is personal property.

21 § 8443. Form of contribution.

22 A contribution may consist of:

23 (1) property transferred to, services performed for or
24 another benefit provided to the partnership;

25 (2) an agreement to transfer property to, perform
26 services for or provide another benefit to the partnership;
27 or

28 (3) any combination of items listed in paragraphs (1)
29 and (2).

30 § 8444. Liability for contribution.

1 (a) Obligation not excused.--A person's obligation to make a
2 contribution to a partnership is not excused by the person's
3 death, disability, termination or other inability to perform
4 personally.

5 (b) Substitute payment.--If a person does not fulfill an
6 obligation to make a contribution other than money, the person
7 is obligated, at the option of the partnership, to contribute
8 money equal to the value, as stated in the records of the
9 partnership, of the part of the contribution which has not been
10 made.

11 (c) Compromise of obligation.--The obligation of a person to
12 make a contribution may be compromised only by the affirmative
13 vote or consent of all the partners. If a creditor of a limited
14 liability partnership extends credit or otherwise acts in
15 reliance on an obligation described under subsection (a) without
16 knowledge or notice of a compromise under this subsection, the
17 creditor may enforce the obligation.

18 § 8445. Sharing of and right to distribution before
19 dissolution.

20 (a) Distributions before dissolution.--Any distribution made
21 by a partnership before its dissolution and winding up shall be
22 in equal shares among partners and persons dissociated as
23 partners whose interests in the partnership have not been
24 purchased under section 8471 (relating to purchase of interest
25 of person dissociated as partner), except as provided in section
26 8453(b) (relating to transfer of transferable interest) or to
27 the extent necessary to comply with a charging order in effect
28 under section 8454 (relating to charging order).

29 (b) No right to distribution.--Subject to section 8471, a
30 person has a right to a distribution before the dissolution and

1 winding up of a partnership only if the partnership decides to
2 make an interim distribution.

3 (c) Form of distribution.--A person does not have a right to
4 demand or receive a distribution from a partnership in any form
5 other than money. Except as provided in section 8486 (relating
6 to disposition of assets in winding up and required
7 contributions), a partnership may distribute an asset in kind
8 only if each part of the asset is fungible with each other part
9 and each person receives a percentage of the asset equal in
10 value to the person's share of distributions.

11 (d) Status as creditor.--If a partner or transferee becomes
12 entitled to receive a distribution, the partner or transferee
13 has the status of, and is entitled to all remedies available to,
14 a creditor of the partnership with respect to the distribution.
15 The partnership's obligation to make a distribution is subject
16 to offset for any amount owed to the partnership by the partner
17 or a person dissociated as partner on whose account the
18 distribution is made.

19 § 8446. Rights to information.

20 (a) Location of records.--A partnership shall keep its books
21 and records, if any, at its principal office.

22 (b) Right to inspection.--On reasonable notice, a partner
23 may inspect and copy during regular business hours, at a
24 reasonable location specified by the partnership, any record
25 maintained by the partnership regarding the partnership's
26 business, financial condition and other circumstances.

27 (c) Material information.--The partnership shall furnish to
28 each partner, without demand, any information concerning the
29 partnership's business, financial condition and other
30 circumstances which the partnership knows and is material to the

1 proper exercise of the partner's rights and duties under the
2 partnership agreement or this title, except to the extent the
3 partnership can establish that it reasonably believes the member
4 already knows the information.

5 (d) Duty of partners.--The duty to furnish information under
6 subsection (c) also applies to each partner to the extent the
7 partner knows any of the information described in subsection
8 (c).

9 (e) Rights after dissociation.--Subject to subsection (j),
10 within 10 days after receipt by a partnership of a demand made
11 in record form, a person dissociated as a partner may have
12 access to information to which the person was entitled while a
13 partner if:

14 (1) the information pertains to the period during which
15 the person was a partner;

16 (2) the person seeks the information in good faith; and

17 (3) the information is material to the person's rights
18 and duties under the partnership agreement or this title.

19 (f) Partnership response to demand.--Within 10 days after
20 receiving a demand under subsection (e), the partnership shall,
21 in record form, inform the person that made the demand of:

22 (1) the information that the partnership will provide in
23 response to the demand and when and where the partnership
24 will provide the information; and

25 (2) the partnership's reasons for declining, if the
26 partnership declines to provide any demanded information.

27 (g) Costs of copying.--A partnership may charge a person
28 that makes a demand under this section the reasonable costs of
29 copying.

30 (h) Exercise of rights.--A partner or person dissociated as

1 a partner may exercise the rights under this section through an
2 agent or, in the case of an incapacitated person, a guardian.
3 Any restriction or condition imposed by the partnership
4 agreement or under subsection (j) applies both to the agent or
5 guardian and to the partner or person dissociated as a partner.

6 (i) No rights of transferee.--Subject to section 8455
7 (relating to power of personal representative of deceased
8 partner), the rights under this section do not extend to a
9 person as transferee.

10 (j) Reasonable restrictions permitted.--In addition to any
11 restriction or condition stated in its partnership agreement, a
12 partnership, as a matter within the ordinary course of its
13 business, may impose reasonable restrictions and conditions on
14 access to and use of information to be furnished under this
15 section, including designating information confidential and
16 imposing nondisclosure and safeguarding obligations on the
17 recipient. In a dispute concerning the reasonableness of a
18 restriction under this subsection, the partnership has the
19 burden of proving reasonableness.

20 (k) Cross reference.--See section 8415 (relating to contents
21 of partnership agreement).

22 § 8447. Standards of conduct for partners.

23 (a) General rule.--A partner owes to the partnership and the
24 other partners the duties of loyalty and care stated in
25 subsections (b) and (c).

26 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
27 partner includes the duties:

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

1 (i) in the conduct or winding up of the
2 partnership's business;

3 (ii) from a use by the partner of the partnership's
4 property; or

5 (iii) from the appropriation of a partnership
6 opportunity;

7 (2) to refrain from dealing with the partnership in the
8 conduct or winding up of the partnership business as or on
9 behalf of a person having an interest adverse to the
10 partnership; and

11 (3) to refrain from competing with the partnership in
12 the conduct of the partnership's business before the
13 dissolution of the partnership.

14 (c) Duty of care.--The duty of care of a partner in the
15 conduct or winding up of the partnership business is to refrain
16 from engaging in gross negligence, recklessness, willful
17 misconduct or a knowing violation of law.

18 (d) Good faith and fair dealing.--A partner shall discharge
19 the duties and obligations under this title or under the
20 partnership agreement and exercise any rights consistent with
21 the contractual obligation of good faith and fair dealing.

22 (e) Self-serving conduct.--A partner does not violate a duty
23 or obligation under this title or under the partnership
24 agreement solely because the partner's conduct furthers the
25 partner's own interest.

26 (f) Authorization or ratification.--All the partners may
27 authorize or ratify, after disclosure of all material facts, a
28 specific act or transaction that otherwise would violate the
29 duty of loyalty of a partner.

30 (g) Fairness as a defense.--It is a defense to a claim under

1 subsection (b) (2) and any comparable claim in equity or at
2 common law that the transaction was fair to the partnership at
3 the time it was authorized or ratified under subsection (f).

4 (h) Rights and obligations in approved transaction.--If a
5 partner enters into a transaction with the partnership which
6 otherwise would be prohibited under subsection (b) (2), but the
7 transaction is authorized or ratified as provided under
8 subsection (f) or the partnership agreement, the partner's
9 rights and obligations arising from the transaction are the same
10 as those of a person that is not a partner.

11 (i) Exoneration.--The partnership agreement may provide that
12 a partner shall not be personally liable for monetary damages to
13 the partnership or the other partners for a breach of subsection
14 (c), except that a partner may not be exonerated for an act that
15 constitutes recklessness, willful misconduct or a knowing
16 violation of law.

17 (j) Cross reference.--See section 8415 (relating to contents
18 of partnership agreement).

19 § 8448. Actions by partnership and partners.

20 (a) Action by partnership.--A partnership may maintain an
21 action against a partner for either of the following that causes
22 or threatens harm to the partnership:

23 (1) a breach of the partnership agreement; or

24 (2) the violation of a duty to the partnership.

25 (b) Action by partner.--A partner may maintain an action
26 against the partnership or another partner, with or without an
27 accounting as to partnership business, to enforce the partner's
28 rights and protect the partner's interests, including rights and
29 interests under the partnership agreement or this title or
30 arising independently of the partnership relationship.

1 (c) Claims not revived.--A right to an accounting on
2 dissolution and winding up does not revive a claim barred by
3 law.

4 (d) Cross reference.--See section 8415(c)(12) (relating to
5 contents of partnership agreement).
6 § 8449. Continuation of partnership beyond definite term or
7 particular undertaking.

8 (a) Effect of continuation.--If a partnership for a definite
9 term or particular undertaking is continued, without an express
10 agreement, after the expiration of the term or completion of the
11 undertaking, the rights and duties of the partners remain the
12 same as they were at the expiration or completion, so far as is
13 consistent with a partnership at will.

14 (b) Presumed agreement to continue partnership.--If the
15 partners, or those partners who habitually acted in the business
16 during the term or undertaking, continue the business without
17 any settlement or liquidation of the partnership, they are
18 presumed to have agreed that the partnership will continue.

19 SUBCHAPTER E

20 TRANSFERABLE INTERESTS AND RIGHTS

21 OF TRANSFEREES AND CREDITORS

22 Sec.

23 8451. Partner not co-owner of partnership property.

24 8452. Nature of transferable interest.

25 8453. Transfer of transferable interest.

26 8454. Charging order.

27 8455. Power of personal representative of deceased partner.

28 § 8451. Partner not co-owner of partnership property.

29 A partner is not a co-owner of partnership property and has
30 no interest in partnership property which can be transferred,

1 either voluntarily or involuntarily.

2 § 8452. Nature of transferable interest.

3 (a) Personal property.--A transferable interest is personal
4 property.

5 (b) Only right that may be transferred.--A person may not
6 transfer to a person not a partner any rights in a partnership
7 other than a transferable interest.

8 § 8453. Transfer of transferable interest.

9 (a) General rule.--A transfer, in whole or in part, of a
10 transferable interest:

11 (1) is permissible;

12 (2) does not by itself cause the dissociation of the
13 transferor as a partner or a dissolution and winding up of
14 the partnership's business; and

15 (3) subject to section 8455 (relating to power of
16 personal representative of deceased partner), does not
17 entitle the transferee to:

18 (i) participate in the management or conduct of the
19 partnership's business; or

20 (ii) except as provided in subsection (c), have
21 access to records or other information concerning the
22 partnership's business.

23 (b) Rights of transferee.--A transferee has the right to:

24 (1) receive, in accordance with the terms of the
25 transfer:

26 (i) distributions to which the transferor would
27 otherwise be entitled; and

28 (ii) allocations of income, gain, loss, deduction or
29 credit or similar item which would otherwise be made to
30 the transferor; and

1 (2) seek under section 8481(a)(5) (relating to events
2 causing dissolution) a judicial determination that it is
3 equitable to wind up the partnership business.

4 (c) Right to account on dissolution.--In a dissolution and
5 winding up of a partnership, a transferee is entitled to an
6 account of the partnership's transactions only from the date of
7 dissolution.

8 (d) Recognition of transferee's rights.--A partnership need
9 not give effect to a transferee's rights under this section
10 until the partnership knows or has notice of the transfer.

11 (e) Transfer restrictions.--A transfer of a transferable
12 interest in violation of a restriction on transfer contained in
13 the partnership agreement is ineffective if the intended
14 transferee has knowledge or notice of the restriction at the
15 time of transfer.

16 (f) Rights retained by transferor.--Except as provided in
17 section 8461(4)(ii) (relating to events causing dissociation),
18 if a partner transfers a transferable interest, the transferor
19 retains the rights of a partner other than the transferable
20 interest transferred and retains all the duties and obligations
21 of a partner.

22 § 8454. Charging order.

23 (a) General rule.--On application by a judgment creditor of
24 a partner or transferee, a court may enter a charging order
25 against the transferable interest of the judgment debtor for the
26 unsatisfied amount of the judgment. A charging order constitutes
27 a lien on a judgment debtor's transferable interest and requires
28 the partnership to pay over to the person to which the charging
29 order was issued any distribution that otherwise would be paid
30 to the judgment debtor.

1 (b) Available relief.--To the extent necessary to effectuate
2 the collection of distributions pursuant to a charging order in
3 effect under subsection (a), the court may:

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

7 (2) make all other orders necessary to give effect to
8 the charging order.

9 (c) Foreclosure.--Upon a showing that distributions under a
10 charging order will not pay the judgment debt within a
11 reasonable time, the court may foreclose the lien and order the
12 sale of the transferable interest. The purchaser at the
13 foreclosure sale obtains only the transferable interest, does
14 not thereby become a partner and is subject to section 8453
15 (relating to transfer of transferable interest).

16 (d) Satisfaction of judgment.--At any time before
17 foreclosure under subsection (c), the partner or transferee
18 whose transferable interest is subject to a charging order under
19 subsection (a) may extinguish the charging order by satisfying
20 the judgment and filing a certified copy of the satisfaction
21 with the court that issued the charging order.

22 (e) Purchase of rights.--At any time before foreclosure
23 under subsection (c), a partnership or one or more partners
24 whose transferable interests are not subject to the charging
25 order may pay to the judgment creditor the full amount due under
26 the judgment and thereby succeed to the rights of the judgment
27 creditor, including the charging order.

28 (f) Exemption laws preserved.--This chapter shall not
29 deprive any partner or transferee of the benefit of any
30 exemption law applicable to the transferable interest of the

1 partner or transferee.

2 (g) Exclusive remedy.--This section provides the exclusive
3 remedy by which a person seeking, in the capacity of a judgment
4 creditor, to enforce a judgment against a partner or transferee
5 may satisfy the judgment from the judgment debtor's transferable
6 interest.

7 § 8455. Power of personal representative of deceased partner.

8 If a partner dies, the deceased partner's personal
9 representative may exercise:

10 (1) the rights of a transferee provided in section
11 8453(c) (relating to transfer of transferable interest); and

12 (2) for purposes of settling the estate, the rights the
13 deceased partner had under section 8446 (relating to rights
14 to information).

15 SUBCHAPTER F

16 DISSOCIATION

17 Sec.

18 8461. Events causing dissociation.

19 8462. Power to dissociate as partner and wrongful dissociation.

20 8463. Effects of dissociation.

21 § 8461. Events causing dissociation.

22 A person is dissociated as a partner when any of the
23 following occurs:

24 (1) The partnership knows or has notice of the person's
25 express will to withdraw as a partner, except that, if the
26 person has specified a withdrawal date later than the date
27 the partnership knew or had notice, on that later date.

28 (2) An event stated in the partnership agreement as
29 causing the person's dissociation occurs.

30 (3) The person is expelled as a partner pursuant to the

1 partnership agreement.

2 (4) The person is expelled as a partner by the
3 affirmative vote or consent of all the other partners if:

4 (i) it is unlawful to carry on the partnership
5 business with the person as a partner;

6 (ii) there has been a transfer of all of the
7 person's transferable interest in the partnership, other
8 than:

9 (A) a transfer for security purposes; or

10 (B) a charging order in effect under section
11 8454 (relating to charging order) which has not been
12 foreclosed;

13 (iii) the person is an association and:

14 (A) the partnership notifies the person that the
15 person will be expelled as a partner because:

16 (I) the person has filed a certificate of
17 dissolution or the equivalent;

18 (II) the person has been administratively
19 dissolved;

20 (III) the person's charter or the equivalent
21 has been revoked; or

22 (IV) the person's right to conduct business
23 has been suspended by the person's jurisdiction
24 of formation; and

25 (B) within 90 days after the notification:

26 (I) the certificate of dissolution or the
27 equivalent has not been withdrawn, rescinded or
28 revoked;

29 (II) the person has not been reinstated;

30 (III) the person's charter or the equivalent

1 has not been reinstated; or
2 (IV) the person's right to conduct business
3 has not been reinstated; or

4 (iv) the person is an unincorporated association
5 that has been dissolved and whose activities and affairs
6 are being wound up.

7 (5) On application by the partnership or another
8 partner, the person is expelled as a partner by judicial
9 order because the person:

10 (i) has engaged or is engaging in wrongful conduct
11 that has affected adversely and materially, or will
12 affect adversely and materially, the partnership's
13 business;

14 (ii) has committed willfully or persistently, or is
15 committing willfully or persistently, a material breach
16 of the partnership agreement or a duty or obligation
17 under section 8447 (relating to standards of conduct for
18 partners); or

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

23 (6) The person:

24 (i) becomes a debtor in bankruptcy;

25 (ii) makes an assignment for the benefit of
26 creditors; or

27 (iii) seeks, consents to or acquiesces in the
28 appointment of a trustee, receiver or liquidator of the
29 person or of all or substantially all the person's
30 property.

1 (7) In the case of an individual:

2 (i) the individual dies;

3 (ii) a guardian for the individual is appointed; or

4 (iii) a court orders that the individual has

5 otherwise become incapable of performing the individual's
6 duties as a partner under this title or the partnership
7 agreement.

8 (8) In the case of a person that is a testamentary or
9 inter vivos trust or is acting as a partner by virtue of
10 being a trustee of such a trust, the trust's entire
11 transferable interest in the partnership is distributed.

12 (9) In the case of a person that is an estate or is
13 acting as a partner by virtue of being a personal
14 representative of an estate, the estate's entire transferable
15 interest in the partnership is distributed.

16 (10) In the case of a person that is not an individual,
17 the existence of the person terminates.

18 (11) The partnership participates in a merger under
19 Chapter 3 (relating to entity transactions) and:

20 (i) the partnership is not the surviving entity; or

21 (ii) otherwise as a result of the merger, the person
22 ceases to be a partner.

23 (12) The partnership participates in an interest
24 exchange under Chapter 3 and, as a result of the interest
25 exchange, the person ceases to be a partner.

26 (13) The partnership participates in a conversion under
27 Chapter 3.

28 (14) The partnership participates in a division under
29 Chapter 3 and:

30 (i) the partnership is not a resulting association;

1 or
2 (ii) as a result of the division, the person ceases
3 to be a partner.

4 (15) The partnership participates in a domestication
5 under Chapter 3 and, as a result of the domestication, the
6 person ceases to be a partner.

7 (16) The partnership dissolves and completes winding up.
8 § 8462. Power to dissociate as partner and wrongful
9 dissociation.

10 (a) Power to dissociate.--A person has the power to
11 dissociate as a partner at any time, rightfully or wrongfully,
12 by withdrawing as a partner by express will under section
13 8461(1) (relating to events causing dissociation).

14 (b) Wrongful dissociation.--A person's dissociation as a
15 partner is wrongful only if the dissociation:

16 (1) is in breach of an express provision of the
17 partnership agreement; or

18 (2) in the case of a partnership for a definite term or
19 particular undertaking, occurs before the expiration of the
20 term or the completion of the undertaking and:

21 (i) the person withdraws as a partner by express
22 will, unless the withdrawal follows within 90 days after
23 another person's dissociation by death or otherwise under
24 section 8461(6), (7), (8), (9) or (10) or wrongful
25 dissociation under this subsection;

26 (ii) the person is expelled as a partner by judicial
27 order under section 8461(5);

28 (iii) the person is dissociated under section
29 8461(6); or

30 (iv) in the case of a person that is not a trust

1 other than a business or statutory trust, an estate or an
2 individual, the person is expelled or otherwise
3 dissociated because it willfully dissolved or terminated.

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

10 (d) Cross reference.--See section 8415(c)(14) (relating to
11 contents of partnership agreement).

12 § 8463. Effects of dissociation.

13 (a) Effects on partnership.--If a person's dissociation
14 results in a dissolution and winding up of the partnership
15 business, Subchapter H (relating to dissolution and winding up)
16 applies; otherwise, Subchapter G (relating to dissociation as
17 partner if business not wound up) applies.

18 (b) Effects on person dissociated as partner.--If a person
19 is dissociated as a partner:

20 (1) The person's right to participate in the management
21 and conduct of the partnership's business terminates, except
22 as provided under section 8482(c) (relating to winding up and
23 filing of certificates).

24 (2) The person's duties and obligations under section
25 8447 (relating to standards of conduct for partners) end with
26 regard to matters arising and events occurring after the
27 person's dissociation, except to the extent the partner
28 participates in winding up the partnership's business under
29 section 8482.

30 (3) Any transferable interest owned by the person in the

1 person's capacity as a general partner immediately before
2 dissociation that is not subsequently purchased from the
3 person or canceled or exchanged in a transaction under
4 Chapter 3 (relating to entity transactions) is owned by the
5 person solely as a transferee.

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

10 SUBCHAPTER G

11 DISSOCIATION AS PARTNER

12 IF BUSINESS NOT WOUND UP

13 Sec.

14 8471. Purchase of interest of person dissociated as partner.

15 8472. Power to bind and liability of person dissociated as
16 partner.

17 8473. Liability of person dissociated as partner to other
18 persons.

19 8474. Certificate of dissociation.

20 8475. Continued use of partnership name.

21 § 8471. Purchase of interest of person dissociated as partner.

22 (a) Right to buyout.--If a person is dissociated as a
23 partner without the dissociation resulting in a dissolution and
24 winding up of the partnership business under section 8481
25 (relating to events causing dissolution), the partnership shall
26 cause the person's interest in the partnership to be purchased
27 for a buyout price determined under subsection (b).

28 (b) Buyout price.--The buyout price of the interest of a
29 person dissociated as a partner is the amount that would have
30 been distributable to the person under section 8486(b) (relating

1 to disposition of assets in winding up and required
2 contributions) if, on the date of dissociation, the assets of
3 the partnership were sold and the partnership were wound up,
4 with the sale price equal to the greater of:

5 (1) the liquidation value; or

6 (2) the value based on a sale of the entire business as
7 a going concern without the person.

8 (c) Interest and offsets.--Interest accrues on the buyout
9 price from the date of dissociation to the date of payment,
10 except that damages for wrongful dissociation under section
11 8462(b) (relating to power to dissociate as partner and wrongful
12 dissociation) and all other amounts owing, whether or not
13 presently due, from the person dissociated as a partner to the
14 partnership must be offset against the buyout price.

15 (d) Indemnification.--A partnership shall defend, indemnify
16 and hold harmless a person dissociated as a partner whose
17 interest is being purchased against all partnership liabilities,
18 whether incurred before or after the dissociation, except
19 liabilities incurred by an act of the person under section 8472
20 (relating to power to bind and liability of person dissociated
21 as partner).

22 (e) Payment of partnership's estimate.--If an agreement for
23 the purchase of the interest of a person dissociated as a
24 partner is not reached within 120 days after a demand in record
25 form for payment, the partnership shall pay, or cause to be
26 paid, in money to the person the amount the partnership
27 estimates to be the buyout price and accrued interest, reduced
28 by any offsets and accrued interest under subsection (c).

29 (f) Buyout of deferred payment.--If a deferred payment is
30 authorized under subsection (h), the partnership may tender an

1 offer in record form to pay the amount it estimates to be the
2 buyout price and accrued interest, reduced by any offsets under
3 subsection (c), stating the time of payment, the amount and type
4 of security for payment and the other terms and conditions of
5 the obligation.

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

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

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

13 (3) an explanation of how the estimated amount of the
14 payment was calculated; and

15 (4) notice in record form that the payment is in full
16 satisfaction of the obligation to purchase unless, within 120
17 days after the notice, the person dissociated as a partner
18 commences an action to determine the buyout price, any
19 offsets under subsection (c) or other terms of the obligation
20 to purchase.

21 (h) Deferred payment on wrongful dissociation.--A person
22 that wrongfully dissociates as a partner before the expiration
23 of a definite term or the completion of a particular undertaking
24 is not entitled to payment of any part of the buyout price until
25 the expiration of the term or completion of the undertaking,
26 unless the person establishes to the satisfaction of the court
27 that earlier payment will not cause undue hardship to the
28 business of the partnership. A deferred payment must be
29 adequately secured and bear interest.

30 (i) Right to bring action.--A person dissociated as a

1 partner may maintain an action against the partnership, under
2 section 8448(b) (relating to actions by partnership and
3 partners), to determine the buyout price of that person's
4 interest, any offsets under subsection (c) or other terms of the
5 obligation to purchase. The action must be commenced within 120
6 days after the partnership has tendered payment or an offer to
7 pay or within one year after demand in record form for payment
8 if no payment or offer to pay is tendered. The court shall
9 determine the buyout price of the person's interest, any offset
10 due under subsection (c), and accrued interest, and enter
11 judgment for any additional payment or refund. If deferred
12 payment is authorized under subsection (h), the court shall also
13 determine the security for payment and other terms of the
14 obligation to purchase. The court may assess reasonable attorney
15 fees and the fees and expenses of appraisers or other experts
16 for a party to the action, in amounts the court finds equitable,
17 against a party that the court finds acted arbitrarily,
18 vexatiously or not in good faith. The finding may be based on
19 the partnership's failure to tender payment or an offer to pay
20 or to comply with subsection (g).

21 § 8472. Power to bind and liability of person dissociated as
22 partner.

23 (a) When partnership bound.--After a person is dissociated
24 as a partner without the dissociation resulting in a dissolution
25 and winding up of the partnership business and before the
26 partnership is merged or divided out of existence, converted or
27 domesticated under Chapter 3 (relating to entity transaction),
28 or dissolved, the partnership is bound by an act of the person
29 only if:

30 (1) the act would have bound the partnership under

1 section 8431 (relating to partner agent of partnership)
2 before dissociation; and

3 (2) at the time the other party enters into the
4 transaction:

5 (i) less than two years have passed since the
6 dissociation; and

7 (ii) the other party does not know or have notice of
8 the dissociation and reasonably believes that the person
9 is a partner.

10 (b) Liability of person dissociated as partner.--If a
11 partnership is bound under subsection (a), the person
12 dissociated as a partner which caused the partnership to be
13 bound is liable:

14 (1) to the partnership for any damage caused to the
15 partnership arising from the obligation incurred under
16 subsection (a); and

17 (2) if a partner or another person dissociated as a
18 partner is liable for the obligation, to the partner or other
19 person for any damage caused to the partner or other person
20 arising from the liability.

21 § 8473. Liability of person dissociated as partner to other
22 persons.

23 (a) General rule.--Except as provided in subsection (b), a
24 person dissociated as a partner is not liable for a partnership
25 obligation incurred after dissociation.

26 (b) Exception.--A person that is dissociated as a partner is
27 liable on a transaction entered into by the partnership after
28 the dissociation only if:

29 (1) a partner would be liable on the transaction; and

30 (2) at the time the other party enters into the

1 transaction:

2 (i) less than two years have passed since the
3 dissociation; and

4 (ii) the other party does not have knowledge or
5 notice of the dissociation and reasonably believes that
6 the person is a partner.

7 (c) Constructive release by creditor.--A person dissociated
8 as a partner is released from liability for a debt, obligation
9 or other liability of the partnership if the partnership's
10 creditor, with knowledge or notice of the person's dissociation
11 but without the person's consent, agrees to a material
12 alteration in the nature or time of payment of the debt,
13 obligation or other liability. The release from liability under
14 this subsection applies whether the liability arises directly or
15 indirectly, by way of contribution or otherwise, but only if the
16 liability arises solely by reason of having been a partner.
17 § 8474. Certificate of dissociation.

18 (a) Right to file certificate.--A person dissociated as a
19 partner or the partnership may deliver to the department for
20 filing a certificate of dissociation stating:

21 (1) the name of the partnership;

22 (2) if the partnership is a limited liability
23 partnership, subject to section 109 (relating to name of
24 commercial registered office provider in lieu of registered
25 address), the address, including street and number, if any,
26 of its registered office; and

27 (3) the name of the person and that the person has
28 dissociated from the partnership.

29 (b) Effect of certificate.--A certificate of dissociation is
30 a limitation on the authority of a person dissociated as a

1 partner for the purposes of section 8433 (relating to
2 certificate of partnership authority).

3 (c) Cross references.--See:

4 Section 134 (relating to docketing statement).

5 Section 135 (relating to requirements to be met by filed
6 documents).

7 Section 136(c) (relating to processing of documents by
8 Department of State).

9 Section 8413(d)(2) (relating to knowledge and notice).

10 Section 8418 (relating to signing of filed documents).

11 § 8475. Continued use of partnership name.

12 Continued use of a partnership name, or the name of a person
13 dissociated as a partner as part of the partnership name, by
14 partners continuing the business does not of itself make the
15 person dissociated as a partner liable for an obligation of the
16 partners or the partnership continuing the business.

17 SUBCHAPTER H

18 DISSOLUTION AND WINDING UP

19 Sec.

20 8481. Events causing dissolution.

21 8482. Winding up and filing of certificates.

22 8483. (Reserved).

23 8484. Power to bind partnership after dissolution.

24 8485. Liability after dissolution.

25 8486. Disposition of assets in winding up and required
26 contributions.

27 § 8481. Events causing dissolution.

28 (a) General rule.--A partnership is dissolved, and its
29 business shall be wound up, upon the occurrence of any of the
30 following:

1 (1) In a partnership at will, the partnership knows or
2 has notice of a person's express will to withdraw as a
3 partner, other than a partner that has dissociated under
4 section 8461(2), (3), (4), (5), (6), (7), (8), (9) or (10)
5 (relating to events causing dissociation), except that, if
6 the person has specified a withdrawal date later than the
7 date the partnership knew or had notice, on the later date.

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

10 (i) within 90 days after a person's dissociation by
11 death or otherwise under section 8461(6), (7), (8), (9)
12 or (10) or wrongful dissociation under section 8462(b)
13 (relating to power to dissociate as partner and wrongful
14 dissociation), the affirmative vote or consent of at
15 least half of the remaining partners to wind up the
16 partnership business, for which purpose a person's
17 rightful dissociation under section 8462(b)(2)(i)
18 constitutes that partner's consent to wind up the
19 partnership business;

20 (ii) the affirmative vote or consent of all the
21 partners to wind up the partnership business; or

22 (iii) the expiration of the term or the completion
23 of the undertaking.

24 (3) An event or circumstance that the partnership
25 agreement states causes dissolution.

26 (4) On application by a partner, the entry by the court
27 of an order dissolving the partnership on the grounds that:

28 (i) the conduct of all or substantially all the
29 partnership's business is unlawful;

30 (ii) the economic purpose of the partnership is

1 likely to be unreasonably frustrated;

2 (iii) another partner has engaged in conduct
3 relating to the partnership business which makes it not
4 reasonably practicable to carry on the business in
5 partnership with that partner; or

6 (iv) it is otherwise not reasonably practicable to
7 carry on the partnership business in conformity with the
8 partnership agreement.

9 (5) On application by a transferee, the entry by the
10 court of an order dissolving the partnership on the grounds
11 that it is equitable to wind up the partnership business:

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

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

20 (6) The passage of 90 consecutive days during which the
21 partnership does not have at least two partners.

22 (b) Cross reference.--See section 8415(c)(15) (relating to
23 contents of partnership agreement).

24 § 8482. Winding up and filing of certificates.

25 (a) General rule.--A dissolved partnership shall wind up its
26 business and the partnership continues after dissolution only
27 for the purpose of winding up.

28 (b) Conduct of winding up.--In winding up its business, the
29 partnership:

30 (1) shall discharge the partnership's debts, obligations

1 and other liabilities, settle and close the partnership's
2 business, and marshal and distribute the assets of the
3 partnership; and

4 (2) may:

5 (i) deliver to the department for filing a
6 certificate of dissolution stating:

7 (A) the name of the partnership;

8 (B) if the partnership is a limited liability
9 partnership, subject to section 109 (relating to name
10 of commercial registered office provider in lieu of
11 registered address), the address, including street
12 and number, if any, of its registered office; and

13 (C) that the partnership is dissolved;

14 (ii) preserve the partnership business and property
15 as a going concern for a reasonable time;

16 (iii) prosecute and defend actions and proceedings,
17 whether civil, criminal or administrative;

18 (iv) transfer the partnership's property;

19 (v) settle disputes by mediation or arbitration;

20 (vi) deliver to the department for filing the
21 certificates, if any, required by section 139 (relating
22 to tax clearance of certain fundamental transactions) and
23 a certificate of termination stating:

24 (A) the name of the partnership;

25 (B) if the partnership is a limited liability
26 partnership, subject to section 109, the address,
27 including street and number, if any, of its
28 registered office; and

29 (C) that the partnership is terminated; and

30 (vii) perform other acts necessary or appropriate to

1 the winding up.

2 (c) Participation after dissociation.--A person whose
3 dissociation as a partner resulted in dissolution may
4 participate in winding up as if still a partner, unless the
5 dissociation was wrongful.

6 (d) Conduct of winding up when no partner.--If a dissolved
7 partnership does not have a partner and no person has the right
8 to participate in winding up under subsection (c), the personal
9 representative or guardian of the last person to have been a
10 partner may wind up the partnership's business. If the personal
11 representative or guardian does not exercise that right, a
12 person to wind up the partnership's business may be appointed by
13 the affirmative vote or consent of transferees owning a majority
14 of the rights to receive distributions at the time the consent
15 is to be effective. A person appointed under this subsection has
16 the powers of a partner under section 8484 (relating to power to
17 bind partnership after dissolution) but is not liable for the
18 debts, obligations and other liabilities of the partnership
19 solely by reason of having or exercising those powers or
20 otherwise acting to wind up the partnership's business.

21 (e) Judicial supervision.--On the application of any partner
22 or person entitled under subsection (c) to participate in
23 winding up, a court may order judicial supervision of the
24 winding up of a dissolved partnership, including the appointment
25 of a person to wind up the partnership's business, if:

26 (1) the partnership does not have a partner and within a
27 reasonable time following the dissolution no person has been
28 appointed under subsection (d); or

29 (2) the applicant establishes other good cause.

30 (f) Cross references.--See:

1 Section 134 (relating to docketing statement).

2 Section 135 (relating to requirements to be met by filed
3 documents).

4 Section 136(c) (relating to processing of documents by
5 Department of State).

6 Section 8415(c)(16) (relating to contents of partnership
7 agreement).

8 Section 8418 (relating to signing of filed documents).

9 § 8483. (Reserved).

10 § 8484. Power to bind partnership after dissolution.

11 (a) Power of partner.--A partnership is bound by a partner's
12 act after dissolution which:

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

15 (2) would have bound the partnership under section 8431
16 (relating to partner agent of partnership) before dissolution
17 if, at the time the other party enters into the transaction,
18 the other party does not know or have notice of the
19 dissolution.

20 (b) Power of person dissociated as partner.--A person
21 dissociated as a partner binds a partnership through an act
22 occurring after dissolution if:

23 (1) at the time the other party enters into the
24 transaction:

25 (i) less than two years have passed since the
26 dissociation; and

27 (ii) the other party does not know or have notice of
28 the dissociation and reasonably believes that the person
29 is a partner; and

30 (2) the act:

1 (i) is appropriate for winding up the partnership's
2 business; or

3 (ii) would have bound the partnership under section
4 8431 before dissolution and the other party does not know
5 or have notice of the dissolution at the time the other
6 party enters into the transaction.

7 § 8485. Liability after dissolution.

8 (a) Liability of partner.--If a partner having knowledge of
9 the dissolution causes a partnership to incur an obligation
10 under section 8484(a) (2) (relating to power to bind partnership
11 after dissolution) by an act that is not appropriate for winding
12 up the partnership business, the partner is liable:

13 (1) to the partnership for any damage caused to the
14 partnership arising from the obligation; and

15 (2) if another partner or person dissociated as a
16 partner is liable for the obligation, to that other partner
17 or person for any damage caused to that other partner or
18 person arising from the liability.

19 (b) Liability of person dissociated as partner.--Except as
20 provided under subsection (c), if a person dissociated as a
21 partner causes a partnership to incur an obligation under
22 section 8484(b), the person is liable:

23 (1) to the partnership for any damage caused to the
24 partnership arising from the obligation; and

25 (2) if a partner or another person dissociated as a
26 partner is liable for the obligation, to the partner or other
27 person for any damage caused to the partner or other person
28 arising from the obligation.

29 (c) Exception in winding up.--A person dissociated as a
30 partner is not liable under subsection (b) if:

1 (1) section 8482(c) (relating to winding up and filing
2 of certificates) permits the person to participate in winding
3 up; and

4 (2) the act that causes the partnership to be bound
5 under section 8484(b) is appropriate for winding up the
6 partnership's business.

7 § 8486. Disposition of assets in winding up and required
8 contributions.

9 (a) Creditors.--In winding up its business, a partnership
10 shall apply its assets, including the contributions required by
11 this section, to discharge the partnership's obligations to
12 creditors, including partners that are creditors.

13 (b) Surplus.--After a partnership complies with subsection
14 (a), any surplus shall be distributed in the following order,
15 subject to any charging order in effect under section 8454
16 (relating to charging order):

17 (1) to each owner of a transferable interest that
18 reflects contributions made and not previously returned, an
19 amount equal to the value of the unreturned contributions;
20 and

21 (2) among owners of transferable interests in proportion
22 to their respective rights to share in distributions
23 immediately before the dissolution of the partnership.

24 (c) Insufficient assets.--If a partnership's assets are
25 insufficient to satisfy all its obligations under subsection
26 (a), with respect to each unsatisfied obligation incurred when
27 the partnership was not a limited liability partnership, the
28 following rules apply:

29 (1) Each person that was a partner when the obligation
30 was incurred and that has not been released from the

1 obligation under section 8473(c) (relating to liability of
2 person dissociated as partner to other persons) shall
3 contribute to the partnership for the purpose of enabling the
4 partnership to satisfy the obligation. The contribution due
5 from each of those persons is in proportion to the right to
6 receive distributions when the obligation was incurred.

7 (2) If a person does not contribute the full amount
8 required under paragraph (1) with respect to an unsatisfied
9 obligation of the partnership, the other persons required to
10 contribute under paragraph (1) on account of the obligation
11 shall contribute the additional amount necessary to discharge
12 the obligation. The additional contribution due from each of
13 those other persons is in proportion to the right to receive
14 distributions when the obligation was incurred.

15 (3) If a person does not make the additional
16 contribution required under paragraph (2), further additional
17 contributions are determined and due in the same manner as
18 provided in that paragraph.

19 (d) Recovery of additional contributions.--A person that
20 makes an additional contribution under subsection (c)(2) or (3)
21 may recover from any person whose failure to contribute under
22 subsection (c)(1) or (2) necessitated the additional
23 contribution. A person may not recover under this subsection
24 more than the amount additionally contributed. A person's
25 liability under this subsection shall not exceed the amount the
26 person failed to contribute.

27 (e) Distributions when surplus insufficient.--If a
28 partnership does not have sufficient surplus to comply with
29 subsection (b)(1), the following shall apply:

30 (1) If the partnership has been a limited liability

1 partnership at any time during its existence, any surplus
2 must be distributed among the owners of transferable
3 interests in proportion to the value of the respective
4 unreturned contributions.

5 (2) If the partnership has never been a limited
6 liability partnership, the partners and any person whose
7 dissociation resulted in dissolution shall contribute to the
8 partnership funds sufficient to cause the insufficiency under
9 subsection (b) (1) to be allocated consistently with section
10 8441(a) (relating to partner's rights and duties).

11 (f) Form of payment.--All distributions made under
12 subsections (b) and (c) must be paid in money.

13 Section 26. Repeals are as follows:

14 (1) The General Assembly finds and declares as follows:

15 (i) Over the last 25 years, there have been
16 significant changes in the business model for
17 partnerships; and statutory law must be updated to deal
18 with the new business model.

19 (ii) Existing statutory law on limited partnerships
20 was enacted in 1988. Discrete amendments were enacted in
21 1990, 1992, 1994, 1996 and 2001. A more comprehensive
22 legislative approach was taken in sections 48 through 53
23 of the act of October 22, 2014 (P.L.2640, No.172), known
24 as the Associations Transactions Act.

25 (iii) Section 20 of this act adds a new chapter on
26 limited partnerships. The new chapter, continuing the
27 approach under the Associations Transactions Act,
28 extensively revises existing statutory law to the degree
29 that identification of individual changes or reproduction
30 of voluminous text to be eliminated would inhibit rather

1 than enhance serious legal analysis.

2 (iv) The repeal under paragraph (2) is necessary to
3 carry out this paragraph.

4 (2) Chapter 85 of Title 15 is repealed.

5 Section 27. Title 15 is amended by adding a chapter to read:

6 CHAPTER 86

7 LIMITED PARTNERSHIPS

8 Subchapter

9 A. General Provisions

10 B. Formation and Filings

11 C. Limited Partners

12 D. General Partners

13 E. Contributions and Distributions

14 F. Dissociation

15 G. Transferable Interests and Rights of Transferees and
16 Creditors

17 H. Dissolution and Winding Up

18 I. Actions by Partners

19 SUBCHAPTER A

20 GENERAL PROVISIONS

21 Sec.

22 8611. Short title and application of chapter.

23 8612. Definitions.

24 8613. Knowledge and notice.

25 8614. Governing law.

26 8615. Contents of partnership agreement.

27 8616. Application of partnership agreement.

28 8617. Amendment and effect of partnership agreement.

29 8618. Required information.

30 8619. Dual capacity.

1 8620. Characteristics of limited partnership.

2 § 8611. Short title and application of chapter.

3 (a) Short title.--This chapter may be cited as the
4 Pennsylvania Uniform Limited Partnership Act of 2016.

5 (b) Initial application.--Before April 1, 2017, this chapter
6 governs only:

7 (1) a limited partnership formed on or after [the
8 Legislative Reference Bureau shall insert here the effective
9 date of this chapter]; and

10 (2) except as provided under subsections (c) and (d), a
11 limited partnership formed before [the Legislative Reference
12 Bureau shall insert here the effective date of this chapter]
13 which elects, in the manner provided in its partnership
14 agreement or by law for amending the partnership agreement,
15 to be subject to this chapter.

16 (c) Full effective date.--Except as provided in subsections
17 (d) and (e), on and after April 1, 2017, this chapter governs
18 all limited partnerships.

19 (d) Transitional provisions.--With respect to a limited
20 partnership formed before [the Legislative Reference Bureau
21 shall insert here the effective date of this chapter], the
22 following rules apply except as the partners otherwise elect in
23 the manner provided in the partnership agreement or by law for
24 amending the partnership agreement:

25 (1) Section 8620(c) (relating to characteristics of
26 limited partnership) does not apply and the limited
27 partnership has whatever duration it had under the law
28 applicable immediately before [the Legislative Reference
29 Bureau shall insert here the effective date of this chapter].

30 (2) Sections 8661 (relating to dissociation as limited

1 partner) and 8662 (relating to effects of dissociation as
2 limited partner) do not apply and a limited partner has the
3 same right and power to dissociate from the limited
4 partnership, with the same consequences, as existed
5 immediately before [the Legislative Reference Bureau shall
6 insert here the effective date of this chapter].

7 (3) Section 8663(a)(4) (relating to dissociation as
8 general partner) shall not apply.

9 (4) Section 8663(a)(5) shall not apply and the court has
10 the same power to expel a general partner as the court had
11 immediately before [the Legislative Reference Bureau shall
12 insert here the effective date of this chapter].

13 (5) Section 8681(a)(3) (relating to events causing
14 dissolution) shall not apply and the connection between a
15 person's dissociation as a general partner and the
16 dissolution of the limited partnership is the same as existed
17 immediately before [the Legislative Reference Bureau shall
18 insert here the effective date of this chapter].

19 (e) Liabilities to third parties.--With respect to a limited
20 partnership that elects under subsection (b)(2) to be subject to
21 this chapter, after the election takes effect, the provisions of
22 this chapter relating to the liability of the limited
23 partnership's general partners to third parties apply:

24 (1) before April 1, 2017, to:

25 (i) a third party that had not done business with
26 the limited partnership in the year before the election
27 took effect; and

28 (ii) a third party that had done business with the
29 limited partnership in the year before the election took
30 effect only if the third party knows or has been notified

1 of the election; and
2 (2) on and after April 1, 2017, to all third parties,
3 except that those provisions remain inapplicable to any
4 obligation incurred while those provisions were inapplicable
5 under paragraph (1)(ii).

6 (f) Cross reference.--See section 8615 (relating to contents
7 of partnership agreement).

8 § 8612. Definitions.

9 (a) General definitions.--The following words and phrases
10 when used in this chapter shall have the meanings given to them
11 in this section unless the context clearly indicates otherwise:

12 "Certificate of limited partnership." The certificate
13 required by section 8621 (relating to formation of limited
14 partnership and certificate of limited partnership). The term
15 includes the certificate as amended or restated.

16 "Contribution." Property or a benefit described in section
17 8651 (relating to form of contribution) which is provided by a
18 person to a limited partnership to become a partner or in the
19 person's capacity as a partner.

20 "Distribution." A direct or indirect transfer of money or
21 other property or incurrence of indebtedness by a limited
22 partnership to a person on account of a transferable interest or
23 in the person's capacity as a partner. The term:

24 (1) Includes:

25 (i) a redemption or other purchase by a limited
26 partnership of a transferable interest; and

27 (ii) a transfer to a partner in return for the
28 partner's relinquishment of any right to participate as a
29 partner in the management or conduct of the partnership's
30 activities and affairs or to have access to records or

1 other information concerning the partnership's activities
2 and affairs.

3 (2) Does not include:

4 (i) amounts constituting reasonable compensation for
5 present or past service or payments made in the ordinary
6 course of business under a bona fide retirement plan or
7 other bona fide benefits program;

8 (ii) the making of, or payment or performance on, a
9 guaranty or similar arrangement by a partnership for the
10 benefit of any or all of its partners;

11 (iii) a direct or indirect allocation or transfer
12 effected under Chapter 3 (relating to entity
13 transactions) with the approval of the members; or

14 (iv) a direct or indirect transfer of:

15 (A) a governance or transferable interest; or

16 (B) options, rights or warrants to acquire a
17 governance or transferable interest.

18 "General partner." A person that:

19 (1) has become a general partner under section 8641
20 (relating to becoming a general partner) or was a general
21 partner in a partnership when the partnership became subject
22 to this chapter under section 8611 (relating to short title
23 and application of chapter); and

24 (2) has not dissociated as a general partner under
25 section 8663 (relating to dissociation as general partner).

26 "Limited partner." A person that:

27 (1) has become a limited partner under section 8631
28 (relating to becoming a limited partner) or was a limited
29 partner in a limited partnership when the partnership became
30 subject to this chapter under section 8611; and

1 (2) has not dissociated as a limited partner under
2 section 8661 (relating to dissociation as limited partner).
3 "Limited partnership." An association formed under this
4 chapter or which becomes subject to this chapter under Chapter 3
5 or section 8611. The term includes a limited liability limited
6 partnership or an electing partnership that is also a limited
7 partnership.

8 "Partner." A limited partner or general partner.

9 "Partnership agreement." The agreement, whether or not
10 referred to as a partnership agreement and whether oral,
11 implied, in record form or in any combination thereof, of all
12 the partners of a limited partnership concerning the matters
13 described under section 8615(a) (relating to contents of
14 partnership agreement). The term includes the agreement as
15 amended or restated.

16 "Required information." The information that a limited
17 partnership is required to maintain under section 8618 (relating
18 to required information).

19 "Transferable interest." The right, as initially owned by a
20 person in the person's capacity as a partner, to receive
21 distributions from a limited partnership, whether or not the
22 person remains a partner or continues to own any part of the
23 right. The term applies to any fraction of the interest, by
24 whomever owned.

25 "Transferee." A person to which all or part of a
26 transferable interest has been transferred, whether or not the
27 transferor is a partner. The term includes a person that owns a
28 transferable interest under section 8662(a)(3) (relating to
29 effects of dissociation as limited partner) or 8665(a)(4)
30 (relating to effects of dissociation as general partner).

1 (b) Index of definitions.--Following is a nonexclusive list
2 of definitions in section 102 (relating to definitions) that
3 apply to this chapter:

4 "Act" or "action."

5 "Court."

6 "Debtor in bankruptcy."

7 "Department."

8 "Jurisdiction."

9 "Jurisdiction of formation."

10 "Obligation."

11 "Professional services."

12 "Property."

13 "Record form."

14 "Sign."

15 "Transfer."

16 § 8613. Knowledge and notice.

17 (a) Knowledge.--A person knows a fact if the person:

18 (1) has actual knowledge of it; or

19 (2) is deemed to know it under law other than this
20 chapter.

21 (b) Notice.--A person has notice of a fact if the person:

22 (1) has reason to know the fact from all the facts known
23 to the person at the time in question; or

24 (2) is deemed to have notice of the fact under
25 subsection (c) or (d).

26 (c) Effect of certificate.--A certificate of limited

27 partnership on file in the department is notice that the

28 partnership is a limited partnership and the persons designated

29 in the certificate as general partners are general partners.

30 Except as provided under subsection (d) and section 8201(g)

1 (relating to scope), the certificate is not notice of any other
2 fact.

3 (d) Constructive notice.--A person not a partner is deemed
4 to have notice of:

5 (1) another person's dissociation as a general partner
6 90 days after an amendment to the certificate of limited
7 partnership which states that the other person has
8 dissociated becomes effective or 90 days after a certificate
9 of dissociation pertaining to the other person becomes
10 effective, whichever occurs first;

11 (2) a limited partnership's:

12 (i) dissolution 90 days after an amendment to the
13 certificate of limited partnership stating that the
14 limited partnership is dissolved is effective;

15 (ii) termination 90 days after a certificate of
16 termination under section 8682(e) (relating to winding up
17 and filing of certificates) is effective; and

18 (iii) participation in a merger, interest exchange,
19 conversion, division or domestication, 90 days after a
20 statement of merger, interest exchange, conversion,
21 division or domestication under Chapter 3 (relating to
22 entity transactions) is effective.

23 (e) Notification.--Except as provided in section 113(b)
24 (relating to delivery of document), a person notifies another
25 person of a fact by taking steps reasonably required to inform
26 the other person in ordinary course, whether or not those steps
27 cause the other person to know the fact.

28 (f) Effect of partner's knowledge or notice.--A general
29 partner's knowledge or notice of a fact relating to the limited
30 partnership is effective immediately as knowledge of or notice

1 to the partnership, except in the case of a fraud on the
2 partnership committed by or with the consent of the general
3 partner. A limited partner's knowledge or notice of a fact
4 relating to the partnership is not effective as knowledge of or
5 notice to the partnership.

6 § 8614. Governing law.

7 (a) General rule.--The laws of this Commonwealth govern:

8 (1) the internal affairs of a limited partnership; and

9 (2) the liability of a partner as partner for the debts,
10 obligations or other liabilities of a limited partnership.

11 (b) Cross reference.--See section 8615(c)(6) (relating to
12 contents of partnership agreement).

13 § 8615. Contents of partnership agreement.

14 (a) Scope of partnership agreement.--Except as provided
15 under subsections (c) and (d), the partnership agreement
16 governs:

17 (1) relations among the partners as partners and between
18 the partners and the limited partnership;

19 (2) the rights and duties under this title of a person
20 in the capacity of a partner;

21 (3) the activities and affairs of the partnership and
22 the conduct of those activities and affairs;

23 (4) the means and conditions for amending the
24 partnership agreement; and

25 (5) the means and conditions for approving a transaction
26 under Chapter 3 (relating to entity transactions).

27 (b) Title applies generally.--To the extent the partnership
28 agreement does not provide for a matter described in subsection
29 (a), this title governs the matter.

30 (c) Limitations.--A partnership agreement may not do any of

1 the following:

2 (1) Vary a provision of Chapter 1 (relating to general
3 provisions) or Subchapter A of Chapter 2 (relating to names).

4 (2) Vary the right of a partner to approve a merger,
5 interest exchange, conversion, division or domestication
6 under section 333(a)(2) (relating to approval of merger),
7 343(a)(2) (relating to approval of interest exchange), 353(a)
8 (3) (relating to approval of conversion), 363(a)(2) (relating
9 to approval of division) or 373(a)(2) (relating to approval
10 of domestication).

11 (3) Vary the required contents of a plan of merger under
12 section 332(a) (relating to plan of merger), plan of interest
13 exchange under section 342(a) (relating to plan of interest
14 exchange), plan of conversion under section 352(a) (relating
15 to plan of conversion), plan of division under section 362(a)
16 (relating to plan of division) or plan of domestication under
17 section 372(a) (relating to plan of domestication).

18 (4) Vary a provision of Chapter 81 (relating to general
19 provisions) or 82 (relating to limited liability partnerships
20 and limited liability limited partnerships).

21 (5) Vary the provisions of section 8611(b), (c), (d) and
22 (e) (relating to short title and application of chapter).

23 (6) Vary the law applicable under section 8614 (relating
24 to governing law).

25 (7) Vary any requirement, procedure or other provision
26 of this title pertaining to:

27 (i) registered offices; or

28 (ii) the department, including provisions pertaining
29 to documents authorized or required to be delivered to
30 the department for filing under this title.

1 (8) Vary a limited partnership's capacity under section
2 8620(d) (relating to characteristics of limited partnership)
3 to sue and be sued in its own name.

4 (9) Vary a provision of section 8620(e).

5 (10) Eliminate the duty of loyalty provided for in
6 section 8649(b)(1)(i) or (ii) or (2) (relating to standards
7 of conduct for general partners) or the duty of care, except
8 as provided in subsection (d).

9 (11) Vary the contractual obligation of good faith and
10 fair dealing under sections 8635(a) (relating to limited
11 duties of limited partners) and 8649(d), except as provided
12 in subsection (d).

13 (12) Provide indemnification or exoneration in violation
14 of the limitations in sections 8648(g) (relating to
15 reimbursement, indemnification, advancement and insurance)
16 and 8649(i).

17 (13) Vary the information required under section 8618
18 (relating to required information) or unreasonably restrict
19 the duties and rights under section 8634 (relating to limited
20 partner rights to information) or 8647 (relating to general
21 partner rights to information), except as provided under
22 subsection (d).

23 (14) Vary the power of a person to dissociate as a
24 general partner under section 8664(a) (relating to power to
25 dissociate as general partner and wrongful dissociation),
26 except to require that the notice under section 8663(a)(1)
27 (relating to dissociation as general partner) be in record
28 form.

29 (15) Vary the causes of dissolution specified in section
30 8681(a)(6) (relating to events causing dissolution).

1 (16) Vary the requirements to wind up the partnership's
2 activities and affairs specified in section 8682(a), (b)(1),
3 (d) and (e) (relating to winding up and filing of
4 certificates).

5 (17) Unreasonably restrict the right of a partner to
6 maintain an action under Subchapter I (relating to actions by
7 partners).

8 (18) Vary the provisions of section 8694 (relating to
9 special litigation committee), except that the partnership
10 agreement may provide that the partnership may not have a
11 special litigation committee.

12 (19) Except as provided in section 8617(b) (relating to
13 amendment and effect of partnership agreement), restrict the
14 rights under this title of a person other than a partner.

15 (d) Rules.--Subject to subsection (c)(12), the following
16 rules apply:

17 (1) The partnership agreement may:

18 (i) specify the method by which a specific act or
19 transaction that would otherwise violate the duty of
20 loyalty may be authorized or ratified by one or more
21 disinterested and independent persons after full
22 disclosure of all material facts;

23 (ii) alter the prohibition in section 8654(a)(2)
24 (relating to limitations on distributions) so that the
25 prohibition requires only that the partnership's total
26 assets not be less than the sum of its total liabilities;
27 and

28 (iii) impose reasonable restrictions on the
29 availability and use of information obtained under
30 section 8618, 8634 or 8647 and may define appropriate

1 remedies, including liquidated damages, for a breach of
2 any reasonable restriction on use.

3 (2) To the extent the partnership agreement expressly
4 relieves a partner of a responsibility that the partner would
5 otherwise have under this title and imposes the
6 responsibility on one or more other partners, the agreement
7 also may eliminate or limit any fiduciary duty of the partner
8 relieved of the responsibility which would have pertained to
9 the responsibility.

10 (3) If not manifestly unreasonable, the partnership
11 agreement may:

12 (i) alter the aspects of the duty of loyalty stated
13 in section 8649(b)(1)(i) or (ii) or (2);

14 (ii) identify specific types or categories of
15 activities that do not violate the duty of loyalty;

16 (iii) alter the duty of care;

17 (iv) alter or eliminate any other fiduciary duty;

18 and

19 (v) prescribe the standards by which the performance
20 of the contractual obligation of good faith and fair
21 dealing is to be measured.

22 (e) Determination of manifest unreasonableness.--A court
23 shall decide as a matter of law whether a term of a partnership
24 agreement is manifestly unreasonable under subsection (d)(3).

25 The court:

26 (1) shall make its determination as of the time the
27 challenged term became part of the partnership agreement and
28 by considering only circumstances existing at that time; and

29 (2) may invalidate the term only if, in light of the
30 purposes, activities and affairs of the limited partnership,

1 it is readily apparent that:

2 (i) the objective of the term is unreasonable; or

3 (ii) the term is an unreasonable means to achieve
4 the term's objective.

5 § 8616. Application of partnership agreement.

6 (a) Partnership bound.--A limited partnership is bound by
7 and may enforce the partnership agreement, whether or not the
8 partnership has itself manifested assent to the agreement.

9 (b) Deemed assent.--A person that becomes a partner is
10 deemed to assent to the partnership agreement.

11 (c) Preformation agreement.--Two or more persons intending
12 to become the initial partners of a limited partnership may make
13 an agreement providing that upon the formation of the
14 partnership the agreement will become the partnership agreement.

15 (d) Cross reference.--See section 8621 (relating to
16 formation of limited partnership and certificate of limited
17 partnership).

18 § 8617. Amendment and effect of partnership agreement.

19 (a) Approval of amendments.--A partnership agreement may
20 specify that its amendment requires the approval of a person
21 that is not a party to the agreement or the satisfaction of a
22 condition. An amendment is ineffective if its adoption does not
23 include the required approval or satisfy the specified
24 condition.

25 (b) Obligations to nonpartners.--The obligations of a
26 limited partnership and its partners to a person in the person's
27 capacity as a transferee or person dissociated as a partner are
28 governed by the partnership agreement. Except as provided in
29 section 8653(d) (relating to sharing of and right to
30 distributions before dissolution) or in a court order issued

1 under section 8673(b)(2) (relating to charging order) to
2 effectuate a charging order, an amendment to the partnership
3 agreement made after a person becomes a transferee or is
4 dissociated as a partner:

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

9 (2) is not effective to the extent the amendment imposes
10 a new debt, obligation or other liability on the transferee
11 or person dissociated as a partner.

12 (c) Provisions in filed documents.--If a document delivered
13 by a limited partnership to the department for filing becomes
14 effective and contains a provision that would be ineffective
15 under section 8615(c) or (d)(3) (relating to contents of
16 partnership agreement) if contained in the partnership
17 agreement, the provision is ineffective in the document.

18 (d) Conflicts with partnership agreement.--Subject to
19 subsection (c):

20 (1) If a provision of the certificate of limited
21 partnership conflicts with a provision of the partnership
22 agreement, the provision of the certificate prevails.

23 (2) If a document other than its certificate of limited
24 partnership that has been delivered by a limited partnership
25 to the department for filing becomes effective and conflicts
26 with a provision of the partnership agreement:

27 (i) the agreement prevails as to partners, persons
28 dissociated as partners and transferees; and

29 (ii) the document prevails as to other persons to
30 the extent they reasonably rely on the document.

1 (e) Prohibition of oral amendments.--If a provision of a
2 partnership agreement in record form provides that the
3 partnership agreement cannot be amended, modified or rescinded
4 except in record form, an oral agreement, amendment,
5 modification or rescission shall not be enforceable.

6 (f) Voting requirements.--A partnership agreement may
7 provide in record form that, whenever a provision of this title
8 requires the vote or consent of a specified number or percentage
9 of partners or of a class of partners for the taking of any
10 action, a higher number or percentage of votes or consents shall
11 be required for the action. Except as otherwise provided in the
12 partnership agreement, whenever the partnership agreement
13 requires for the taking of any action by the partners or a class
14 of partners a specific number or percentage of votes or
15 consents, the provision of the partnership agreement setting
16 forth that requirement shall not be amended or repealed by any
17 lesser number or percentage of votes or consents of the partners
18 or the class of partners.

19 § 8618. Required information.

20 (a) General rule.--A limited partnership shall maintain at
21 its principal office the following information:

22 (1) A current list showing the full name and last known
23 street and mailing address of each partner, separately
24 identifying the general partners, in alphabetical order, and
25 the limited partners, in alphabetical order.

26 (2) A copy of the initial certificate of limited
27 partnership and all amendments to and restatements of the
28 certificate, together with signed copies of any powers of
29 attorney under which any certificate, amendment or
30 restatement has been signed.

1 (3) A copy of any filed certificate or statement of
2 merger, interest exchange, conversion, division or
3 domestication.

4 (4) A copy of the partnership's Federal, State and local
5 income tax returns and reports, if any, for the three most
6 recent years.

7 (5) A copy of any provisions of the partnership
8 agreement in record form and any amendment made in record
9 form to any partnership agreement.

10 (6) A copy of any financial statement of the partnership
11 for the three most recent years.

12 (7) A copy of any record made by the partnership during
13 the past three years of any consent given by or vote taken of
14 any partner under this title or the partnership agreement.

15 (8) Unless contained in a provision of the partnership
16 agreement in record form, a record stating:

17 (i) a description and statement of the agreed value
18 of contributions other than money made and agreed to be
19 made by each partner;

20 (ii) the times at which, or events on the happening
21 of which, any additional contributions agreed to be made
22 by each partner are to be made;

23 (iii) for any person that is both a general partner
24 and a limited partner, a specification of what
25 transferable interest the person owns in each capacity;
26 and

27 (iv) any events upon the happening of which the
28 partnership is to be dissolved and its activities and
29 affairs wound up.

30 (b) Cross reference.--See section 8615 (relating to contents

1 of partnership agreement).

2 § 8619. Dual capacity.

3 A person may be both a general partner and a limited
4 partner. A person that is both a general and limited partner has
5 the rights, powers, duties and obligations provided by this
6 title and the partnership agreement in each of those
7 capacities. When the person acts as a general partner, the
8 person is subject to the obligations, duties and restrictions
9 under this title and the partnership agreement for general
10 partners. When the person acts as a limited partner, the person
11 is subject to the obligations, duties and restrictions under
12 this title and the partnership agreement for limited partners.

13 § 8620. Characteristics of limited partnership.

14 (a) Separate entity.--A limited partnership is an entity
15 distinct from its partners. A limited partnership is the same
16 entity regardless of whether:

17 (1) its certificate of limited partnership states that
18 the limited partnership is a limited liability limited
19 partnership; or

20 (2) it has a statement of registration in effect under
21 section 8201 (relating to scope).

22 (b) Purpose.--A limited partnership may have any lawful
23 purpose, other than acting as a banking institution, credit
24 union or insurer, regardless of whether the purpose is for
25 profit. See section 8102 (relating to interchangeability of
26 partnership, limited liability company and corporate forms of
27 organization).

28 (c) Duration.--A limited partnership has perpetual duration.

29 (d) Powers.--A limited partnership has the capacity to sue
30 and be sued in its own name and the power to do all things

1 necessary or convenient to carry on its activities and affairs.

2 (e) Restrictions on nonprofit limited partnerships.--If a
3 limited partnership has a purpose that is not for profit:

4 (1) Its purpose must be stated in the certificate of
5 limited partnership.

6 (2) The partnership shall not distribute any part of its
7 income or profits to its partners, but it may pay
8 compensation in a reasonable amount to those persons for
9 services rendered.

10 (3) The partnership may confer benefits on partners or
11 nonpartners in conformity with its purposes, may repay
12 capital contributions and may redeem evidences of
13 indebtedness, except when the partnership is currently
14 insolvent or would thereby be made insolvent or rendered
15 unable to carry on its purposes, or when the fair value of
16 the assets of the partnership remaining after the conferring
17 of benefits, payment or redemption would be insufficient to
18 meet its liabilities. The partnership may make distributions
19 of money or property to partners upon dissolution or final
20 liquidation as permitted by this chapter.

21 (4) If the partnership is organized for a charitable
22 purpose, it may take, receive and hold real and personal
23 property as may be given, devised to, or otherwise vested in
24 the partnership, in trust, for the purpose or purposes set
25 forth in its certificate of limited partnership. The general
26 partners shall, as trustees of the property, be held to the
27 same degree of responsibility and accountability as other
28 trustees, unless:

29 (i) a lesser degree or a particular degree of
30 responsibility and accountability is prescribed in the

1 trust instrument; or

2 (ii) the general partners are under the control of
3 the limited partners or third persons who retain the
4 right to direct, and do direct, the actions of the
5 general partners as to the use of the trust property from
6 time to time.

7 (5) Property of the partnership committed to charitable
8 purposes shall not, by any proceeding under Chapter 3
9 (relating to entity transactions) or otherwise, be diverted
10 from the objects to which it was donated, granted or devised,
11 unless and until the partnership obtains from the court an
12 order under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying
13 the disposition of the property.

14 (f) Cross references.--See sections 8611(d) (relating to
15 short title and application of chapter) and 8615 (relating to
16 contents of partnership agreement).

17 SUBCHAPTER B

18 FORMATION AND FILINGS

19 Sec.

20 8621. Formation of limited partnership and certificate of
21 limited partnership.

22 8622. Amendment or restatement of certificate of limited
23 partnership.

24 8623. Signing of filed documents.

25 8624. Liability of general partner for false or missing
26 information in filed document.

27 8625. Registered office.

28 § 8621. Formation of limited partnership and certificate of
29 limited partnership.

30 (a) Formation.--To form a limited partnership, a person must

1 deliver a certificate of limited partnership to the department
2 for filing.

3 (b) Required contents of certificate.--A certificate of
4 limited partnership must state:

5 (1) the name of the limited partnership, which must
6 comply with Subchapter A of Chapter 2 (relating to names);

7 (2) subject to section 109 (relating to name of
8 commercial registered office provider in lieu of registered
9 address), the address, including street and number, if any,
10 of the partnership's registered office; and

11 (3) the name and address of each general partner.

12 (c) Optional contents of certificate.--A certificate of
13 limited partnership may contain statements as to matters other
14 than those required under subsection (b), but may not vary or
15 otherwise affect the provisions specified in section 8615(c) and
16 (d) (relating to contents of partnership agreement) in a manner
17 inconsistent with that section.

18 (d) Time of formation.--A limited partnership is formed
19 when:

20 (1) the certificate of limited partnership becomes
21 effective;

22 (2) at least two persons have become partners;

23 (3) at least one person has become a general partner;
24 and

25 (4) at least one person has become a limited partner.

26 (e) Cross references.--See:

27 Section 134 (relating to docketing statement).

28 Section 135 (relating to requirements to be met by filed
29 documents).

30 Section 136(c) (relating to processing of documents by

1 Department of State).

2 Section 8620 (relating to characteristics of limited
3 partnership).

4 Section 8623 (relating to signing of filed documents).

5 § 8622. Amendment or restatement of certificate of limited
6 partnership.

7 (a) General rule.--A certificate of limited partnership may
8 be amended or restated at any time.

9 (b) Required contents of certificate of amendment.--To amend
10 its certificate of limited partnership, a limited partnership
11 must deliver to the department for filing a certificate of
12 amendment that states:

13 (1) the name of the partnership;

14 (2) the date of filing of its initial certificate;

15 (3) subject to section 109 (relating to name of
16 commercial registered office provider in lieu of registered
17 address), the address, including street and number, if any,
18 of its registered office; and

19 (4) the amendment.

20 (c) Restatement.--To restate its certificate of limited
21 partnership, a limited partnership must deliver to the
22 department for filing a certificate of amendment that:

23 (1) is designated as a restatement; and

24 (2) includes a statement that the restated certificate
25 supersedes the original certificate and all amendments.

26 (d) Required amendments.--A limited partnership shall
27 promptly deliver to the department for filing an amendment to
28 its certificate of limited partnership to reflect:

29 (1) the admission of a new general partner;

30 (2) the dissociation of a person as a general partner;

1 or

2 (3) the appointment of a person to wind up the
3 partnership's activities and affairs under section 8682(c) or
4 (d) (relating to winding up and filing of certificates).

5 (e) Obligation to correct.--If a general partner knows that
6 any information in a filed certificate of limited partnership is
7 inaccurate, the general partner shall promptly:

8 (1) cause the certificate to be amended; or

9 (2) if appropriate, deliver to the department for
10 filing:

11 (i) a certificate of change of registered office
12 under section 8625 (relating to registered office);

13 (ii) a statement of correction under section 138
14 (relating to statement of correction); or

15 (iii) a statement of abandonment under section 141
16 (relating to abandonment of filing before effectiveness).

17 (f) Amendment of voting provisions.--Except as provided in
18 the certificate of limited partnership, whenever the certificate
19 requires for the taking of any action by the partners or a class
20 of partners a specific number or percentage of votes or
21 consents, the provision of the certificate setting forth that
22 requirement shall not be amended or repealed by any lesser
23 number or percentage of votes or consents of the partners or of
24 the class of partners.

25 (g) Cross references.--See:

26 Section 134 (relating to docketing statement).

27 Section 135 (relating to requirements to be met by filed
28 documents).

29 Section 136(c) (relating to processing of documents by
30 Department of State).

1 Section 8623 (relating to signing of filed documents).

2 § 8623. Signing of filed documents.

3 (a) Required signatures.--Except as provided in this title,
4 a document delivered to the department for filing under this
5 title relating to a limited partnership must be signed as
6 follows:

7 (1) An initial certificate of limited partnership must
8 be signed by all general partners listed in the certificate.

9 (2) An amendment to the certificate of limited
10 partnership deleting a statement that the limited partnership
11 is a limited liability limited partnership must be signed by
12 all general partners listed in the certificate.

13 (3) An amendment to the certificate of limited
14 partnership designating as general partner a person admitted
15 under section 8681(a)(3)(ii) (relating to events causing
16 dissolution) following the dissociation of a limited
17 partnership's last general partner must be signed by that
18 person.

19 (4) An amendment to the certificate of limited
20 partnership required by section 8682(c) (relating to winding
21 up and filing of certificates) following the appointment of a
22 person to wind up the dissolved limited partnership's
23 activities and affairs must be signed by that person.

24 (5) Any other amendment to the certificate of limited
25 partnership must be signed by:

26 (i) at least one general partner listed in the
27 certificate;

28 (ii) each person designated in the amendment as a
29 new general partner; and

30 (iii) each person that the amendment indicates has

1 dissociated as a general partner, unless:

2 (A) the person is deceased or a guardian has
3 been appointed for the person and the amendment so
4 states; or

5 (B) the person has previously delivered to the
6 department for filing a certificate of dissociation.

7 (6) A restated certificate of limited partnership must
8 be signed by at least one general partner listed in the
9 certificate, and, to the extent the restated certificate
10 effects a change under any other paragraph of this
11 subsection, the certificate must be signed in a manner that
12 satisfies that paragraph.

13 (7) A certificate of termination must be signed by all
14 general partners listed in the certificate of limited
15 partnership or, if the certificate of a dissolved limited
16 partnership lists no general partners, by the person
17 appointed under section 8682(c) or (d) to wind up the
18 dissolved limited partnership's activities and affairs.

19 (8) Any other document delivered by a limited
20 partnership to the department for filing must be signed by at
21 least one general partner listed in the certificate of
22 limited partnership.

23 (9) A statement by a person under section 8665(a)(3)
24 (relating to effects of dissociation as general partner)
25 stating that the person has dissociated as a general partner
26 must be signed by that person.

27 (10) A certificate of negation by a person under section
28 8636 (relating to person erroneously believing self to be
29 limited partner) must be signed by that person.

30 (11) Any other document delivered on behalf of a person

1 to the department for filing must be signed by that person.

2 (b) Cross reference.--See section 142 (relating to effect of
3 signing filings).

4 § 8624. Liability of general partner for false or missing
5 information in filed document.

6 (a) General rule.--If a document delivered to the department
7 for filing under this title and filed by the department contains
8 a materially false statement or fails to state a material fact
9 required to be stated, a person that suffers loss by reasonable
10 reliance on the statement or failure to state a material fact
11 may recover damages for the loss from a general partner if:

12 (1) the document was delivered for filing on behalf of
13 the limited partnership; and

14 (2) the general partner knew or had notice there was
15 false or missing information in the document for a reasonably
16 sufficient time before the document was relied upon so that,
17 before the reliance, the general partner reasonably could
18 have:

19 (i) effected an amendment under section 8622
20 (relating to amendment or restatement of certificate of
21 limited partnership);

22 (ii) filed a petition under section 144 (relating to
23 signing and filing pursuant to judicial order); or

24 (iii) delivered to the department for filing:

25 (A) a certificate of change of registered office
26 under section 8625 (relating to registered office);

27 (B) a statement of correction under section 138
28 (relating to statement of correction); or

29 (C) a statement of abandonment under section 141
30 (relating to abandonment of filing before

1 effectiveness).

2 (b) Cross references.--See sections 142 (relating to effect
3 of signing filings) and 143 (relating to liability for
4 inaccurate information in filing).

5 § 8625. Registered office.

6 (a) General rule.--Every limited partnership shall have and
7 continuously maintain in this Commonwealth a registered office
8 which may, but need not, be the same as its place of business.

9 (b) Change of registered office.--After formation, a change
10 in the location of the registered office may be effected at any
11 time by the limited partnership. Before the change becomes
12 effective, the limited partnership shall amend its certificate
13 of limited partnership under the provisions of this chapter to
14 reflect the change in location, or shall deliver to the
15 department for filing a certificate of change of registered
16 office setting forth:

17 (1) The name of the limited partnership.

18 (2) The address, including street and number, if any, of
19 its then registered office.

20 (3) The address, including street and number, if any, to
21 which the registered office is to be changed.

22 (c) Alternative procedure.--A limited partnership may
23 satisfy the requirements of this chapter concerning the
24 maintenance of a registered office in this Commonwealth by
25 setting forth in any document filed by the department under any
26 provision of this title that permits or requires the statement
27 of the address of its then registered office, in lieu of that
28 address, the statement authorized by section 109(a) (relating to
29 name of commercial registered office provider in lieu of
30 registered address).

1 (d) Cross references.--See:

2 Section 108 (relating to change in location or status of
3 registered office provided by agent).

4 Section 134 (relating to docketing statement).

5 Section 135 (relating to requirements to be met by filed
6 documents).

7 Section 136(c) (relating to processing of documents by
8 Department of State).

9 Section 8615(c)(6) (relating to contents of partnership
10 agreement).

11 Section 8623 (relating to signing of filed documents).

12 SUBCHAPTER C

13 LIMITED PARTNERS

14 Sec.

15 8631. Becoming a limited partner.

16 8632. No agency power of limited partner as limited partner.

17 8633. No liability as limited partner for limited partnership
18 obligations.

19 8634. Limited partner rights to information.

20 8635. Limited duties of limited partners.

21 8636. Person erroneously believing self to be limited partner.

22 § 8631. Becoming a limited partner.

23 (a) Upon formation.--Upon formation of a limited
24 partnership, a person becomes a limited partner as agreed among
25 the persons that are to be the initial partners.

26 (b) After formation.--After formation, a person becomes a
27 limited partner:

28 (1) as provided in the partnership agreement;

29 (2) as the result of a transaction effective under

30 Chapter 3 (relating to entity transactions);

1 (3) with the affirmative vote or consent of all the
2 partners; or

3 (4) as provided in section 8681(a)(4) or (5) (relating
4 to events causing dissolution).

5 (c) Noneconomic limited partners.--A person may become a
6 limited partner without:

7 (1) acquiring a transferable interest; or

8 (2) making or being obligated to make a contribution to
9 the limited partnership.

10 (d) Nature of interest.--The interest of a limited partner
11 in a limited partnership is personal property.

12 § 8632. No agency power of limited partner as limited partner.

13 (a) General rule.--A limited partner is not an agent of a
14 limited partnership solely by reason of being a limited partner.

15 (b) Creation of partnership liability.--A person's status as
16 a limited partner does not prevent or restrict law other than
17 this chapter from imposing liability on a limited partnership
18 because of the person's conduct.

19 § 8633. No liability as limited partner for limited partnership
20 obligations.

21 A debt, obligation or other liability of a limited
22 partnership is not the debt, obligation or other liability of a
23 limited partner. A limited partner is not personally liable,
24 directly or indirectly, by way of contribution or otherwise, for
25 a debt, obligation or other liability of the partnership solely
26 by reason of being or acting as a limited partner, even if the
27 limited partner participates in the management and control of
28 the partnership. This subsection applies regardless of the
29 dissolution, winding up or termination of the partnership.

30 § 8634. Limited partner rights to information.

1 (a) Right to required information.--Within 10 days after
2 receipt by a limited partnership of a demand made in record
3 form, a limited partner may inspect and copy required
4 information during regular business hours in the partnership's
5 principal office. The limited partner need not have any
6 particular purpose for seeking the information.

7 (b) Right to other information.--During regular business
8 hours and at a reasonable location specified by the limited
9 partnership, a limited partner may inspect and copy information,
10 other than the required information, regarding the activities,
11 affairs, financial condition and other circumstances of the
12 partnership if:

13 (1) the limited partner seeks the information for a
14 purpose reasonably related to the partner's interest as a
15 limited partner;

16 (2) the limited partner makes a demand in record form
17 received by the partnership, describing with reasonable
18 particularity the information sought and the purpose for
19 seeking the information; and

20 (3) the information sought is directly connected to the
21 limited partner's purpose.

22 (c) Rights of person dissociated as limited partner.--
23 Subject to subsection (h), on demand made in record form
24 received by a limited partnership, a person dissociated as a
25 limited partner may have access to information to which the
26 person was entitled while a limited partner if:

27 (1) the information pertains to the period during which
28 the person was a limited partner;

29 (2) in seeking the information the person complies with
30 section 8635(a) (relating to limited duties of limited

1 partners) as if still a limited partner; and

2 (3) the person satisfies the requirements imposed on a
3 limited partner by subsection (b).

4 (d) Required response to demand.--Within 10 days after
5 receiving a demand under subsection (b) or (c), the limited
6 partnership shall inform in record form the person that made the
7 demand of:

8 (1) what information the partnership will provide in
9 response to the demand and when and where the partnership
10 will provide the information; and

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

13 (e) Copying costs.--A limited partnership may charge a
14 person that makes a demand under this section the reasonable
15 costs of copying.

16 (f) Rights of agent or guardian.--A limited partner or
17 person dissociated as a limited partner may exercise the rights
18 under this section through an agent or, in the case of an
19 individual under legal disability, a guardian. Any restriction
20 or condition imposed by the partnership agreement or under
21 subsection (h) applies both to the agent or guardian and to the
22 limited partner or person dissociated as a limited partner.

23 (g) No rights of transferee.--Subject to section 8674
24 (relating to power of personal representative of deceased
25 partner), the rights under this section do not extend to a
26 person as transferee.

27 (h) Limitations on access.--In addition to any restriction
28 or condition stated in its partnership agreement, a limited
29 partnership, as a matter within the ordinary course of its
30 activities and affairs, may impose reasonable restrictions and

1 conditions on access to and use of information to be furnished
2 under this section, including designating information
3 confidential and imposing nondisclosure and safeguarding
4 obligations on the recipient. In a dispute concerning the
5 reasonableness of a restriction under this subsection, the
6 partnership has the burden of proving reasonableness.

7 (i) Cross reference.--See section 8615 (relating to contents
8 of partnership agreement).

9 § 8635. Limited duties of limited partners.

10 (a) Good faith and fair dealing.--A limited partner shall
11 discharge any duties to the limited partnership and the other
12 partners under the partnership agreement and exercise any rights
13 under this title or the partnership agreement consistently with
14 the contractual obligation of good faith and fair dealing.

15 (b) No other duties.--Except as provided under subsection
16 (a), a limited partner does not have any duty to the limited
17 partnership or to any other partner solely by reason of acting
18 as a limited partner.

19 (c) Transactions with limited partnership.--If a limited
20 partner enters into a transaction with a limited partnership,
21 the limited partner's rights and obligations arising from the
22 transaction are the same as those of a person that is not a
23 partner.

24 (d) Cross reference.--See section 8615(c)(11) (relating to
25 contents of partnership agreement).

26 § 8636. Person erroneously believing self to be limited
27 partner.

28 (a) Right to correct.--Except as provided in subsection (b),
29 a person that makes an investment in a business enterprise and
30 erroneously but in good faith believes that the person has

1 become a limited partner in the enterprise is not liable for the
2 enterprise's obligations by reason of making the investment,
3 receiving distributions from the enterprise or exercising any
4 rights of or appropriate to a limited partner, if, on
5 ascertaining the mistake, the person:

6 (1) causes an appropriate certificate of limited
7 partnership, amendment or statement of correction to be
8 signed and delivered to the department for filing;

9 (2) if a certificate of limited partnership is on file
10 in the department, withdraws from future participation as an
11 owner in the enterprise by delivering to the department for
12 filing a certificate of negation under this section stating:

13 (i) the name of the limited partnership;

14 (ii) subject to section 109 (relating to name of
15 commercial registered office provider in lieu of
16 registered address), the address, including street and
17 number, if any, of the partnership's registered office;

18 (iii) the name of the person delivering the
19 certificate to the department for filing; and

20 (iv) that the person is not a general partner; or

21 (3) files a certificate of denial under section 8434
22 (relating to certificate of denial) as if the enterprise were
23 a general partnership.

24 (b) Liability before correction.--A person that makes an
25 investment described in subsection (a) is liable to the same
26 extent as a general partner to any third party that enters into
27 a transaction with the enterprise, believing in good faith that
28 the person is a general partner, before the department files a
29 certificate of negation, certificate of limited partnership,
30 amendment or statement of correction to show that the person is

1 not a general partner.

2 (c) Right to withdraw.--If a person makes a diligent effort
3 in good faith to comply with subsection (a)(1) and is unable to
4 cause the appropriate certificate of limited partnership,
5 amendment or statement of correction to be signed and delivered
6 to the department for filing, the person has the right to
7 withdraw from the enterprise under subsection (a)(2) even if the
8 withdrawal would otherwise breach an agreement with others that
9 are or have agreed to become co-owners of the enterprise.

10 (d) Cross references.--See:

11 Section 134 (relating to docketing statement).

12 Section 135 (relating to requirements to be met by filed
13 documents).

14 Section 136(c) (relating to processing of documents by
15 Department of State).

16 Section 8623 (relating to signing of filed documents).

17 SUBCHAPTER D

18 GENERAL PARTNERS

19 Sec.

20 8641. Becoming a general partner.

21 8642. General partner agent of limited partnership.

22 8643. Limited partnership liable for general partner's
23 actionable conduct.

24 8644. General partner's liability.

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26 8646. Management rights.

27 8647. General partner rights to information.

28 8648. Reimbursement, indemnification, advancement and
29 insurance.

30 8649. Standards of conduct for general partners.

1 § 8641. Becoming a general partner.

2 (a) Admission on formation.--On formation of a limited
3 partnership, a person becomes a general partner as agreed among
4 the persons that are to be the initial partners.

5 (b) Admission after formation.--After formation of a limited
6 partnership, a person becomes a general partner:

7 (1) as provided in the partnership agreement;

8 (2) as the result of a transaction effective under
9 Chapter 3 (relating to entity transactions);

10 (3) with the affirmative vote or consent of all the
11 partners; or

12 (4) under section 8681(a)(3)(ii) or (5) (relating to
13 events causing dissolution) following the dissociation of a
14 limited partnership's last general partner.

15 (c) Noneconomic general partners.--A person may become a
16 general partner without:

17 (1) acquiring a transferable interest; or

18 (2) making or being obligated to make a contribution to
19 the partnership.

20 (d) Nature of interest.--The interest of a general partner
21 in a limited partnership is personal property.

22 § 8642. General partner agent of limited partnership.

23 (a) General rule.--Each general partner is an agent of the
24 limited partnership for the purposes of its activities and
25 affairs. An act of a general partner, including the signing of a
26 document in record form in the partnership's name, for
27 apparently carrying on in the ordinary course the partnership's
28 activities and affairs, or activities and affairs of the kind
29 carried on by the partnership, binds the partnership, unless the
30 general partner did not have authority to act for the

1 partnership in the particular matter and the person with which
2 the general partner was dealing knew or had notice that the
3 general partner lacked authority.

4 (b) Act outside of ordinary course.--An act of a general
5 partner which is not apparently for carrying on in the ordinary
6 course the limited partnership's activities and affairs, or
7 activities and affairs of the kind carried on by the
8 partnership, binds the partnership only if the partner had
9 actual authority to take the action.

10 § 8643. Limited partnership liable for general partner's
11 actionable conduct.

12 (a) General rule.--A limited partnership is liable for loss
13 or injury caused to a person or for a penalty incurred as a
14 result of a wrongful act, or other actionable conduct, of a
15 general partner acting in the ordinary course of activities and
16 affairs of the partnership or with the actual or apparent
17 authority of the partnership.

18 (b) Misapplication of property.--If, in the course of a
19 limited partnership's activities and affairs or while acting
20 with actual or apparent authority of the partnership, a general
21 partner receives or causes the partnership to receive money or
22 property of a person not a partner, and the money or property is
23 misapplied by a general partner, the partnership is liable for
24 the loss.

25 § 8644. General partner's liability.

26 (a) General rule.--Except as provided under subsection (b)
27 or section 8204 (relating to limitation on liability of
28 partners), all general partners are liable jointly and severally
29 for all debts, obligations and other liabilities of the limited
30 partnership unless otherwise agreed by the claimant or provided

1 by law.

2 (b) Preexisting obligations.--A person that becomes a
3 general partner is not personally liable for a debt, obligation
4 or other liability of the limited partnership incurred before
5 the person became a general partner.

6 § 8645. Actions by and against partnership and partners.

7 (a) General partner as party.--To the extent not
8 inconsistent with section 8644 (relating to general partner's
9 liability), a general partner may be joined in an action against
10 the limited partnership or named in a separate action.

11 (b) Judgment against partnership only.--A judgment against a
12 partnership:

13 (1) is not by itself a judgment against a partner; and

14 (2) except as set forth in subsection (c), may not be
15 satisfied from a partner's assets.

16 (c) Judgment against partnership and partner.--If there is a
17 judgment against a partnership and a partner on the same claim,
18 the judgment creditor may levy execution against the assets of
19 the partner if both of the following paragraphs apply:

20 (1) The partner is personally liable for the claim under
21 section 8644.

22 (2) One of the following subparagraphs applies:

23 (i) A writ of execution on the judgment against the
24 partnership has been returned unsatisfied in whole or in
25 part.

26 (ii) The partnership is a debtor in bankruptcy.

27 (iii) The partner has agreed that the creditor need
28 not exhaust partnership assets.

29 (iv) A court grants permission to levy execution
30 based on a finding that:

1 (A) partnership assets subject to execution are
2 clearly insufficient to satisfy the judgment;

3 (B) exhaustion of partnership assets is
4 excessively burdensome; or

5 (C) the grant of permission is an appropriate
6 exercise of the court's equitable powers.

7 (v) Liability is imposed on the partner by law or
8 contract independent of the existence of the partnership.

9 § 8646. Management rights.

10 (a) General rule.--Each general partner has equal rights in
11 the management and conduct of the limited partnership's
12 activities and affairs. Except as provided in this title, any
13 matter relating to the activities and affairs of the partnership
14 is decided exclusively by the general partner or, if there is
15 more than one general partner, by a majority of the general
16 partners.

17 (b) Actions requiring unanimous approval.--The affirmative
18 vote or consent of all the partners is required to:

19 (1) amend the partnership agreement; and

20 (2) amend the certificate of limited partnership to
21 delete a statement that the limited partnership is a limited
22 liability limited partnership.

23 (c) Reimbursement of advance.--A limited partnership shall
24 reimburse a general partner for an advance to the partnership
25 beyond the amount of capital the general partner agreed to
26 contribute.

27 (d) Status of advance.--A payment or advance made by a
28 general partner which gives rise to an obligation of the limited
29 partnership under subsection (c) or section 8648(a) (relating to
30 reimbursement, indemnification, advancement and insurance)

1 constitutes a loan to the partnership which accrues interest
2 from the date of the payment or advance.

3 (e) No right to remuneration.--A general partner is not
4 entitled to remuneration for services performed for the limited
5 partnership.

6 (f) Sale of assets.--A sale, lease, exchange or other
7 disposition of all, or substantially all, the property and
8 assets of a limited partnership that is not made in the usual
9 and regular course of the activities and affairs of the
10 partnership must be approved by:

11 (1) all the general partners; and

12 (2) limited partners owning the rights to receive a
13 majority of the distributions as limited partners.

14 (g) Cross reference.--See section 324 (relating to approval
15 by limited partnership).

16 § 8647. General partner rights to information.

17 (a) Right to required information.--A general partner may
18 inspect and copy required information during regular business
19 hours in the limited partnership's principal office.

20 (b) Right to other information.--On reasonable notice, a
21 general partner may inspect and copy during regular business
22 hours, at a reasonable location specified by the limited
23 partnership, any other records maintained by the partnership in
24 addition to the required information regarding the partnership's
25 activities, affairs, financial condition and other
26 circumstances.

27 (c) Obligation of limited partnership.--A limited
28 partnership shall furnish to each general partner, without
29 demand, any information concerning the partnership's activities,
30 affairs, financial condition and other circumstances which the

1 partnership knows and is material to the proper exercise of the
2 general partner's rights and duties under the partnership
3 agreement or this title, except to the extent the partnership
4 can establish that it reasonably believes the general partner
5 already knows the information.

6 (d) Obligation of general partner.--The duty to furnish
7 information under subsection (c) also applies to each general
8 partner to the extent the general partner knows any of the
9 information described in subsection (b).

10 (e) Rights of person dissociated as general partner.--
11 Subject to subsection (j), within 10 days after receipt by a
12 limited partnership of a demand made in record form, a person
13 dissociated as a general partner may have access to the
14 information and records described under subsections (a) and (b)
15 at the locations specified under subsections (a) and (b) if:

16 (1) the information or record pertains to the period
17 during which the person was a general partner;

18 (2) in seeking the information or record the person
19 complies with section 8649(d) (relating to standards of
20 conduct for general partners) as if still a general partner;
21 and

22 (3) all of the following apply:

23 (i) the person seeks the information for a purpose
24 reasonably related to the partner's interest as a former
25 general partner;

26 (ii) the person makes a demand in record form
27 received by the partnership, describing with reasonable
28 particularity the information sought and the purpose for
29 seeking the information; and

30 (iii) the information sought is directly connected

1 to the person's purpose.

2 (f) Required response to demand.--Within 10 days after
3 receiving a demand under subsection (e), the limited partnership
4 shall, in record form, inform the person that made the demand
5 of:

6 (1) what information the partnership will provide in
7 response to the demand and when and where the partnership
8 will provide the information; and

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

11 (g) Copying costs.--A limited partnership may charge a
12 person that makes a demand under this section the reasonable
13 costs of copying.

14 (h) Rights of agent or guardian.--A general partner or
15 person dissociated as a general partner may exercise the rights
16 under this section through an agent or, in the case of an
17 individual under legal disability, a guardian. Any restriction
18 or condition imposed by the partnership agreement or under
19 subsection (j) applies both to the agent or guardian and to the
20 general partner or person dissociated as a general partner.

21 (i) No rights of transferee.--The rights under this section
22 do not extend to a person as transferee, except that if:

23 (1) a general partner dies, section 8674 (relating to
24 power of personal representative of deceased partner)
25 applies; and

26 (2) an individual dissociates as a general partner under
27 section 8663(a)(7)(ii) or (iii) (relating to dissociation as
28 general partner), the personal representative of the
29 individual may exercise the rights under subsection (d) of a
30 person dissociated as a general partner.

1 (j) Limitations on access.--In addition to any restriction
2 or condition stated in its partnership agreement, a limited
3 partnership, as a matter within the ordinary course of its
4 activities and affairs, may impose reasonable restrictions and
5 conditions on access to and use of information to be furnished
6 under this section, including designating information
7 confidential and imposing nondisclosure and safeguarding
8 obligations on the recipient. In a dispute concerning the
9 reasonableness of a restriction under this subsection, the
10 partnership has the burden of proving reasonableness.

11 (k) Cross reference.--See section 8615 (relating to contents
12 of partnership agreement).

13 § 8648. Reimbursement, indemnification, advancement and
14 insurance.

15 (a) Reimbursement.--A limited partnership shall reimburse a
16 general partner for any payment made by the general partner in
17 the course of the general partner's activities on behalf of the
18 partnership, if the general partner complied with sections 8646
19 (relating to management rights), 8649 (relating to standards of
20 conduct for general partners) and 8654 (relating to limitations
21 on distributions) in making the payment.

22 (b) Indemnification.--A limited partnership shall indemnify
23 and hold harmless a person with respect to any claim or demand
24 against the person and any debt, obligation or other liability
25 incurred by the person by reason of the person's former or
26 present capacity as a general partner, if the claim, demand,
27 debt, obligation or other liability does not arise from the
28 person's breach of section 8646, 8649 or 8654.

29 (c) Advancement.--In the ordinary course of its activities
30 and affairs, a limited partnership may advance expenses,

1 including attorney fees and costs, incurred by a person in
2 connection with a claim or demand against the person by reason
3 of the person's former or present capacity as a general partner,
4 if the person promises to repay the partnership if the person
5 ultimately is determined not to be entitled to be indemnified.

6 (d) Insurance.--A limited partnership may purchase and
7 maintain insurance on behalf of a general partner against
8 liability asserted against or incurred by the general partner in
9 that capacity or arising from that status even if, under
10 subsection (g), the partnership agreement could not eliminate or
11 limit the person's liability to the partnership for the conduct
12 giving rise to the liability.

13 (e) Non-exclusivity.--The rights provided under subsections
14 (a), (b), (c) and (d) shall not be deemed exclusive of any other
15 rights to which a person seeking reimbursement, indemnification,
16 advancement of expenses or insurance may be entitled under the
17 partnership agreement, vote of partners, contract or otherwise,
18 both as to action in his official capacity and as to action in
19 another capacity while holding that position. Section 8649(f)
20 shall be applicable to a vote, contract or other action under
21 this subsection. A limited partnership may create a fund of any
22 nature, which may, but need not be, under the control of a
23 trustee, or otherwise secure or insure in any manner its
24 indemnification obligations, whether arising under this section
25 or otherwise.

26 (f) Grounds.--Indemnification under subsection (e) may be
27 granted for any action taken and may be made whether or not the
28 limited partnership would have the power to indemnify the person
29 under any other provision of law except as provided in this
30 section and whether or not the indemnified liability arises or

1 arose from any threatened, pending or completed action by or in
2 the right of the partnership. Indemnification under subsection
3 (e) is declared to be consistent with the public policy of the
4 Commonwealth.

5 (g) Limitation.--Indemnification under this section shall
6 not be made in any case where the act giving rise to the claim
7 for indemnification is determined by a court to constitute
8 recklessness, willful misconduct or a knowing violation of law.
9 § 8649. Standards of conduct for general partners.

10 (a) General rule.--A general partner owes to the limited
11 partnership and, subject to section 8691 (relating to direct
12 action by partner), the other partners the duties of loyalty and
13 care stated in subsections (b) and (c).

14 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
15 general partner includes the duties:

16 (1) to account to the limited partnership and hold as
17 trustee for it any property, profit or benefit derived by the
18 general partner:

19 (i) in the conduct or winding up of the
20 partnership's activities and affairs;

21 (ii) from a use by the general partner of the
22 partnership's property; or

23 (iii) from the appropriation of a partnership
24 opportunity;

25 (2) to refrain from dealing with the partnership in the
26 conduct or winding up of the partnership's activities and
27 affairs as or on behalf of a person having an interest
28 adverse to the partnership; and

29 (3) to refrain from competing with the partnership in
30 the conduct or winding up of the partnership's activities and

1 affairs.

2 (c) Duty of care.--The duty of care of a general partner in
3 the conduct or winding up of the limited partnership's
4 activities and affairs is to refrain from engaging in grossly
5 negligent or reckless conduct, willful or intentional misconduct
6 or knowing violation of law.

7 (d) Good faith and fair dealing.--A general partner shall
8 discharge the duties and obligations under this title or under
9 the partnership agreement and exercise any rights consistent
10 with the contractual obligation of good faith and fair dealing.

11 (e) Self-serving conduct.--A general partner does not
12 violate a duty or obligation under this title or under the
13 partnership agreement solely because the general partner's
14 conduct furthers the general partner's own interest.

15 (f) Authorization or ratification.--All the partners of a
16 limited partnership may authorize or ratify, after full
17 disclosure of all material facts, a specific act or transaction
18 that otherwise would violate the duty of loyalty of a general
19 partner.

20 (g) Fairness as a defense.--It is a defense to a claim under
21 subsection (b) (2) and any comparable claim in equity or at
22 common law that the transaction was fair to the limited
23 partnership at the time it is authorized or ratified under
24 subsection (f).

25 (h) Rights and obligations in approved transactions.--If a
26 general partner enters into a transaction with the limited
27 partnership which otherwise would be prohibited by subsection
28 (b) (2) and the transaction is authorized or ratified as provided
29 in subsection (f) or the partnership agreement, the general
30 partner's rights and obligations arising from the transaction

1 are the same as those of a person that is not a general partner.

2 (i) Exoneration.--The partnership agreement may provide that
3 a general partner shall not be personally liable for monetary
4 damages to the partnership or the other partner for a breach of
5 subsection (c), except that a general partner may not be
6 exonerated for an act that constitutes recklessness, willful
7 misconduct or a knowing violation of law.

8 (j) Cross reference.--See section 8615 (relating to contents
9 of partnership agreement).

10 SUBCHAPTER E

11 CONTRIBUTIONS AND DISTRIBUTIONS

12 Sec.

13 8651. Form of contribution.

14 8652. Liability for contribution.

15 8653. Sharing of and right to distributions before dissolution.

16 8654. Limitations on distributions.

17 8655. Liability for improper distributions.

18 § 8651. Form of contribution.

19 A contribution may consist of:

20 (1) property transferred to, services performed for or
21 another benefit provided to the limited partnership;

22 (2) an agreement to transfer property to, perform
23 services for or provide another benefit to the partnership;

24 or

25 (3) any combination of items listed in paragraphs (1)
26 and (2).

27 § 8652. Liability for contribution.

28 (a) Obligation not excused.--A person's obligation to make a
29 contribution to a limited partnership is not excused by the
30 person's death, disability, termination or other inability to

1 perform personally.

2 (b) Substitute payment.--If a person does not fulfill an
3 obligation to make a contribution other than money, the person
4 is obligated at the option of the limited partnership to
5 contribute money equal to the value, as stated in the required
6 information, of the part of the contribution which has not been
7 made.

8 (c) Compromise of obligation.--The obligation of a person to
9 make a contribution may be compromised only by the affirmative
10 vote or consent of all the partners. If a creditor of a limited
11 partnership extends credit or otherwise acts in reliance on an
12 obligation described in subsection (a) without knowledge or
13 notice of a compromise under this subsection, the creditor may
14 enforce the obligation.

15 § 8653. Sharing of and right to distributions before
16 dissolution.

17 (a) General rule.--Any distribution made by a limited
18 partnership before its dissolution and winding up must be shared
19 among the partners and persons dissociated as partners on the
20 basis of the value, as stated in the required information when
21 the limited partnership decides to make the distribution, of the
22 contributions the limited partnership has received from each
23 partner, except as provided in section 8672(b) (relating to
24 transfer of transferable interest) or to the extent necessary to
25 comply with a charging order in effect under section 8673
26 (relating to charging order).

27 (b) No entitlement to distribution.--A person has a right to
28 a distribution before the dissolution and winding up of a
29 limited partnership only if the partnership decides to make an
30 interim distribution. A person's dissociation does not entitle

1 the person to a distribution.

2 (c) Distribution in kind.--A person does not have a right to
3 demand or receive a distribution from a limited partnership in
4 any form other than money. Except as provided under section
5 8690(f) (relating to disposition of assets in winding up and
6 required contributions), a partnership may distribute an asset
7 in kind only if each part of the asset is fungible with each
8 other part and each person receives a percentage of the asset
9 equal in value to the person's share of distributions.

10 (d) Status as creditor.--If a partner or transferee becomes
11 entitled to receive a distribution, the partner or transferee
12 has the status of, and is entitled to all remedies available to,
13 a creditor of the limited partnership with respect to the
14 distribution, except that the partnership's obligation to make a
15 distribution is subject to offset for any amount owed to the
16 partnership by the partner or a person dissociated as a partner
17 on whose account the distribution is made.

18 § 8654. Limitations on distributions.

19 (a) General rule.--A limited partnership may not make a
20 distribution, including a distribution under section 8690
21 (relating to disposition of assets in winding up and required
22 contributions), if after the distribution:

23 (1) the partnership would not be able to pay its debts
24 as they become due in the ordinary course of the
25 partnership's activities and affairs; or

26 (2) the partnership's total assets would be less than
27 the sum of its total liabilities plus the amount that would
28 be needed, if the partnership were to be dissolved and wound
29 up at the time of the distribution, to satisfy the
30 preferential rights upon dissolution and winding up of

1 partners and transferees whose preferential rights are
2 superior to the rights of persons receiving the distribution.

3 (b) Valuation.--A limited partnership may base a
4 determination that a distribution is not prohibited under
5 subsection (a) (2) on:

6 (1) the book values of the assets and liabilities of the
7 partnership, as reflected on its books and records;

8 (2) a valuation that takes into consideration unrealized
9 appreciation and depreciation or other changes in value of
10 the assets and liabilities of the partnership;

11 (3) the current value of the assets and liabilities of
12 the partnership, either valued separately or valued in
13 segments or as an entirety as a going concern; or

14 (4) any other method that is reasonable in the
15 circumstances.

16 (c) Excluded liabilities.--In determining whether a
17 distribution is prohibited by subsection (a) (2), the limited
18 partnership need not consider obligations and liabilities unless
19 they are required to be reflected on a balance sheet, not
20 including the notes to the balance sheet, prepared on the basis
21 of generally accepted accounting principles or other such
22 accounting practices and principles as are used generally by the
23 partnership in the maintenance of its books and records and as
24 are reasonable in the circumstances.

25 (d) Measuring date of distribution.--Except as provided in
26 subsection (e), the effect of a distribution under subsection
27 (a) is measured:

28 (1) as of the date specified by the limited partnership
29 when it authorizes the distribution if the distribution
30 occurs within 125 days of the earlier of the date so

1 specified or the date of authorization; or
2 (2) as of the date of distribution in all other cases.

3 (e) Date of redemption.--In the case of a distribution
4 described in paragraph (1) of the definition of "distribution"
5 in section 8612 (relating to definitions), the distribution is
6 deemed to occur as of the earlier of the date money or other
7 property is transferred or debt is incurred by the limited
8 partnership or the date the person entitled to the distribution
9 ceases to own the interest or right being acquired by the
10 partnership in return for the distribution.

11 (f) Status of distribution debt.--The indebtedness of a
12 limited partnership to a partner or transferee incurred by
13 reason of a distribution made in accordance with this section
14 shall be at least on a parity with the partnership's
15 indebtedness to its general, unsecured creditors, except to the
16 extent subordinated by agreement.

17 (g) Certain subordinated debt.--The indebtedness of a
18 limited partnership, including indebtedness issued as a
19 distribution, is not a liability for purposes of subsection (a)
20 if the terms of the indebtedness provide that payment of
21 principal and interest is made only if and to the extent that
22 payment of a distribution could then be made under this
23 section. If the indebtedness is issued as a distribution, each
24 payment of principal or interest is treated as a distribution,
25 the effect of which is measured on the date the payment is made.

26 (h) Distributions in winding up.--In measuring the effect of
27 a distribution under section 8690, the liabilities of a
28 dissolved limited partnership do not include any claim that has
29 been barred under section 8686 (relating to known claims against
30 dissolved limited partnership) or 8687 (relating to other claims

1 against dissolved limited partnership), or for which security
2 has been provided under section 8688 (relating to court
3 proceedings).

4 (i) Cross references.--See sections 8615(d)(1)(ii) (relating
5 to contents of partnership agreement) and 8649 (relating to
6 standards of conduct for general partners).

7 § 8655. Liability for improper distributions.

8 (a) General rule.--If a general partner consents to a
9 distribution made in violation of section 8654 (relating to
10 limitations on distributions) and in consenting to the
11 distribution fails to comply with section 8649 (relating to
12 standards of conduct for general partners), the general partner
13 is personally liable to the limited partnership for the amount
14 of the distribution which exceeds the amount that could have
15 been distributed without the violation of section 8654.

16 (b) Recipients.--A person that receives a distribution
17 knowing that the distribution violated section 8654 is
18 personally liable to the limited partnership but only to the
19 extent that the distribution received by the person exceeded the
20 amount that could have been properly paid under section 8654.

21 (c) Contribution.--A general partner against which an action
22 is commenced because the general partner is liable under
23 subsection (a) may:

24 (1) join any other person that is liable under
25 subsection (a) or otherwise seek to enforce a right of
26 contribution from the person; and

27 (2) join any person that received a distribution in
28 violation of subsection (b) or otherwise seek to enforce a
29 right of contribution from the person in the amount the
30 person received in violation of subsection (b).

1 (d) Statute of repose.--An action under this section is
2 barred unless commenced within two years after the distribution.

3 SUBCHAPTER F

4 DISSOCIATION

5 Sec.

6 8661. Dissociation as limited partner.

7 8662. Effects of dissociation as limited partner.

8 8663. Dissociation as general partner.

9 8664. Power to dissociate as general partner and wrongful
10 dissociation.

11 8665. Effects of dissociation as general partner.

12 8666. Power to bind and liability of person dissociated as
13 general partner.

14 8667. Liability of person dissociated as general partner to
15 other persons.

16 § 8661. Dissociation as limited partner.

17 (a) No right to dissociate.--A person does not have a right
18 to dissociate as a limited partner before the completion of the
19 winding up of the limited partnership.

20 (b) Events causing dissociation.--A person is dissociated as
21 a limited partner when any of the following apply:

22 (1) The limited partnership knows or has notice of the
23 person's express will to withdraw as a limited partner
24 rightfully or wrongfully, except that, if the person has
25 specified a withdrawal date later than the date the
26 partnership knew or had notice, on that later date.

27 (2) An event stated in the partnership agreement as
28 causing the person's dissociation as a limited partner
29 occurs.

30 (3) The person is expelled as a limited partner pursuant

1 to the partnership agreement.

2 (4) The person is expelled as a limited partner by the
3 affirmative vote or consent of all the other partners if:

4 (i) it is unlawful to carry on the partnership's
5 activities and affairs with the person as a limited
6 partner;

7 (ii) there has been a transfer of all the person's
8 transferable interest in the partnership, other than:

9 (A) a transfer for security purposes; or

10 (B) a charging order in effect under section
11 8673 (relating to charging order) which has not been
12 foreclosed;

13 (iii) the person is an entity and:

14 (A) the partnership notifies the person that it
15 will be expelled as a limited partner because:

16 (I) the person has filed a certificate of
17 dissolution or the equivalent;

18 (II) the person has been administratively
19 dissolved;

20 (III) the person's charter or the equivalent
21 has been revoked; or

22 (IV) the person's right to conduct business
23 has been suspended by the person's jurisdiction
24 of formation; and

25 (B) within 90 days after the notification:

26 (I) the certificate of dissolution or the
27 equivalent has not been withdrawn, rescinded or
28 revoked;

29 (II) the person has not been reinstated;

30 (III) the person's charter or the equivalent

1 has not been reinstated; or
2 (IV) the person's right to conduct business
3 has not been reinstated; or
4 (iv) the person is an unincorporated entity that has
5 been dissolved and whose activities and affairs are being
6 wound up.
7 (5) On application by the partnership or a partner in a
8 direct action under section 8691 (relating to direct action
9 by partner), the person is expelled as a limited partner by
10 judicial order because the person:
11 (i) has engaged or is engaging in wrongful conduct
12 that has affected adversely and materially, or will
13 affect adversely and materially, the partnership's
14 activities and affairs;
15 (ii) has committed willfully or persistently, or is
16 committing willfully or persistently, a material breach
17 of the partnership agreement or the contractual
18 obligation of good faith and fair dealing under section
19 8635(a) (relating to limited duties of limited partners);
20 or
21 (iii) has engaged or is engaging in conduct relating
22 to the partnership's activities and affairs which makes
23 it not reasonably practicable to carry on the activities
24 and affairs with the person as a limited partner.
25 (6) In the case of an individual, the individual dies.
26 (7) In the case of a person that is a testamentary or
27 inter vivos trust or is acting as a limited partner by virtue
28 of being a trustee of such a trust, the trust's entire
29 transferable interest in the limited partnership is
30 distributed.

1 (8) In the case of a person that is an estate or is
2 acting as a limited partner by virtue of being a personal
3 representative of an estate, the estate's entire transferable
4 interest in the limited partnership is distributed.

5 (9) In the case of a person that is not an individual,
6 the existence of the person terminates.

7 (10) The partnership participates in a merger under
8 Chapter 3 (relating to entity transactions) and:

9 (i) the partnership is not the surviving entity; or

10 (ii) otherwise as a result of the merger, the person
11 ceases to be a limited partner.

12 (11) The partnership participates in an interest
13 exchange under Chapter 3 and, as a result of the interest
14 exchange, the person ceases to be a limited partner.

15 (12) The partnership participates in a conversion under
16 Chapter 3.

17 (13) The partnership participates in a division under
18 Chapter 3 and:

19 (i) the partnership is not a resulting association;

20 or

21 (ii) as a result of the division, the person ceases
22 to be a partner.

23 (14) The partnership participates in a domestication
24 under Chapter 3 and, as a result of the domestication, the
25 person ceases to be a limited partner.

26 (15) The partnership dissolves and completes winding up.

27 (c) Cross reference.--See section 8611(d) (relating to short
28 title and application of chapter).

29 § 8662. Effects of dissociation as limited partner.

30 (a) General rule.--If a person is dissociated as a limited

1 partner:

2 (1) subject to section 8674 (relating to power of
3 personal representative of deceased partner), the person does
4 not have further rights as a limited partner;

5 (2) the person's contractual obligation of good faith
6 and fair dealing as a limited partner under section 8635(a)
7 (relating to limited duties of limited partners) ends with
8 regard to matters arising and events occurring after the
9 person's dissociation except as provided in section 8634(c)
10 (relating to limited partner rights to information); and

11 (3) subject to section 8674 and Chapter 3 (relating to
12 entity transactions), any transferable interest owned by the
13 person in the person's capacity as a limited partner
14 immediately before dissociation is owned by the person solely
15 as a transferee.

16 (b) Existing obligations not discharged.--A person's
17 dissociation as a limited partner does not of itself discharge
18 the person from any debt, obligation or other liability to the
19 limited partnership or the other partners which the person
20 incurred while a limited partner.

21 (c) Cross reference.--See section 8611(d) (relating to short
22 title and application of chapter).

23 § 8663. Dissociation as general partner.

24 (a) General rule.--A person is dissociated as a general
25 partner when any of the following occurs:

26 (1) The limited partnership knows or has notice of the
27 person's express will to withdraw as a general partner
28 rightfully or wrongfully, except that, if the person has
29 specified a withdrawal date later than the date the
30 partnership knew or had notice, on that later date.

1 (2) An event stated in the partnership agreement as
2 causing the person's dissociation as a general partner
3 occurs.

4 (3) The person is expelled as a general partner pursuant
5 to the partnership agreement.

6 (4) The person is expelled as a general partner by the
7 affirmative vote or consent of all the other partners if:

8 (i) it is unlawful to carry on the partnership's
9 activities and affairs with the person as a general
10 partner;

11 (ii) there has been a transfer of all the person's
12 transferable interest in the partnership, other than:

13 (A) a transfer for security purposes; or

14 (B) a charging order in effect under section
15 8673 (relating to charging order) which has not been
16 foreclosed;

17 (iii) the person is an entity and:

18 (A) the partnership notifies the person that it
19 will be expelled as a general partner because:

20 (I) the person has filed a certificate of
21 dissolution or the equivalent;

22 (II) the person has been administratively
23 dissolved;

24 (III) the person's charter or the equivalent
25 has been revoked; or

26 (IV) the person's right to conduct business
27 has been suspended by the person's jurisdiction
28 of formation; and

29 (B) within 90 days after the notification:

30 (I) the certificate of dissolution or the

1 equivalent has not been withdrawn, rescinded or
2 revoked;

3 (II) the person has not been reinstated;

4 (III) the person's charter or the equivalent
5 has not been reinstated; or

6 (IV) the person's right to conduct business
7 has not been reinstated; or

8 (iv) the person is an unincorporated entity that has
9 been dissolved and whose activities and affairs are being
10 wound up.

11 (5) On application by the partnership or a partner in a
12 direct action under section 8691 (relating to direct action
13 by partner), the person is expelled as a general partner by
14 judicial order because the person:

15 (i) has engaged or is engaging in wrongful conduct
16 that has affected adversely and materially, or will
17 affect adversely and materially, the partnership's
18 activities and affairs;

19 (ii) has committed willfully or persistently, or is
20 committing willfully or persistently, a material breach
21 of the partnership agreement or a duty or obligation
22 under section 8649 (relating to standards of conduct for
23 general partners); or

24 (iii) has engaged or is engaging in conduct relating
25 to the partnership's activities and affairs which makes
26 it not reasonably practicable to carry on the activities
27 and affairs of the partnership with the person as a
28 general partner.

29 (6) The person:

30 (i) becomes a debtor in bankruptcy;

1 (ii) executes an assignment for the benefit of
2 creditors; or

3 (iii) seeks, consents to or acquiesces in the
4 appointment of a trustee, receiver or liquidator of the
5 person or of all or substantially all the person's
6 property.

7 (7) In the case of an individual:

8 (i) the individual dies;

9 (ii) a guardian for the individual is appointed; or

10 (iii) a court orders that the individual has
11 otherwise become incapable of performing the individual's
12 duties as a general partner under this title or the
13 partnership agreement.

14 (8) In the case of a person that is a testamentary or
15 inter vivos trust or is acting as a general partner by virtue
16 of being a trustee of the trust, the trust's entire
17 transferable interest in the limited partnership is
18 distributed.

19 (9) In the case of a person that is an estate or is
20 acting as a general partner by virtue of being a personal
21 representative of an estate, the estate's entire transferable
22 interest in the limited partnership is distributed.

23 (10) In the case of a person that is not an individual,
24 the existence of the person terminates.

25 (11) The partnership participates in a merger under
26 Chapter 3 (relating to entity transactions) and:

27 (i) the partnership is not the surviving entity; or

28 (ii) otherwise as a result of the merger, the person
29 ceases to be a general partner.

30 (12) The partnership participates in an interest

1 exchange under Chapter 3 and, as a result of the interest
2 exchange, the person ceases to be a general partner.

3 (13) The partnership participates in a conversion under
4 Chapter 3.

5 (14) The partnership participates in a division under
6 Chapter 3 and:

7 (i) the partnership is not a resulting association;

8 or

9 (ii) as a result of the division, the person ceases
10 to be a partner.

11 (15) The partnership participates in a domestication
12 under Chapter 3 and, as a result of the domestication, the
13 person ceases to be a general partner.

14 (16) The partnership dissolves and completes winding up.

15 (b) Cross reference.--See section 8611(d) (relating to short
16 title and application of chapter).

17 § 8664. Power to dissociate as general partner and wrongful
18 dissociation.

19 (a) Power to dissociate.--A person has the power to
20 dissociate as a general partner at any time, rightfully or
21 wrongfully, by withdrawing as a general partner by express will
22 under section 8663(a) (1) (relating to dissociation as general
23 partner).

24 (b) Wrongful dissociation.--A person's dissociation as a
25 general partner is wrongful only if the dissociation:

26 (1) is in breach of an express provision of the
27 partnership agreement; or

28 (2) occurs before the completion of the winding up of
29 the limited partnership, and:

30 (i) the person withdraws as a general partner by

1 express will;

2 (ii) the person is expelled as a general partner by
3 judicial order under section 8663(a)(5);

4 (iii) the person is dissociated as a general partner
5 under section 8663(a)(6); or

6 (iv) the person is expelled or otherwise dissociated
7 as a general partner because its existence terminated,
8 except that this subparagraph does not apply to a person
9 that is:

10 (A) a trust that is not a business or statutory
11 trust;

12 (B) an estate; or

13 (C) an individual.

14 (c) Damages for wrongful dissociation.--A person that
15 wrongfully dissociates as a general partner is liable to the
16 limited partnership and, subject to section 8691 (relating to
17 direct action by partner), to the other partners for damages
18 caused by the dissociation. The liability is in addition to any
19 debt, obligation or other liability of the general partner to
20 the partnership or the other partners.

21 (d) Cross reference.--See section 8615 (relating to contents
22 of partnership agreement).

23 § 8665. Effects of dissociation as general partner.

24 (a) General rule.--If a person is dissociated as a general
25 partner:

26 (1) The person's right to participate as a general
27 partner in the management and conduct of the limited
28 partnership's activities and affairs terminates.

29 (2) The person's duties and obligations as a general
30 partner under section 8649 (relating to standards of conduct

1 for general partners) end with regard to matters arising and
2 events occurring after the person's dissociation except as
3 provided in section 8647(e) (2) (relating to general partner
4 rights to information).

5 (3) The person may deliver to the department for filing
6 a certificate of dissociation stating:

7 (i) the name of the partnership;

8 (ii) subject to section 109 (relating to name of
9 commercial registered office provider in lieu of
10 registered address), the address, including street and
11 number, if any, of the registered office of the
12 partnership; and

13 (iii) the name of the person and that the person has
14 dissociated as a general partner.

15 (4) At the request of the limited partnership, the
16 person shall sign an amendment to the certificate of limited
17 partnership which states that the person has dissociated as a
18 general partner.

19 (5) Subject to section 8674 (relating to power of
20 personal representative of deceased partner) and Chapter 3
21 (relating to entity transactions), any transferable interest
22 owned by the person in the person's capacity as a general
23 partner immediately before dissociation is owned by the
24 person solely as a transferee.

25 (b) Existing obligations not discharged.--A person's
26 dissociation as a general partner does not of itself discharge
27 the person from any debt, obligation or other liability to the
28 limited partnership or the other partners which the person
29 incurred while a general partner.

30 (c) Cross references.--See:

1 Section 134 (relating to docketing statement).

2 Section 135 (relating to requirements to be met by filed
3 documents).

4 Section 136(c) (relating to processing of documents by
5 Department of State).

6 Section 8623 (relating to signing of filed documents).

7 § 8666. Power to bind and liability of person dissociated as
8 general partner.

9 (a) Power to bind.--After a person is dissociated as a
10 general partner and before the limited partnership is merged or
11 divided out of existence, converted or domesticated under
12 Chapter 3 (relating to entity transactions) or dissolved, the
13 partnership is bound by an act of the person only if:

14 (1) the act would have bound the partnership under
15 section 8642 (relating to general partner agent of limited
16 partnership) before the dissociation; and

17 (2) at the time the other party enters into the
18 transaction:

19 (i) less than two years have passed since the
20 dissociation; and

21 (ii) the other party does not know or have notice of
22 the dissociation and reasonably believes that the person
23 is a general partner.

24 (b) Liability.--If a limited partnership is bound under
25 subsection (a), the person dissociated as a general partner
26 which caused the partnership to be bound is liable:

27 (1) to the partnership for any damage caused to the
28 partnership arising from the obligation incurred under
29 subsection (a); and

30 (2) if a general partner or another person dissociated

1 as a general partner is liable for the obligation, to the
2 general partner or other person for any damage caused to the
3 general partner or other person arising from the liability.
4 § 8667. Liability of person dissociated as general partner to
5 other persons.

6 (a) General rule.--A person's dissociation as a general
7 partner does not of itself discharge the person's liability as a
8 general partner for a debt, obligation or other liability of the
9 limited partnership incurred before dissociation. Except as
10 provided in subsections (b) and (c), the person is not liable
11 for a partnership obligation incurred after dissociation.

12 (b) Obligations incurred after dissolution.--A person whose
13 dissociation as a general partner results in a dissolution and
14 winding up of the limited partnership's activities and affairs
15 is liable on an obligation incurred by the partnership under
16 section 8685 (relating to general partner liability after
17 dissolution) to the same extent as a general partner under
18 section 8644 (relating to general partner's liability).

19 (c) When partnership not dissolved.--A person that is
20 dissociated as a general partner without the dissociation
21 resulting in a dissolution and winding up of the limited
22 partnership's activities and affairs is liable on a transaction
23 entered into by the partnership after the dissociation only if a
24 general partner would be liable on the transaction, but at the
25 time the other party enters into the transaction:

26 (1) less than two years have passed since the
27 dissociation; and

28 (2) the other party does not have knowledge or notice of
29 the dissociation and reasonably believes that the person is a
30 general partner.

1 (d) Constructive release by creditor.--A person dissociated
2 as a general partner is released from liability for a debt,
3 obligation or other liability of the limited partnership if the
4 partnership's creditor, with knowledge or notice of the person's
5 dissociation as a general partner and without the person's
6 consent, agrees to a material alteration in the nature or time
7 of payment of the debt, obligation or other liability. The
8 release from liability under this subsection applies whether the
9 liability arises directly or indirectly, by way of contribution
10 or otherwise, but only if the liability arises solely by reason
11 of having been a general partner.

12 SUBCHAPTER G

13 TRANSFERABLE INTERESTS AND RIGHTS

14 OF TRANSFEREES AND CREDITORS

15 Sec.

16 8671. Nature of transferable interest.

17 8672. Transfer of transferable interest.

18 8673. Charging order.

19 8674. Power of personal representative of deceased partner.

20 § 8671. Nature of transferable interest.

21 (a) Personal property.--A transferable interest is personal
22 property.

23 (b) Only right that may be transferred.--A person may not
24 transfer to a person not a partner any rights in a limited
25 partnership other than a transferable interest.

26 § 8672. Transfer of transferable interest.

27 (a) General rule.--A transfer, in whole or in part, of a
28 transferable interest:

29 (1) is permissible;

30 (2) does not by itself cause the dissociation of the

1 transferor as a partner or a dissolution and winding up of
2 the limited partnership's activities and affairs; and

3 (3) subject to section 8674 (relating to power of
4 personal representative of deceased partner), does not
5 entitle the transferee to:

6 (i) participate in the management or conduct of the
7 partnership's activities and affairs; or

8 (ii) except as provided under subsection (c), have
9 access to required information, records or other
10 information concerning the partnership's activities and
11 affairs.

12 (b) Right to distributions.--A transferee has the right to
13 receive, in accordance with the transfer, distributions to which
14 the transferor would otherwise be entitled.

15 (c) Right to account on dissolution.--In a dissolution and
16 winding up of a limited partnership, a transferee is entitled to
17 an account of the partnership's transactions only from the date
18 of dissolution.

19 (d) Certificate of interest.--A transferable interest may be
20 evidenced by a certificate of the interest issued by a limited
21 partnership in record form, and, subject to this section, the
22 interest represented by the certificate may be transferred by a
23 transfer of the certificate.

24 (e) Recognition of transferee's rights.--A limited
25 partnership need not give effect to a transferee's rights under
26 this section until the partnership knows or has notice of the
27 transfer.

28 (f) Transfer restrictions.--A transfer of a transferable
29 interest in violation of a restriction on transfer contained in
30 the partnership agreement is ineffective if the intended

1 transferee has knowledge or notice of the restriction at the
2 time of transfer.

3 (g) Rights retained by transferor.--Except as provided under
4 sections 8661(b)(4)(ii) (relating to dissociation as limited
5 partner) and 8663(a)(4)(ii) (relating to dissociation as general
6 partner), if a general or limited partner transfers a
7 transferable interest, the transferor retains the rights of a
8 general or limited partner other than the transferable interest
9 transferred and retains all the duties and obligations of a
10 general or limited partner.

11 § 8673. Charging order.

12 (a) General rule.--On application by a judgment creditor of
13 a partner or transferee, a court may enter a charging order
14 against the transferable interest of the judgment debtor for the
15 unsatisfied amount of the judgment. A charging order constitutes
16 a lien on a judgment debtor's transferable interest and requires
17 the limited partnership to pay over to the person to which the
18 charging order was issued any distribution that otherwise would
19 be paid to the judgment debtor.

20 (b) Available relief.--To the extent necessary to effectuate
21 the collection of distributions pursuant to a charging order in
22 effect under subsection (a), the court may:

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

26 (2) make all other orders necessary to give effect to
27 the charging order.

28 (c) Foreclosure.--Upon a showing that distributions under a
29 charging order will not pay the judgment debt within a
30 reasonable time, the court may foreclose the lien and order the

1 sale of the transferable interest. The purchaser at the
2 foreclosure sale obtains only the transferable interest, does
3 not thereby become a partner and is subject to section 8672
4 (relating to transfer of transferable interest).

5 (d) Satisfaction of judgment.--At any time before
6 foreclosure under subsection (c), the partner or transferee
7 whose transferable interest is subject to a charging order under
8 subsection (a) may extinguish the charging order by satisfying
9 the judgment and filing a certified copy of the satisfaction
10 with the court that issued the charging order.

11 (e) Purchase of rights.--At any time before foreclosure
12 under subsection (c), a limited partnership or one or more
13 partners whose transferable interests are not subject to the
14 charging order may pay to the judgment creditor the full amount
15 due under the judgment and thereby succeed to the rights of the
16 judgment creditor, including the charging order.

17 (f) Exemption laws preserved.--This chapter shall not
18 deprive any partner or transferee of the benefit of any
19 exemption law applicable to the transferable interest of the
20 partner or transferee.

21 (g) Exclusive remedy.--This section provides the exclusive
22 remedy by which a person seeking, in the capacity of a judgment
23 creditor, to enforce a judgment against a partner or transferee
24 may satisfy the judgment from the judgment debtor's transferable
25 interest.

26 § 8674. Power of personal representative of deceased partner.

27 If a partner dies, the personal representative of the
28 deceased partner may exercise:

29 (1) the rights of a transferee provided in section
30 8672(c) (relating to transfer of transferable interest); and

1 (3) after the dissociation of a person as a general
2 partner:

3 (i) if the partnership has at least one remaining
4 general partner, the affirmative vote or consent to
5 dissolve the partnership within 90 days after the
6 dissociation by partners owning a majority of the rights
7 to receive distributions as partners at the time the vote
8 or consent is to be effective; or

9 (ii) if the partnership does not have a remaining
10 general partner, the passage of 180 days after the
11 dissociation, unless before the end of the period:

12 (A) consent to continue the activities and
13 affairs of the partnership and admit at least one
14 general partner is given by limited partners owning a
15 majority of the rights to receive distributions as
16 limited partners at the time the consent is to be
17 effective; and

18 (B) at least one person is admitted as a general
19 partner in accordance with the consent;

20 (4) the passage of 180 consecutive days after the
21 dissociation of the partnership's last limited partner,
22 unless before the end of the period the partnership admits at
23 least one limited partner;

24 (5) the passage of 180 consecutive days during which the
25 partnership has only one partner, unless before the end of
26 the period:

27 (i) the partnership admits at least one person as a
28 partner;

29 (ii) if the previously sole remaining partner is
30 only a general partner, the partnership admits a person

1 as a limited partner; and

2 (iii) if the previously sole remaining partner is
3 only a limited partner, the partnership admits a person
4 as a general partner; or

5 (6) on application by a partner, the entry by the court
6 of an order dissolving the partnership on the grounds that:

7 (i) the conduct of all or substantially all the
8 partnership's activities and affairs is unlawful;

9 (ii) it is not reasonably practicable to carry on
10 the partnership's activities and affairs in conformity
11 with the certificate of limited partnership and
12 partnership agreement; or

13 (iii) the general partners have acted, are acting or
14 will act in a manner that is illegal or fraudulent.

15 (b) Multiple deadlines.--If an event occurs that imposes a
16 deadline on a limited partnership under subsection (a) and
17 before the partnership has met the requirements of the deadline,
18 another event occurs that imposes a different deadline on the
19 partnership under subsection (a):

20 (1) the occurrence of the second event does not affect
21 the deadline caused by the first event; and

22 (2) the partnership's meeting of the requirements of the
23 first deadline does not extend the second deadline.

24 (c) Cross references.--See sections 8611(d) (relating to
25 short title and application of chapter) and 8615(c)(15)
26 (relating to contents of partnership agreement).

27 § 8681.1. Voluntary termination by partners.

28 (a) General rule.--The general partners of a limited
29 partnership that has never transacted business or held assets
30 other than money received as capital contributions may effect

1 the termination of the partnership by delivering to the
2 department for filing a certificate of termination stating:

3 (1) the name of the partnership;

4 (2) subject to section 109 (relating to name of
5 commercial registered office provider in lieu of registered
6 address), the address, including street and number, if any,
7 of the registered office of the partnership;

8 (3) that the partnership has never transacted business
9 or held assets other than money received as capital
10 contributions;

11 (4) that the amounts, if any, actually paid in as
12 contributions, less any part disbursed for necessary
13 expenses, have been returned to those entitled to the return
14 of the amounts;

15 (5) that all liabilities of the partnership have been
16 discharged or that adequate provision has been made for those
17 liabilities; and

18 (6) that a majority of the general partners elect that
19 the partnership be terminated.

20 (b) Effect.--Upon the filing of the certificate of
21 termination, the existence of the limited partnership shall
22 cease.

23 (c) Cross references.--See:

24 Section 134 (relating to docketing statement).

25 Section 135 (relating to requirements to be met by filed
26 documents).

27 Section 136(c) (relating to processing of documents by
28 Department of State).

29 Section 8623 (relating to signing of filed documents).

30 § 8682. Winding up and filing of certificates.

1 (a) General rule.--A dissolved limited partnership shall
2 wind up its activities and affairs and the partnership continues
3 after dissolution only for the purpose of winding up.

4 (b) Conduct of winding up.--In winding up its activities and
5 affairs, the limited partnership:

6 (1) shall discharge the partnership's debts, obligations
7 and other liabilities, settle and close the partnership's
8 activities and affairs, and marshal and distribute the assets
9 of the partnership; and

10 (2) may:

11 (i) amend its certificate of limited partnership to
12 state that the partnership is dissolved;

13 (ii) preserve the partnership activities, affairs
14 and property as a going concern for a reasonable time;

15 (iii) prosecute, defend and settle actions and
16 proceedings, whether civil, criminal or administrative;

17 (iv) transfer the partnership's property;

18 (v) participate in, agree to participate in and
19 settle disputes by mediation, arbitration or alternative
20 dispute resolution proceedings; and

21 (vi) perform other acts necessary or appropriate to
22 the winding up.

23 (c) Conduct of winding up when no general partner.--If a
24 dissolved limited partnership does not have a general partner, a
25 person to wind up the dissolved partnership's activities and
26 affairs may be appointed by the affirmative vote or consent of
27 limited partners owning the rights to receive a majority of the
28 distributions as limited partners at the time the vote or
29 consent is to be effective. A person appointed under this
30 subsection:

1 (1) has the powers of a general partner under section
2 8684 (relating to power to bind partnership after
3 dissolution) but is not liable for the debts, obligations and
4 other liabilities of the partnership solely by reason of
5 having or exercising those powers or otherwise acting to wind
6 up the dissolved partnership's activities and affairs; and

7 (2) shall deliver promptly to the department for filing
8 an amendment to the partnership's certificate of limited
9 partnership stating:

10 (i) that the partnership does not have a general
11 partner;

12 (ii) the name and address of the person; and

13 (iii) that the person has been appointed under this
14 subsection to wind up the partnership.

15 (d) Judicial supervision.--On the application of a partner
16 or person entitled under subsection (c) to participate in
17 winding up, the court may order judicial supervision of the
18 winding up of a dissolved limited partnership, including the
19 appointment of a person to wind up the partnership's activities
20 and affairs, if:

21 (1) the partnership does not have a general partner and
22 within a reasonable time following the dissolution no person
23 has been appointed under subsection (c); or

24 (2) the applicant establishes other good cause.

25 (e) Certificate of termination.--When all debts, obligations
26 and other liabilities of the limited partnership have been paid
27 and discharged or adequate provision has been made therefor and
28 all of the remaining property and assets of the partnership have
29 been distributed to the partners, a certificate of termination
30 shall be delivered to the department for filing along with the

1 certificates required by section 139 (relating to tax clearance
2 of certain fundamental transactions). The certificate of
3 termination shall set forth:

4 (1) The name of the limited partnership.

5 (2) Subject to section 109 (relating to name of
6 commercial registered office provider in lieu of registered
7 address), the address, including street and number, if any,
8 of the registered office of the partnership.

9 (3) That all debts, obligations and other liabilities of
10 the partnership have been paid and discharged or that
11 adequate provision has been made therefor.

12 (4) That all the remaining property and assets of the
13 partnership have been distributed among its partners in
14 accordance with their respective rights and interests.

15 (5) That there are no actions pending against the
16 partnership in any court or that adequate provision has been
17 made for the satisfaction of any judgment that may be entered
18 against it in any pending action.

19 (6) That the partnership is terminated.

20 (f) Cross references.--See:

21 Section 134 (relating to docketing statement).

22 Section 135 (relating to requirements to be met by filed
23 documents).

24 Section 136(c) (relating to processing of documents by
25 Department of State).

26 Section 8615(c)(16) (relating to contents of partnership
27 agreement).

28 Section 8623 (relating to signing of filed documents).

29 § 8683. (Reserved).

30 § 8684. Power to bind partnership after dissolution.

1 (a) Power of general partner.--A limited partnership is
2 bound by a general partner's act after dissolution which:

3 (1) is appropriate for winding up the partnership's
4 activities and affairs; or

5 (2) would have bound the partnership under section 8642
6 (relating to general partner agent of limited partnership)
7 before dissolution if, at the time the other party enters
8 into the transaction, the other party does not know or have
9 notice of the dissolution.

10 (b) Power of person dissociated as general partner.--A
11 person dissociated as a general partner binds a limited
12 partnership through an act occurring after dissolution if:

13 (1) at the time the other party enters into the
14 transaction:

15 (i) less than two years have passed since the
16 dissociation; and

17 (ii) the other party does not know or have notice of
18 the dissociation and reasonably believes that the person
19 is a general partner; and

20 (2) the act:

21 (i) is appropriate for winding up the partnership's
22 activities and affairs; or

23 (ii) would have bound the partnership under section
24 8642 before dissolution and at the time the other party
25 enters into the transaction, the other party does not
26 know or have notice of the dissolution.

27 § 8685. General partner liability after dissolution.

28 (a) Liability of general partner.--If a general partner
29 having knowledge of the dissolution causes a limited partnership
30 to incur an obligation under section 8684(a) (relating to power

1 to bind partnership after dissolution) by an act that is not
2 appropriate for winding up the partnership's activities and
3 affairs, the general partner is liable:

4 (1) to the partnership for any damage caused to the
5 partnership arising from the obligation; and

6 (2) if another general partner or a person dissociated
7 as a general partner is liable for the obligation, to that
8 other general partner or person for any damage caused to that
9 other general partner or person arising from the liability.

10 (b) Liability of person dissociated as general partner.--If
11 a person dissociated as a general partner causes a limited
12 partnership to incur an obligation under section 8684(b), the
13 person is liable:

14 (1) to the partnership for any damage caused to the
15 partnership arising from the obligation; and

16 (2) if a general partner or another person dissociated
17 as a general partner is liable for the obligation, to the
18 general partner or other person for any damage caused to the
19 general partner or other person arising from the obligation.

20 § 8686. Known claims against dissolved limited partnership.

21 (a) General rule.--Except as provided under subsection (d),
22 a dissolved limited partnership may give notice of a known claim
23 under subsection (b), which has the effect provided in
24 subsection (c).

25 (b) Required notice.--A dissolved limited partnership may
26 notify in record form its known claimants of the dissolution.

27 The notice must:

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

30 (2) state that a claim must be in writing and provide a

1 mailing address to which the claim is to be sent;

2 (3) state the deadline for receipt of a claim, which may
3 not be less than 120 days after the date the notice is
4 received by the claimant;

5 (4) state that the claim will be barred if not received
6 by the deadline; and

7 (5) unless the partnership has been throughout its
8 existence a limited liability limited partnership, state that
9 the barring of a claim against the partnership will also bar
10 any corresponding claim against any general partner or person
11 dissociated as a general partner which is based on section
12 8644 (relating to general partner's liability).

13 (c) Claims barred.--A claim against a dissolved limited
14 partnership is barred if the requirements of subsection (b) are
15 met and:

16 (1) the claim is not received by the specified deadline;
17 or

18 (2) if the claim is timely received but rejected by the
19 partnership:

20 (i) the partnership causes the claimant to receive a
21 notice in record form stating that the claim is rejected
22 and will be barred unless the claimant commences an
23 action against the partnership to enforce the claim
24 within 90 days after the claimant receives the notice;
25 and

26 (ii) the claimant fails to commence the required
27 action no later than 90 days after the claimant receives
28 the notice.

29 (d) Later arising claims.--This section shall not apply to a
30 claim based on an event occurring after the date of dissolution

1 or a liability that on that date is contingent.

2 § 8687. Other claims against dissolved limited partnership.

3 (a) Permissive notice.--A dissolved limited partnership may
4 publish notice of its dissolution and request persons having
5 claims against the partnership to present them in accordance
6 with the notice.

7 (b) Notice procedure.--A notice under subsection (a) must:

8 (1) be officially published one time;

9 (2) describe the information required to be contained in
10 a claim, state that the claim must be in writing and provide
11 a mailing address to which the claim is to be sent;

12 (3) state that a claim against the partnership is barred
13 unless an action to enforce the claim is commenced within two
14 years after publication of the notice; and

15 (4) unless the partnership has been throughout its
16 existence a limited liability limited partnership, state that
17 the barring of a claim against the partnership will also bar
18 any corresponding claim against any general partner or person
19 dissociated as a general partner which is based on section
20 8644 (relating to general partner's liability).

21 (c) Claims barred.--If a dissolved limited partnership
22 publishes a notice in accordance with subsection (b), the claim
23 of each of the following claimants is barred unless the claimant
24 commences an action to enforce the claim against the partnership
25 within two years after the publication date of the notice:

26 (1) a claimant that did not receive notice in record
27 form under section 8686 (relating to known claims against
28 dissolved limited partnership);

29 (2) a claimant whose claim was timely sent to the
30 partnership but not acted on; and

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

3 (d) Claims not barred.--A claim not barred under this
4 section or section 8686 may be enforced:

5 (1) against the dissolved limited partnership, to the
6 extent of its undistributed assets;

7 (2) except as provided under section 8688 (relating to
8 court proceedings), if assets of the partnership have been
9 distributed after dissolution, against a partner or
10 transferee to the extent of that person's proportionate share
11 of the claim or of the partnership's assets distributed to
12 the partner or transferee after dissolution, whichever is
13 less, except that a person's total liability for all claims
14 under this paragraph may not exceed the total amount of
15 assets distributed to the person after dissolution; and

16 (3) against any person liable on the claim under
17 sections 8644 and 8667 (relating to liability of person
18 dissociated as general partner to other persons).

19 § 8688. Court proceedings.

20 (a) Determination of security.--A dissolved limited
21 partnership that has officially published a notice under section
22 8687 (relating to other claims against dissolved limited
23 partnership) may file an application with the court of common
24 pleas embracing the county where the partnership's principal
25 office is located or, if the principal office is not located in
26 this Commonwealth, where its registered office is or was last
27 located, for a determination of the amount and form of security
28 to be provided for payment of claims that are reasonably
29 expected to arise after the date of dissolution based on facts
30 known to the partnership and:

1 (1) at the time of the application:
2 (i) are contingent; or
3 (ii) have not been made known to the partnership; or
4 (2) are based on an event occurring after the date of
5 dissolution.

6 (b) When security not required.--Security is not required
7 for any claim that is or is reasonably anticipated to be barred
8 under section 8687.

9 (c) Notice.--Within 10 days after the filing of an
10 application under subsection (a), the dissolved limited
11 partnership shall give notice of the proceeding to each claimant
12 holding a contingent claim known to the partnership.

13 (d) Guardian ad litem.--In a proceeding brought under this
14 section, the court may appoint a guardian ad litem to represent
15 all claimants whose identities are unknown. The reasonable fees
16 and expenses of the guardian, including all reasonable expert
17 witness fees, must be paid by the dissolved limited partnership.

18 (e) Effect on contingent claims.--A dissolved limited
19 partnership that provides security in the amount and form
20 ordered by the court under subsection (a) satisfies the
21 partnership's obligations with respect to claims that are
22 contingent, have not been made known to the partnership or are
23 based on an event occurring after the date of dissolution. The
24 claims may not be enforced against a partner or transferee on
25 account of assets received in liquidation.

26 § 8689. General partner liability when claim against limited
27 partnership barred.

28 If a claim against a dissolved limited partnership is barred
29 under section 8686 (relating to known claims against dissolved
30 limited partnership), 8687 (relating to other claims against

1 dissolved limited partnership) or 8688 (relating to court
2 proceedings), any corresponding claim under section 8644
3 (relating to general partner's liability) or 8667 (relating to
4 liability of person dissociated as general partner to other
5 persons) is also barred.

6 § 8690. Disposition of assets in winding up and required
7 contributions.

8 (a) Creditors.--In winding up its activities and affairs, a
9 limited partnership shall apply its assets, including the
10 contributions required by this section, to discharge the
11 partnership's obligations to creditors, including partners that
12 are creditors.

13 (b) Surplus.--After a limited partnership complies with
14 subsection (a), any surplus shall be distributed in the
15 following order, subject to any charging order in effect under
16 section 8673 (relating to charging order):

17 (1) to each owner of a transferable interest that
18 reflects contributions made and not previously returned, an
19 amount equal to the value of the unreturned contributions;
20 and

21 (2) among owners of transferable interests in proportion
22 to their respective rights to share in distributions
23 immediately before the dissolution of the partnership.

24 (c) Insufficient assets.--If a limited partnership's assets
25 are insufficient to satisfy all of its obligations under
26 subsection (a), with respect to each unsatisfied obligation
27 incurred when the partnership was not a limited liability
28 limited partnership, the following rules apply:

29 (1) Each person that was a general partner when the
30 obligation was incurred and that has not been released from

1 the obligation under section 8667 (relating to liability of
2 person dissociated as general partner to other persons) shall
3 contribute to the partnership for the purpose of enabling the
4 partnership to satisfy the obligation. The contribution due
5 from each of those persons is in proportion to the right to
6 receive distributions in the capacity of a general partner in
7 effect for each of those persons when the obligation was
8 incurred.

9 (2) If a person does not contribute the full amount
10 required under paragraph (1) with respect to an unsatisfied
11 obligation of the partnership, the other persons required to
12 contribute by paragraph (1) on account of the obligation
13 shall contribute the additional amount necessary to discharge
14 the obligation. The additional contribution due from each of
15 those other persons is in proportion to the right to receive
16 distributions in the capacity of a general partner in effect
17 for each of those other persons when the obligation was
18 incurred.

19 (3) If a person does not make the additional
20 contribution required by paragraph (2), further additional
21 contributions are determined and due in the same manner as
22 provided in that paragraph.

23 (d) Recovery of additional contributions.--A person that
24 makes an additional contribution under subsection (c)(2) or (3)
25 may recover from any person whose failure to contribute under
26 subsection (c)(1) or (2) necessitated the additional
27 contribution. A person may not recover under this subsection
28 more than the amount additionally contributed. A person's
29 liability under this subsection may not exceed the amount the
30 person failed to contribute.

1 (e) Distribution when surplus insufficient.--If a limited
2 partnership does not have sufficient surplus to comply with
3 subsection (b)(1), any surplus must be distributed among the
4 owners of transferable interests in proportion to the value of
5 the respective unreturned contributions.

6 (f) Form of payment.--All distributions made under
7 subsections (b) and (c) must be paid in money.

8 SUBCHAPTER I

9 ACTIONS BY PARTNERS

10 Sec.

11 8691. Direct action by partner.

12 8692. Derivative action.

13 8693. Security for costs.

14 8694. Special litigation committee.

15 8695. Proceeds and expenses.

16 § 8691. Direct action by partner.

17 (a) General rule.--Subject to subsection (b), a partner may
18 maintain a direct action against another partner or the limited
19 partnership, with or without an accounting as to the
20 partnership's activities and affairs, to enforce the partner's
21 rights and protect the partner's interests, including rights and
22 interests under the partnership agreement or this title or
23 arising independently of the partnership relationship.

24 (b) Required injury.--A partner maintaining a direct action
25 under this section must plead and prove an actual or threatened
26 injury that is not solely the result of an injury suffered or
27 threatened to be suffered by the limited partnership.

28 (c) Claims not revived.--A right to an accounting on a
29 dissolution and winding up does not revive a claim barred by
30 law.

1 (d) Cross reference.--See section 8615(c)(17) (relating to
2 contents of partnership agreement).

3 § 8692. Derivative action.

4 (a) General rule.--Subject to subsection (b), a partner may
5 maintain a derivative action to enforce a right of a limited
6 partnership only if:

7 (1) the partner first makes a demand on the general
8 partners requesting that they cause the partnership to bring
9 an action to enforce the right, and:

10 (i) if a special litigation committee is not
11 appointed under section 8694 (relating to special
12 litigation committee), the partnership does not bring the
13 action within a reasonable time; or

14 (ii) if a special litigation committee is appointed
15 under section 8694, a determination is made:

16 (A) under section 8694(e)(1) that the
17 partnership not object to the action; or

18 (B) under section 8694(e)(5)(i) that the
19 plaintiff continue the action;

20 (2) demand is excused under subsection (b);

21 (3) the action is maintained for the limited purpose of
22 seeking court review under section 8694(f); or

23 (4) the court has allowed the action to continue under
24 the control of the plaintiff under section 8694(f)(3)(ii).

25 (b) Prior demand excused.--

26 (1) A demand under subsection (a)(1) is excused only if
27 the partner makes a specific showing that immediate and
28 irreparable harm to the limited partnership would otherwise
29 result.

30 (2) If demand is excused under paragraph (1), demand

1 shall be made promptly after commencement of the action.

2 (c) Contents of demand.--A demand under this section must be
3 in record form and give notice with reasonable specificity of
4 the essential facts relied upon to support each of the claims
5 made in the demand.

6 (d) Additional claims.--If a derivative action is commenced
7 after a demand has been made under this section and includes a
8 claim that was not fairly subsumed under the demand, a new
9 demand must be made with respect to that claim. The new demand
10 shall not relate back to the date of the original demand for
11 purposes of subsection (e).

12 (e) Statute of limitations.--The making of a demand tolls
13 any applicable statute of limitations with respect to a claim
14 asserted in the demand until the earlier of the date:

15 (1) the partner making the demand is notified either:

16 (i) that the general partners have decided not to
17 bring an action and not to appoint a special litigation
18 committee; or

19 (ii) of a determination under section 8694(e) after
20 the appointment of a special litigation committee under
21 section 8694; or

22 (2) the plaintiff commences an action asserting the
23 claim.

24 (f) Cross reference.--See section 8615(c)(17) (relating to
25 contents of partnership agreement).

26 § 8693. Security for costs.

27 In any action or proceeding instituted or maintained by
28 partners holding transferable interests entitled to receive less
29 than 5% of any distribution by a limited partnership, unless the
30 transferable interests held by the partners have an aggregate

1 fair market value in excess of \$200,000, the partnership in
2 whose right the action or proceeding is brought shall be
3 entitled at any stage of the proceedings to require the
4 plaintiffs to give security for the reasonable expenses,
5 including attorneys' fees, that may be incurred by the
6 partnership in connection therewith or for which it may become
7 liable pursuant to section 8468(b) (relating to reimbursement,
8 indemnification, advancement and insurance) to which security
9 the partnership shall have recourse in such amount as the court
10 determines upon the termination of the action or proceeding. The
11 amount of security may, from time to time, be increased or
12 decreased in the discretion of the court upon showing that the
13 security provided has or is likely to become inadequate or
14 excessive. The security may be denied or limited by the court if
15 the court finds after an evidentiary hearing that undue hardship
16 on plaintiffs and serious injustice would result.

17 § 8694. Special litigation committee.

18 (a) General rule.--If a limited partnership or the general
19 partners receive a demand to bring an action to enforce a right
20 of the partnership, or if a derivative action is commenced
21 before demand has been made on the partnership or the general
22 partners, the general partners may appoint a special litigation
23 committee to investigate the claims asserted in the demand or
24 action and to determine on behalf of the limited partnership or
25 recommend to the general partners whether pursuing any of the
26 claims asserted is in the best interests of the partnership. The
27 partnership shall send a notice in record form to the plaintiff
28 promptly after the appointment of the committee under this
29 section notifying the plaintiff that a committee has been
30 appointed and identifying by name the members of the committee.

1 (b) Discovery stay.--If the general partners appoint a
2 special litigation committee and an action is commenced before a
3 determination has been made under subsection (e):

4 (1) On motion by the committee made in the name of the
5 partnership, the court shall stay discovery for the time
6 reasonably necessary to permit the committee to make its
7 investigation, except for good cause shown.

8 (2) The time for the defendants to plead shall be tolled
9 until the process provided for under subsection (f) has been
10 completed.

11 (c) Composition of committee.--A special litigation
12 committee shall be composed of two or more individuals who:

13 (1) are not interested in the claims asserted in the
14 demand or action;

15 (2) are capable as a group of objective judgment in the
16 circumstances; and

17 (3) may, but need not, be general or limited partners.

18 (d) Appointment of committee.--A special litigation
19 committee may be appointed:

20 (1) by a majority of the general partners not named as
21 actual or potential parties in the demand or action; or

22 (2) if all general partners are named as actual or
23 potential parties in the demand or action, by a majority of
24 the general partners so named.

25 (e) Determination.--After appropriate investigation by a
26 special litigation committee, the committee or the general
27 partners may determine that it is in the best interests of the
28 limited partnership that:

29 (1) an action based on some or all of the claims
30 asserted in the demand not be brought by the partnership but

1 that the partnership not object to an action being brought by
2 the party that made the demand;

3 (2) an action based on some or all of the claims
4 asserted in the demand be brought by the partnership;

5 (3) some or all of the claims asserted in the demand be
6 settled on terms approved by the committee;

7 (4) an action not be brought based on any of the claims
8 asserted in the demand;

9 (5) an action already commenced continue under the
10 control of:

11 (i) the plaintiff;

12 (ii) the limited partnership; or

13 (iii) the committee;

14 (6) some or all of the claims asserted in an action
15 already commenced be settled on terms approved by the
16 committee; or

17 (7) an action already commenced be dismissed.

18 (f) Court review and action.--If a special litigation
19 committee is appointed and an action is commenced before a
20 determination is made under subsection (e):

21 (1) The limited partnership shall file with the court
22 after a determination is made under subsection (e) a
23 statement of the determination and a report of the committee.
24 The partnership shall serve each party with a copy of the
25 determination and report. If the partnership moves to file
26 the report under seal, the report shall be served on the
27 parties subject to an appropriate stipulation agreed to by
28 the parties or a protective order issued by the court.

29 (2) The partnership shall file with the court a motion,
30 pleading or notice consistent with the determination under

1 subsection (e).

2 (3) If the determination is one described in subsection
3 (e) (2), (3), (4), (5) (ii), (6) or (7), the court shall
4 determine whether the members of the committee met the
5 qualifications required under subsection (c) (1) and (2) and
6 whether the committee conducted its investigation and made
7 its recommendation in good faith, independently and with
8 reasonable care. If the court finds that the members of the
9 committee met the qualifications required under subsection
10 (c) (1) and (2) and that the committee acted in good faith,
11 independently and with reasonable care, the court shall
12 enforce the determination of the committee. Otherwise, the
13 court shall:

14 (i) dissolve any stay of discovery entered under
15 subsection (b);

16 (ii) allow the action to continue under the control
17 of the plaintiff; and

18 (iii) permit the defendants to file preliminary
19 objections and other appropriate motions and pleadings.

20 (g) Attorney General.--Nothing in this section shall limit
21 the rights, powers and duties of the Attorney General under
22 other applicable law with respect to a limited partnership
23 organized for a charitable purpose.

24 (h) Cross reference.--See section 8615(c) (18) (relating to
25 contents of partnership agreement).

26 § 8695. Proceeds and expenses.

27 (a) Proceeds.--Except as provided in subsection (b):

28 (1) any proceeds or other benefits of a derivative
29 action, whether by judgment, compromise or settlement, belong
30 to the limited partnership and not to the plaintiff; and

1 (2) if the plaintiff or its counsel receives any
2 proceeds, the proceeds shall be remitted immediately to the
3 partnership.

4 (b) Expenses.--If a derivative action is successful in whole
5 or in part, the court may award the plaintiff reasonable
6 expenses, including reasonable attorney fees and costs, from the
7 recovery of the limited partnership, but in no event shall the
8 attorney fees awarded exceed a reasonable proportion of the
9 value of the relief, including nonpecuniary relief, obtained by
10 the plaintiff for the limited partnership.

11 (c) Cross reference.--See section 8615(c)(7) (relating to
12 contents of partnership agreement).

13 Section 28. Sections 8701, 8702 and 8705 of Title 15 are
14 amended to read:

15 § 8701. Scope and definition.

16 (a) Application of chapter.--This chapter applies to a
17 general or limited partnership formed under the laws of this
18 Commonwealth that elects to be governed by this chapter. Any
19 partnership that desires to elect to be governed by this
20 chapter, or to amend or terminate the election, shall [file in]
21 deliver to the Department of State for filing a statement of
22 election, amendment or termination, as the case may be, which
23 shall be signed by a general partner and shall set forth:

24 (1) The name of the partnership.

25 (2) The location of the principal place of business.

26 (3) The name of each general partner of the partnership
27 as of the date of the statement.

28 (4) A statement that the partnership elects to be
29 governed by this chapter or that the election to be governed
30 by this chapter shall be amended or terminated, as the case

1 may be.

2 (5) If the election is to be made or terminated, a
3 statement that the election or termination has been
4 authorized by at least a majority in interest of the
5 partners.

6 (a.1) Effective date and time.--Subject to section 136(c)
7 (relating to processing of documents by Department of State),
8 [Upon] upon the filing of the statement of election, amendment
9 or termination in the department, the election to be governed by
10 this chapter shall be effective, amended or terminated, as the
11 case may be.

12 (b) Effect of election.--As long as an election under
13 subsection (a) is in effect, the partnership shall be governed
14 by the provisions of this chapter and, to the extent not
15 inconsistent with this chapter, Chapter [83] 84 (relating to
16 general partnerships) [and] or, if a limited partnership,
17 Chapter [85] 86 (relating to limited partnerships).

18 (c) Definition.--As used in this chapter, the term "electing
19 partnership" means a partnership as to which an election under
20 subsection (a) is in effect.

21 (d) Cross [reference.--See section] references.--See
22 sections 134 (relating to docketing statement) and 135 (relating
23 to requirements to be met by filed documents).

24 § 8702. Centralized management.

25 The business and affairs of every electing partnership shall
26 be managed by one-third or less, but not less than one, of the
27 partners selected for that purpose in the manner provided by any
28 agreement between the partners, and no other partner shall have
29 a right to participate in the management of the partnership. A
30 partner of an electing partnership shall be an agent of the

1 partnership only to the extent that an employee of the
2 partnership would be under like circumstances. In making such a
3 determination, the court may consider among other things whether
4 a person dealing with the partnership has knowledge, as defined
5 in section [8303(a) (relating to knowledge)] 8413(a) (relating
6 to knowledge and notice), that this section is applicable to the
7 partnership.

8 § 8705. Limited liability in certain cases.

9 (a) General rule.--The liability of a partner of an electing
10 partnership for the debts and obligations of the partnership
11 shall be satisfied out of partnership assets alone if[:

12 (1)] the debt or obligation arises from a transaction or
13 occurrence in which the person dealing with the partnership
14 has notice, as defined in section [8303(b) (relating to
15 notice)] 8413(b) (relating to knowledge and notice), that
16 this section is applicable to the partnership.[: or

17 (2) the fact that this section is applicable to the
18 partnership has been advertised in the manner provided by
19 section 8357(a) (2) (ii) (relating to power of partner to bind
20 partnership to third persons).]

21 (b) Exceptions.--Subsection (a) does not apply:

22 (1) Unless otherwise agreed by the obligee, to a debt or
23 obligation arising prior to the time a partnership becomes an
24 electing partnership [and complies with subsection (a) (1) or
25 (2)].

26 (2) To a transaction or occurrence involving the
27 furnishing or sale of any goods or services by the
28 partnership.

29 (c) Professional relationship unaffected.--Subsection (a)
30 shall not afford the partners of an electing partnership

1 providing professional services with greater immunity than is
2 available to the officers, shareholders, employees or agents of
3 a professional corporation. See section 2925 (relating to
4 professional relationship retained).

5 Section 29. Title 15 is amended by adding a chapter to read:

6 CHAPTER 88

7 LIMITED LIABILITY COMPANIES

8 Subchapter

9 A. General Provisions

10 B. Formation and Filings

11 C. Relations of Members and Managers to Persons Dealing with
12 Limited Liability Company

13 D. Relations of Members to Each Other and to Limited
14 Liability Company

15 E. Transferable Interests and Rights of Transferees and
16 Creditors

17 F. Dissociation

18 G. Dissolution and Winding Up

19 H. Actions by Members

20 I. Benefit Companies

21 SUBCHAPTER A

22 GENERAL PROVISIONS

23 Sec.

24 8811. Short title and application of chapter.

25 8812. Definitions.

26 8813. Knowledge and notice.

27 8814. Governing law.

28 8815. Contents of operating agreement.

29 8816. Application of operating agreement.

30 8817. Amendment and effect of operating agreement.

1 8818. Characteristics of limited liability company.

2 8819. Powers.

3 § 8811. Short title and application of chapter.

4 (a) Short title.--This chapter may be cited as the
5 Pennsylvania Uniform Limited Liability Company Act of 2016.

6 (b) Initial application.--Before April 1, 2017, this chapter
7 governs only:

8 (1) a limited liability company formed on or after [the
9 Legislative Reference Bureau shall insert here the effective
10 date of this chapter]; and

11 (2) except as provided in subsection (c), a limited
12 liability company formed before [the Legislative Reference
13 Bureau shall insert here the effective date of this chapter]
14 which elects, in the manner provided in its operating
15 agreement or by law for amending the operating agreement, to
16 be subject to this chapter.

17 (c) Full effective date.--Except as provided in subsection
18 (d), on and after April 1, 2017, this chapter governs all
19 limited liability companies.

20 (d) Certificates of membership interest.--For purposes of
21 applying this chapter to a limited liability company formed
22 before [the Legislative Reference Bureau shall insert here the
23 effective date of this chapter], language in the company's
24 certificate of organization authorizing the issuance of
25 certificates of membership interest operates as if that language
26 were in the operating agreement.

27 (e) Cross reference.--See section 8815(c)(5) (relating to
28 contents of operating agreement).

29 § 8812. Definitions.

30 (a) General definitions.--The following words and phrases

1 when used in this chapter shall have the meanings given to them
2 in this section unless the context clearly indicates otherwise:

3 "Certificate of organization." The certificate required by
4 section 8821 (relating to formation of limited liability company
5 and certificate of organization). The term includes the
6 certificate as amended or restated.

7 "Contribution." Property or a benefit described under
8 section 8842 (relating to form of contribution) which is
9 provided by a person to a limited liability company to become a
10 member or in the capacity of a person as a member.

11 "Distribution." A direct or indirect transfer of money or
12 other property or incurrence of indebtedness by a limited
13 liability company to a person on account of a transferable
14 interest or in the person's capacity as a member. The term:

15 (1) includes:

16 (i) a redemption or other purchase by a limited
17 liability company of a transferable interest; and

18 (ii) a transfer to a member in return for the
19 member's relinquishment of any right to participate as a
20 member in the management or conduct of the company's
21 activities and affairs or to have access to records or
22 other information concerning the company's activities and
23 affairs; and

24 (2) does not include:

25 (i) amounts constituting reasonable compensation for
26 present or past service or payments made in the ordinary
27 course of business under a bona fide retirement plan or
28 other bona fide benefits program;

29 (ii) the making of, or payment or performance on, a
30 guaranty or similar arrangement by a company for the

1 benefit of any or all of its members;

2 (iii) a direct or indirect allocation or transfer
3 effected under Chapter 3 (relating to entity
4 transactions) with the approval of the members; or

5 (iv) a direct or indirect transfer of:

6 (A) a governance or transferable interest; or

7 (B) options, rights or warrants to acquire a
8 governance or transferable interest.

9 "Limited liability company." An association formed under
10 this chapter or which becomes subject to this chapter under
11 Chapter 3 or section 8811 (relating to short title and
12 application of chapter).

13 "Manager." A person that under the operating agreement of a
14 manager-managed limited liability company is responsible, alone
15 or in concert with others, for performing the management
16 functions stated under section 8847(c) (relating to management
17 of limited liability company).

18 "Manager-managed limited liability company." A limited
19 liability company that qualifies as such under section 8847(a).

20 "Member." A person that:

21 (1) has become a member of a limited liability company
22 under section 8841 (relating to becoming a member) or was a
23 member in a company when the company became subject to this
24 chapter under section 8811(b); and

25 (2) has not dissociated as a member under section 8861
26 (relating to events causing dissociation).

27 "Member-managed limited liability company." A limited
28 liability company that is not a manager-managed limited
29 liability company.

30 "Operating agreement." The agreement, whether or not

1 referred to as an operating agreement and whether oral, implied,
2 in record form or in any combination thereof, of all the members
3 of a limited liability company, including a sole member,
4 concerning matters described in section 8815(a) (relating to
5 contents of operating agreement). The term includes the
6 agreement as amended or restated.

7 "Organizer." A person that acts under section 8821 to form a
8 limited liability company.

9 "Professional company." A limited liability company that
10 renders one or more professional services.

11 "Transferable interest." The right, as initially owned by a
12 person in the person's capacity as a member, to receive
13 distributions from a limited liability company, whether or not
14 the person remains a member or continues to own any part of the
15 right. The term applies to any fraction of the interest, by
16 whomever owned.

17 "Transferee." A person to which all or part of a
18 transferable interest has been transferred, whether or not the
19 transferor is a member. The term includes a person that owns a
20 transferable interest under section 8863(a)(3) (relating to
21 effect of dissociation).

22 (b) Index of other definitions.--Following is a nonexclusive
23 list of definitions in section 102 (relating to definitions)
24 that apply to this chapter:

25 "Act" or "action."

26 "Debtor in bankruptcy."

27 "Department."

28 "Jurisdiction of formation."

29 "Principal office."

30 "Professional services."

1 "Property."

2 "Record form."

3 "Sign."

4 "Transfer."

5 § 8813. Knowledge and notice.

6 (a) Knowledge.--A person knows a fact if the person:

7 (1) has actual knowledge of it; or

8 (2) is deemed to know it under subsection (d) or law
9 other than this chapter.

10 (b) Notice.--A person has notice of a fact if the person has
11 reason to know the fact from all the facts known to the person
12 at the time in question.

13 (c) Constructive notice.--A person not a member or manager
14 is deemed to have notice of:

15 (1) the dissolution of a limited liability company 90
16 days after a certificate of dissolution under section 8872(b)

17 (2) (i) (relating to winding up and filing of certificates) is
18 effective;

19 (2) the termination of a company 90 days after a
20 certificate of termination under section 8872(f) is
21 effective; and

22 (3) the participation of a company in a merger, interest
23 exchange, conversion, division or domestication, 90 days
24 after a statement of merger, interest exchange, conversion,
25 division or domestication under Chapter 3 (relating to entity
26 transactions) becomes effective.

27 (d) Notification.--Except as provided under section 113(b)
28 (relating to delivery of document), a person notifies another
29 person of a fact by taking steps reasonably required to inform
30 the other person in ordinary course, whether or not those steps

1 cause the other person to know the fact.

2 (e) Transfer of real property.--A person not a member or
3 manager is deemed to know of a limitation on authority to
4 transfer real property as provided under section 8832(g)
5 (relating to certificate of authority).

6 (f) Effect of manager's knowledge or notice.--If the
7 certificate of organization of a limited liability company
8 provides that it is manager-managed, a manager's knowledge or
9 notice of a fact relating to the company is effective
10 immediately as knowledge of or notice to the company, except in
11 the case of a fraud on the company committed by or with the
12 consent of the manager.

13 § 8814. Governing law.

14 (a) General rule.--The law of this Commonwealth governs:

15 (1) the internal affairs of a limited liability company;
16 and

17 (2) the liability of a member as member and of a manager
18 as manager for the debts, obligations or other liabilities of
19 a limited liability company.

20 (b) Cross reference.--See section 8815(c)(6) (relating to
21 contents of operating agreement).

22 § 8815. Contents of operating agreement.

23 (a) Scope of operating agreement.--Except as provided under
24 subsections (c) and (d), the operating agreement governs:

25 (1) relations among the members as members and between
26 the members and the limited liability company;

27 (2) the rights and duties under this title of a person
28 in the capacity of a member or manager;

29 (3) the activities and affairs of the company and the
30 conduct of those activities and affairs;

1 (4) the means and conditions for amending the operating
2 agreement; and

3 (5) the means and conditions for approving a transaction
4 under Chapter 3 (relating to entity transactions).

5 (b) Title applies generally.--To the extent the operating
6 agreement does not provide for a matter described in subsection
7 (a), this title governs the matter.

8 (c) Limitations.--An operating agreement may not do any of
9 the following:

10 (1) Vary a provision of Chapter 1 (relating to general
11 provisions) or Subchapter A of Chapter 2 (relating to names).

12 (2) Vary the right of a member to approve a merger,
13 interest exchange, conversion, division or domestication
14 under section 333(a)(2) (relating to approval of merger),
15 343(a)(2) (relating to approval of interest exchange), 353(a)
16 (3) (relating to approval of conversion), 363(a)(2) (relating
17 to approval of division) or 373(a)(2) (relating to approval
18 of domestication).

19 (3) Vary the required contents of a plan of merger under
20 section 332(a) (relating to plan of merger), plan of interest
21 exchange under section 342(a) (relating to plan of interest
22 exchange), plan of conversion under section 352(a) (relating
23 to plan of conversion), plan of division under section 362(a)
24 (relating to plan of division) or plan of domestication under
25 section 372(a) (relating to plan of domestication).

26 (4) Vary a provision of Chapter 81 (relating to general
27 provisions).

28 (5) Vary the provisions of section 8811(b), (c) and (d)
29 (relating to short title and application of chapter).

30 (6) Vary the law applicable under section 8814 (relating

1 to governing law).

2 (7) Vary a provision of section 8818(d) (relating to
3 characteristics of limited liability company).

4 (8) Vary a provision of section 8819 (relating to
5 powers).

6 (9) Vary any requirement, procedure or other provision
7 of this title pertaining to:

8 (i) registered offices; or

9 (ii) the department, including provisions pertaining
10 to documents authorized or required to be delivered to
11 the department for filing under this title.

12 (10) Provide indemnification or exoneration in violation
13 of the limitations in sections 8848(g) (relating to
14 reimbursement, indemnification, advancement and insurance),
15 8849.1(j) (relating to standards of conduct for members) and
16 8849.2(h) (relating to standards of conduct for managers).

17 (11) Eliminate the duty of loyalty provided for in
18 section 8849.1(b) (1) (i) or (ii) or (2) or the duty of care of
19 a member in a member-managed company, except as provided in
20 subsection (d).

21 (12) Eliminate the duty of loyalty provided for in
22 section 8849.2(b) (1) (i) or (ii) or (2) or the duty of care of
23 a manager, except as provided in subsection (d).

24 (13) Vary the contractual obligation of good faith and
25 fair dealing under section 8849.1(d) or 8849.2(d), except as
26 provided in subsection (d).

27 (14) Restrict the duties and rights under section 8850
28 (relating to rights to information), except as provided in
29 subsection (d).

30 (15) Vary the causes of dissolution specified in section

1 8871(a)(4) (relating to events causing dissolution).

2 (16) Vary the requirements to wind up the company's
3 activities and affairs specified in section 8872(a), (b)(1),
4 (e) and (f) (relating to winding up and filing of
5 certificates).

6 (17) Unreasonably restrict the right of a member to
7 maintain an action under Subchapter H (relating to actions by
8 members).

9 (18) Vary the provisions of section 8884 (relating to
10 special litigation committee), except that the operating
11 agreement may provide that the company may not have a special
12 litigation committee.

13 (19) Vary a provision of Subchapter I (relating to
14 benefit companies).

15 (20) Except as provided in section 8817(b) (relating to
16 amendment and effect of operating agreement), restrict the
17 rights under this title of a person other than a member or
18 manager.

19 (d) Permitted terms.--Subject to subsection (c)(10), the
20 following rules apply:

21 (1) The operating agreement may:

22 (i) specify the method by which a specific act or
23 transaction that would otherwise violate the duty of
24 loyalty may be authorized or ratified by one or more
25 disinterested and independent persons after full
26 disclosure of all material facts;

27 (ii) alter the prohibition stated in section 8845(a)
28 (2) (relating to limitations on distributions) so that
29 the prohibition requires only that the company's total
30 assets not be less than the sum of its total liabilities;

1 and

2 (iii) impose reasonable restrictions on the
3 availability and use of information obtained under
4 section 8850 and may define appropriate remedies,
5 including liquidated damages, for a breach of any
6 reasonable restriction on use.

7 (2) To the extent the operating agreement of a member-
8 managed limited liability company expressly relieves a member
9 of a responsibility that the member would otherwise have
10 under this title and imposes the responsibility on one or
11 more other members, the operating agreement also may
12 eliminate or limit any fiduciary duty of the member relieved
13 of the responsibility that would have pertained to the
14 responsibility.

15 (3) If not manifestly unreasonable, the operating
16 agreement may:

17 (i) alter the aspects of the duty of loyalty stated
18 under section 8849.1(b) (1) (i) or (ii) or (2) or 8849.2(b)
19 (1) (i) or (ii) or (2);

20 (ii) prescribe the standards, if not manifestly
21 unreasonable, by which the performance of the contractual
22 obligation of good faith and fair dealing under section
23 8849.1(d) or 8849.2(d) is to be measured;

24 (iii) identify specific types or categories of
25 activities that do not violate the duty of loyalty;

26 (iv) alter the duty of care; and

27 (v) alter or eliminate any other fiduciary duty.

28 (e) Determination of manifest unreasonableness.--The court
29 shall decide as a matter of law whether a term of an operating
30 agreement is manifestly unreasonable under subsection (d) (3).

1 The court:

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

5 (2) may invalidate the term only if, in light of the
6 purposes, activities and affairs of the limited liability
7 company, it is readily apparent that:

8 (i) the objective of the term is unreasonable; or

9 (ii) the term is an unreasonable means to achieve
10 the term's objective.

11 § 8816. Application of operating agreement.

12 (a) Company bound.--A limited liability company is bound by
13 and may enforce the operating agreement, whether or not the
14 company has itself manifested assent to the agreement.

15 (b) Deemed assent.--A person that becomes a member of a
16 limited liability company is deemed to assent to the operating
17 agreement.

18 (c) Preformation agreement.--Two or more persons intending
19 to become the initial members of a limited liability company may
20 make an agreement providing that upon the formation of the
21 company the agreement will become the operating agreement. One
22 person intending to become the initial member of a limited
23 liability company may assent to terms providing that upon the
24 formation of the company the terms will become the operating
25 agreement.

26 § 8817. Amendment and effect of operating agreement.

27 (a) Approval of amendments.--An operating agreement may
28 specify that its amendment requires the approval of a person
29 that is not a party to the agreement or the satisfaction of a
30 condition. An amendment is ineffective if its adoption does not

1 include the required approval or satisfy the specified
2 condition. See section 8847(b)(6) and (c)(3)(iii) (relating to
3 management of limited liability company).

4 (b) Obligations to nonmembers.--The obligations of a limited
5 liability company and its members to a person in the person's
6 capacity as a transferee or a person dissociated as a member are
7 governed by the operating agreement. Except as provided in
8 section 8844(d) (relating to sharing of and right to
9 distributions before dissolution) or in a court order issued
10 under section 8853(b)(2) (relating to charging order) to
11 effectuate a charging order, an amendment to the operating
12 agreement made after a person becomes a transferee or is
13 dissociated as a member:

14 (1) is effective with regard to any debt, obligation or
15 other liability of the limited liability company or its
16 members to the person in the person's capacity as a
17 transferee or person dissociated as a member; and

18 (2) is not effective to the extent the amendment imposes
19 a new debt, obligation or other liability on the transferee
20 or person dissociated as a member.

21 (c) Provisions in filed documents.--If a document delivered
22 by a limited liability company to the department for filing
23 contains a provision that would be ineffective under section
24 8815(c) or (d)(3) (relating to contents of operating agreement)
25 if contained in the operating agreement, the provision is
26 ineffective in the document.

27 (d) Conflicts with operating agreement.--Subject to
28 subsection (c):

29 (1) If a provision of the certificate of organization
30 conflicts with a provision of the operating agreement, the

1 provision of the certificate prevails.

2 (2) If a document other than its certificate of
3 organization has been delivered by the company to the
4 department for filing and conflicts with a provision of the
5 operating agreement:

6 (i) the operating agreement prevails as to members,
7 dissociated members, transferees and managers; and

8 (ii) the document prevails as to other persons to
9 the extent they reasonably rely on the document.

10 (e) Prohibition of oral amendments.--If a provision of an
11 operating agreement in record form provides that the operating
12 agreement cannot be amended, modified or rescinded except in
13 record form, an oral agreement, amendment, modification or
14 rescission shall not be enforceable.

15 § 8818. Characteristics of limited liability company.

16 (a) Separate entity.--A limited liability company is an
17 entity distinct from its member or members.

18 (b) Purpose.--A limited liability company may have any
19 lawful purpose other than acting as an insurer, regardless of
20 whether the purpose is for profit. Nothing under this section
21 shall prohibit the organization of an insurance agency licensed
22 in this Commonwealth as a limited liability company. See section
23 8102 (relating to interchangeability of partnership, limited
24 liability company and corporate forms of organization).

25 (c) Duration.--A limited liability company has perpetual
26 duration.

27 (d) Restrictions on nonprofit companies.--If a limited
28 liability company has a purpose that is not for profit:

29 (1) Its purpose must be stated in the certificate of
30 organization.

1 (2) The company shall not distribute any part of its
2 income or profits to its members, managers or officers,
3 except that it may pay compensation in a reasonable amount to
4 those persons for services rendered.

5 (3) The company may confer benefits on members or
6 nonmembers in conformity with its purposes, may repay capital
7 contributions and may redeem evidences of indebtedness,
8 except when the company is currently insolvent or would
9 thereby be made insolvent or rendered unable to carry on its
10 purposes, or when the fair value of the assets of the company
11 remaining after the conferring of benefits, payment or
12 redemption would be insufficient to meet its liabilities. The
13 company may make distributions of money or property to
14 members upon dissolution or final liquidation as permitted by
15 this chapter.

16 (4) If the company is organized for a charitable
17 purpose, it may take, receive and hold real and personal
18 property as may be given, devised to or otherwise vested in
19 the company, in trust, for the purpose or purposes set forth
20 in its certificate of organization. The members, if it is
21 member-managed, or the managers, if it is manager-managed,
22 shall, as trustees of the property, be held to the same
23 degree of responsibility and accountability as other
24 trustees, unless:

25 (i) a lesser degree or a particular degree of
26 responsibility and accountability is prescribed in the
27 trust instrument;

28 (ii) if the company is member-managed, the members
29 remain under the control of third persons who retain the
30 right to direct, and do direct, the actions of the

1 members as to the use of the trust property from time to
2 time; or

3 (iii) if the company is manager-managed, the
4 managers remain under the control of the members or third
5 persons who retain the right to direct, and do direct,
6 the actions of the managers as to the use of the trust
7 property from time to time.

8 (5) Property of the company committed to charitable
9 purposes shall not, by any proceeding under Chapter 3
10 (relating to entity transactions) or otherwise, be diverted
11 from the objects to which it was donated, granted or devised,
12 unless and until the company obtains from the court an order
13 under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying the
14 disposition of the property.

15 (e) Cross reference.--See section 8815(c)(7) (relating to
16 contents of operating agreement).

17 § 8819. Powers.

18 (a) General rule.--A limited liability company has the power
19 to do all things necessary or convenient to carry on its
20 activities and affairs.

21 (b) Capacity to sue and be sued.--A limited liability
22 company has the capacity to sue and be sued in its own name.

23 (c) Certain specifically authorized debt terms.--A limited
24 liability company shall be subject to section 1510 (relating to
25 certain specifically authorized debt terms) to the same extent
26 as if it were a business corporation.

27 (d) Cross references.--See sections 8102 (relating to
28 interchangeability of partnership, limited liability company and
29 corporate forms of organization) and 8815(c)(8) (relating to
30 contents of operating agreement).

1 (d) Substitute certificate of authority.--A statement in a
2 certificate of organization with respect to a matter described
3 in section 8832(a)(2) or (3) (relating to certificate of
4 authority) is effective as a certificate of authority and the
5 statement is subject to the provisions of section 8832 in the
6 same manner as a certificate of authority.

7 (e) Effect of certificate of organization.--A provision of
8 the certificate of organization shall be deemed to be a
9 provision of the operating agreement for purposes of any
10 provision of this title that refers to a rule as set forth in
11 the operating agreement.

12 (f) Time of formation.--A limited liability company is
13 formed when its certificate of organization becomes effective.

14 (g) Cross references.--See:

15 Section 134 (relating to docketing statement).

16 Section 135 (relating to requirements to be met by filed
17 documents).

18 Section 136(c) (relating to processing of documents by
19 Department of State).

20 Section 8818(d)(1) (relating to characteristics of
21 limited liability company).

22 Section 8823 (relating to signing of filed documents).

23 § 8822. Amendment or restatement of certificate of
24 organization.

25 (a) General rule.--A certificate of organization may be
26 amended or restated at any time.

27 (b) Required contents of certificate of amendment.--To amend
28 its certificate of organization, a limited liability company
29 must deliver to the department for filing a certificate of
30 amendment that states:

- 1 (1) the name of the company;
2 (2) the date of filing of its initial certificate of
3 organization;
4 (3) subject to section 109 (relating to name of
5 commercial registered office provider in lieu of registered
6 address), the address, including street and number, if any,
7 of its registered office; and
8 (4) the amendment.

9 (c) Restatement.--To restate its certificate of
10 organization, a limited liability company must deliver to the
11 department for filing a certificate of amendment that:

- 12 (1) is designated as a restatement; and
13 (2) includes a statement that the restated certificate
14 supersedes the original certificate and all previous
15 amendments.

16 (d) Obligation to correct.--If a member of a member-managed
17 limited liability company, or a manager of a manager-managed
18 limited liability company, knows that any information in a filed
19 certificate of organization is inaccurate, the member or manager
20 shall promptly:

- 21 (1) cause the certificate to be amended; or
22 (2) if appropriate, deliver to the department for filing
23 a statement of correction under section 138 (relating to
24 statement of correction) or a statement of abandonment under
25 section 141 (relating to abandonment of filing before
26 effectiveness).

27 (e) Cross references.--See:
28 Section 134 (relating to docketing statement).
29 Section 135 (relating to requirements to be met by filed
30 documents).

1 Section 136(c) (relating to processing of documents by
2 Department of State).

3 Section 8823 (relating to signing of filed documents).
4 § 8823. Signing of filed documents.

5 (a) Required signatures.--Except as provided in this title,
6 a document delivered to the department for filing under this
7 title relating to a limited liability company must be signed as
8 follows:

9 (1) Except as provided in paragraphs (2) and (3), a
10 document signed on behalf of a limited liability company must
11 be signed by a person authorized by the company.

12 (2) A company's initial certificate of organization must
13 be signed by each organizer.

14 (3) A document delivered on behalf of a dissolved
15 company that has no member must be signed by the person
16 winding up the company's activities and affairs under section
17 8872(c) (relating to winding up and filing of certificates)
18 or a person appointed under section 8872(d) to wind up the
19 activities and affairs.

20 (4) A certificate of denial by a person under section
21 8833 (relating to certificate of denial) must be signed by
22 that person.

23 (5) Any other document delivered on behalf of a person
24 to the department for filing must be signed by that person.

25 (b) Cross reference.--See section 142 (relating to effect of
26 signing filings).

27 § 8824. Liability of member, manager or other person for false
28 or missing information in filed document.

29 (a) General rule.--If a document delivered to the department
30 for filing under this title and filed by the department contains

1 a materially false statement or fails to state a material fact
2 required to be stated, a person that suffers loss by reasonable
3 reliance on the statement or failure to state a material fact
4 may recover damages for the loss from:

5 (1) a person that signed the document or caused another
6 to sign it on the person's behalf and knew there was false or
7 missing information in the document at the time it was
8 signed; and

9 (2) subject to subsection (b), a member of a member-
10 managed limited liability company or a manager of a manager-
11 managed limited liability company if:

12 (i) the document was delivered for filing on behalf
13 of the company; and

14 (ii) the member or manager knew or had notice there
15 was false or missing information for a reasonably
16 sufficient time before the document was relied upon so
17 that, before the reliance, the member or manager
18 reasonably could have:

19 (A) effected an amendment under section 8822
20 (relating to amendment or restatement of certificate
21 of organization);

22 (B) filed a petition under section 144 (relating
23 to signing and filing pursuant to judicial order); or

24 (C) delivered to the department for filing a
25 statement of correction under section 138 (relating
26 to statement of correction) or a statement of
27 withdrawal under section 141 (relating to abandonment
28 of filing before effectiveness).

29 (b) Substitute responsibility.--To the extent the operating
30 agreement of a member-managed limited liability company

1 expressly relieves a member of responsibility for maintaining
2 the accuracy of information contained in documents delivered on
3 behalf of the company to the department for filing under this
4 chapter and imposes that responsibility on one or more other
5 members, the liability stated under subsection (a)(2) applies to
6 those other members and not to the member that the operating
7 agreement relieves of the responsibility.

8 § 8825. Registered office.

9 (a) General rule.--Every limited liability company shall
10 have and continuously maintain in this Commonwealth a registered
11 office which may, but need not, be the same as its place of
12 business.

13 (b) Change of registered office.--After organization, a
14 change in the location of the registered office may be effected
15 at any time by the company. Before the change becomes effective,
16 the company shall amend its certificate of organization under
17 the provisions of this chapter to reflect the change in location
18 or shall file with the department a certificate of change of
19 registered office setting forth:

20 (1) The name of the company.

21 (2) The address, including street and number, if any, of
22 its then registered office.

23 (3) The address, including street and number, if any, to
24 which the registered office is to be changed.

25 (c) Alternative procedure.--A limited liability company may
26 satisfy the requirements of this chapter concerning the
27 maintenance of a registered office in this Commonwealth by
28 setting forth in any document filed in the department under any
29 provision of this chapter that permits or requires the statement
30 of the address of its then registered office, in lieu of that

1 address, the statement authorized under section 109(a) (relating
2 to name of commercial registered office provider in lieu of
3 registered address).

4 (d) Cross references.--See:

5 Section 108 (relating to change in location or status of
6 registered office provided by agent).

7 Section 134 (relating to docketing statement).

8 Section 135 (relating to requirements to be met by filed
9 documents).

10 Section 136(c) (relating to processing of documents by
11 Department of State).

12 Section 8815(c) (7) (relating to contents of operating
13 agreement).

14 Section 8823 (relating to signing of filed documents).

15 SUBCHAPTER C

16 RELATIONS OF MEMBERS AND MANAGERS

17 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

18 Sec.

19 8831. Status of member or manager as agent.

20 8832. Certificate of authority.

21 8833. Certificate of denial.

22 8834. Liability of members and managers.

23 8835. Taxation of limited liability companies.

24 § 8831. Status of member or manager as agent.

25 (a) No agency power of member as member.--A member is not an
26 agent of a limited liability company solely by reason of being a
27 member.

28 (b) Agency power of manager.--If the certificate of
29 organization states that the company is manager-managed, the act
30 of a manager for apparently carrying on in the usual way the

1 business of the company binds the company unless the manager so
2 acting has in fact no authority to act for the company in the
3 particular matter and the person with whom the manager is
4 dealing has knowledge of the fact that the manager does not have
5 that authority.

6 (c) Liability of company under other law.--A person's status
7 as a member or manager does not prevent or restrict law other
8 than this chapter from imposing liability on a limited liability
9 company because of the person's conduct.

10 § 8832. Certificate of authority.

11 (a) General rule.--A limited liability company may deliver
12 to the department for filing a certificate of authority signed
13 by the company. The certificate:

14 (1) must include the name of the company and, subject to
15 section 109 (relating to name of commercial registered office
16 provider in lieu of registered address), the address,
17 including street and number, if any, of its registered
18 office;

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

23 (i) transfer real property held in the name of the
24 company, including signing an instrument of transfer; or

25 (ii) enter into other transactions on behalf of, or
26 otherwise act for or bind, the company; and

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

29 (i) transfer real property held in the name of the
30 company, including signing an instrument of transfer; or

1 (ii) enter into other transactions on behalf of, or
2 otherwise act for or bind, the company.

3 (b) Amendment or cancellation.--To amend or cancel a
4 certificate of authority filed by the department, a limited
5 liability company must deliver to the department for filing an
6 amendment or cancellation that states:

7 (1) the name of the company;

8 (2) subject to section 109, the address, including
9 street and number, if any, of the company's registered
10 office;

11 (3) the date the certificate being affected became
12 effective; and

13 (4) the contents of the amendment or a statement that
14 the certificate is canceled.

15 (c) Effect.--A certificate of authority:

16 (1) supersedes any inconsistent provision of the
17 certificate of organization in effect at the time the
18 certificate of authority becomes effective;

19 (2) affects only the power of a person to bind a limited
20 liability company with respect to persons that are not
21 members; and

22 (3) is not binding on the department for purposes of the
23 administration of this title or any other provision of law.

24 (d) Certificate not evidence of knowledge or notice.--Except
25 as provided in subsections (e), (f), (g) and (h), a limitation
26 on the authority of a person or a position contained in an
27 effective certificate of authority is not by itself evidence of
28 knowledge or notice of the limitation by any person.

29 (e) Authority not pertaining to real property.--A grant of
30 authority not pertaining to transfers of real property and

1 contained in an effective certificate of authority is conclusive
2 in favor of a person that gives value in reliance on the grant,
3 except to the extent that when the person gives value:

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

5 (2) the certificate has been canceled or restrictively
6 amended under subsection (b); or

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

10 (f) Authority to transfer real property.--An effective
11 certificate of authority or certificate of organization that
12 grants authority to transfer real property held in the name of a
13 limited liability company, a certified copy of which certificate
14 is recorded in the office of the recorder of deeds for the
15 county in which the property is located, is conclusive in favor
16 of a person that gives value in reliance on the grant without
17 knowledge to the contrary, except to the extent that when the
18 person gives value:

19 (1) the certificate has been canceled or restrictively
20 amended under subsection (b), and a certified copy of the
21 cancellation or restrictive amendment has been recorded in
22 the office of the recorder of deeds; or

23 (2) a limitation on the grant is contained in another
24 certificate of authority that became effective after the
25 certificate containing the grant became effective, and a
26 certified copy of the later-effective certificate is recorded
27 in the office of the recorder of deeds.

28 (g) Effect of recorded certificate.--If a certified copy of
29 an effective certificate containing a limitation on the
30 authority to transfer real property held in the name of a

1 limited liability company is recorded in the office of the
2 recorder of deeds for the county in which the real property is
3 located, all persons are deemed to know of the limitation.

4 (h) Effect of dissolution or termination of company.--An
5 effective certificate of dissolution does not cancel a filed
6 certificate of authority for the purposes of subsection (f) and
7 is a limitation on authority for the purposes of subsection
8 (g). An effective certificate of termination cancels a filed
9 certificate of authority.

10 (i) Automatic cancellation.--Unless earlier canceled, an
11 effective certificate of authority that names an individual as
12 having authority is canceled by operation of law five years
13 after the date on which the certificate, or its most recent
14 amendment, becomes effective. The cancellation operates without
15 need for any recording under subsection (f) or (g).

16 (j) Effect of certificate of denial.--An effective
17 certificate of denial:

18 (1) operates as a restrictive amendment under this
19 section and a certified copy may be recorded as provided in
20 subsection (f)(1) by the limited liability company or the
21 person that delivered the certificate of denial to the
22 department for filing;

23 (2) affects only the authority of a person to bind the
24 company with respect to persons that are not members; and

25 (3) supersedes any inconsistent provision of the
26 certificate of organization in effect at the time the
27 certificate of denial becomes effective.

28 (k) Foreign companies.--A foreign limited liability company
29 may deliver a certificate of authority to the department for
30 filing and may record a copy as provided in this section in the

1 same manner and with the same effect as if it were a domestic
2 company and regardless of whether the foreign company is
3 registered to do business in this Commonwealth under Chapter 4
4 (relating to foreign associations).

5 (1) Cross references.--See:

6 Section 134 (relating to docketing statement).

7 Section 135 (relating to requirements to be met by filed
8 documents).

9 Section 136(c) (relating to processing of documents by
10 Department of State).

11 Section 8823 (relating to signing of filed documents).

12 § 8833. Certificate of denial.

13 (a) General rule.--A person named in a filed certificate of
14 authority granting that person authority may deliver to the
15 department for filing a certificate of denial that:

16 (1) states:

17 (i) the name of the limited liability company;

18 (ii) subject to section 109 (relating to name of
19 commercial registered office provider in lieu of
20 registered address), the address, including street and
21 number, if any, of the registered office of the company;
22 and

23 (iii) the date the certificate of authority to which
24 the certificate of denial pertains was filed; and

25 (2) denies the grant of authority.

26 (b) Cross references.--See:

27 Section 134 (relating to docketing statement).

28 Section 135 (relating to requirements to be met by filed
29 documents).

30 Section 136(c) (relating to processing of documents by

1 Department of State).

2 Section 8823 (relating to signing of filed documents).

3 Section 8832(j) (relating to certificate of authority).

4 § 8834. Liability of members and managers.

5 (a) General rule.--A debt, obligation or other liability of
6 a limited liability company is solely the debt, obligation or
7 other liability of the company. A member or manager is not
8 personally liable, directly or indirectly, by way of
9 contribution or otherwise, for a debt, obligation or other
10 liability of the company solely by reason of being or acting as
11 a member or manager. This subsection applies regardless of:

12 (1) whether the company has a single member or multiple
13 members; and

14 (2) the dissolution, winding up or termination of the
15 company.

16 (b) Professional relationship unaffected.--Subsection (a)
17 shall not afford members of a professional company with greater
18 immunity than is available to the officers, shareholders,
19 employees or agents of a professional corporation. See section
20 2925 (relating to professional relationship retained).

21 (c) Disciplinary jurisdiction unaffected.--A professional
22 company shall be subject to the applicable rules and regulations
23 adopted by, and all the disciplinary powers of, the court,
24 department, board, commission or other government unit
25 regulating the profession in which the company is engaged. The
26 court, department, board or other government unit may require
27 that a company include in its certificate of organization or
28 operating agreement provisions that conform to any rule or
29 regulation promulgated before, on or after the effective date of
30 this section for the purpose of enforcing the ethics of a

1 profession. This chapter shall not affect or impair the
2 disciplinary powers of the court, department, board, commission
3 or other government unit over licensed persons or any law, rule
4 or regulation pertaining to the standards for professional
5 conduct of licensed persons or to the professional relationship
6 between any licensed person rendering professional services and
7 the person receiving professional services.

8 (d) Rendering professional services.--

9 (1) Except as provided by a statute, rule or regulation
10 applicable to a particular profession, a professional company
11 may lawfully render professional services only through
12 licensed persons. The company may employ persons not so
13 licensed except that those persons shall not render any
14 professional services rendered or to be rendered by it.

15 (2) Paragraph (1) shall not be interpreted to preclude
16 the use of clerks, secretaries, nurses, administrators,
17 bookkeepers, technicians and other assistants or
18 paraprofessionals who are not usually and ordinarily
19 considered by law, custom and practice to be rendering the
20 professional service or services for which the professional
21 company was organized nor to preclude the use of any other
22 person who performs all of the person's employment under the
23 direct supervision and control of a licensed person. A person
24 shall not under the guise of employment render professional
25 services unless duly licensed or admitted to practice as
26 required by law.

27 (3) Notwithstanding any other provision of law, a
28 professional company may charge for the professional services
29 rendered by it, may collect those charges and may compensate
30 those who render the professional services.

1 (e) Medical professional liability.--A professional company
2 shall be deemed to be a partnership for purposes of section 744
3 of the act of March 20, 2002 (P.L.154, No.13), known as the
4 Medical Care Availability and Reduction of Error (Mcare) Act.

5 (f) Cross reference.--See section 8105 (relating to
6 ownership of certain professional partnerships).
7 § 8835. Taxation of limited liability companies.

8 (a) General rule.--For the purposes of the imposition by the
9 Commonwealth of any tax or license fee on or with respect to any
10 income, property, privilege, transaction, subject or occupation,
11 other than the corporate net income tax, capital stock and
12 foreign franchise tax and personal income tax, a domestic or
13 foreign limited liability company shall be deemed to be a
14 corporation organized and existing under Part II (relating to
15 corporations), and a member of the company, as such, shall be
16 deemed to be a shareholder of a corporation.

17 (b) Financial institutions.--For purposes of the bank shares
18 tax and the mutual thrift institutions tax, a bank, bank and
19 trust company, trust company, savings bank, building and loan
20 association, savings and loan association or savings institution
21 that is a domestic or foreign limited liability company shall be
22 considered an "institution" as defined by Article VII or Article
23 XV of the Tax Reform Code of 1971.

24 (c) Political subdivisions.--Nothing in this section shall
25 impair or preempt the ability of a political subdivision to
26 levy, assess or collect any applicable taxes or license fees
27 authorized under the act of December 31, 1965 (P.L.1257,
28 No.511), known as The Local Tax Enabling Act, on any limited
29 liability company.

30 SUBCHAPTER D

1 RELATIONS OF MEMBERS TO EACH OTHER

2 AND TO LIMITED LIABILITY COMPANY

3 Sec.

4 8841. Becoming a member.

5 8842. Form of contribution.

6 8843. Liability for contributions.

7 8844. Sharing of and right to distributions before dissolution.

8 8845. Limitations on distributions.

9 8846. Liability for improper distributions.

10 8847. Management of limited liability company.

11 8848. Reimbursement, indemnification, advancement and
12 insurance.

13 8849. (Reserved).

14 8849.1. Standards of conduct for members.

15 8849.2. Standards of conduct for managers.

16 8850. Rights to information.

17 § 8841. Becoming a member.

18 (a) Single initial member.--If a limited liability company
19 is initially to have only one member, the person becomes a
20 member as agreed by that person and the organizer of the
21 company. That person and the organizer may be, but need not be,
22 different persons. If the initial member and the organizer are
23 different persons, the organizer acts on behalf of the initial
24 member.

25 (b) Multiple initial members.--If a limited liability
26 company is initially to have more than one member, those persons
27 become members as agreed by those persons and the organizer
28 before the formation of the company. The organizer acts on
29 behalf of the persons in forming the company and may be, but
30 need not be, one of the persons.

1 (c) Powers and authority of organizer.--Until a limited
2 liability company has its first member, the organizer is deemed
3 to be a manager of the company.

4 (d) Admission after formation.--After formation of a limited
5 liability company, a person becomes a member:

6 (1) by action of the organizer if the company does not
7 have any members;

8 (2) as provided in the operating agreement;

9 (3) as the result of a transaction effective under
10 Chapter 3 (relating to entity transactions);

11 (4) with the affirmative vote or consent of all the
12 members; or

13 (5) as provided in section 8871(a)(3) (relating to
14 events causing dissolution).

15 (e) Noneconomic members.--A person may become a member
16 without:

17 (1) acquiring a transferable interest; or

18 (2) making or being obligated to make a contribution to
19 the limited liability company.

20 (f) Nature of interest.--The interest of a member in a
21 limited liability company is personal property.

22 § 8842. Form of contribution.

23 A contribution may consist of:

24 (1) property transferred to, services performed for or
25 another benefit provided to the limited liability company;

26 (2) an agreement to transfer property to, perform
27 services for or provide another benefit to the company; or

28 (3) any combination of items listed in paragraphs (1)
29 and (2).

30 § 8843. Liability for contributions.

1 (a) Obligation not excused.--A person's obligation to make a
2 contribution to a limited liability company is not excused by
3 the person's death, disability, termination or other inability
4 to perform personally.

5 (b) Substitute payment.--If a person does not fulfill an
6 obligation to make a contribution other than money, the person
7 is obligated at the option of the limited liability company to
8 contribute money equal to the value, as stated in the records of
9 the company, of the part of the contribution which has not been
10 made.

11 (c) Compromise of obligation.--The obligation of a person to
12 make a contribution may be compromised only by the affirmative
13 vote or consent of all the members. If a creditor of a limited
14 liability company extends credit or otherwise acts in reliance
15 on an obligation described under subsection (a) without
16 knowledge or notice of a compromise under this subsection, the
17 creditor may enforce the obligation.

18 § 8844. Sharing of and right to distributions before
19 dissolution.

20 (a) General rule.--Any distribution made by a limited
21 liability company before its dissolution and winding up shall be
22 in equal shares among members and persons dissociated as
23 members, except as provided in section 8852(b) (relating to
24 transfer of transferable interest) or to the extent necessary to
25 comply with a charging order in effect under section 8853
26 (relating to charging order).

27 (b) No entitlement to distribution.--Except as provided
28 under subsection (e), a person has a right to a distribution
29 before the dissolution and winding up of a limited liability
30 company only if the company decides to make an interim

1 distribution.

2 (c) Distribution in kind.--A person does not have a right to
3 demand or receive a distribution from a limited liability
4 company in any form other than money. Except as provided in
5 section 8877(d) (relating to disposition of assets in winding
6 up), a limited liability company may distribute an asset in kind
7 only if each part of the asset is fungible with each other part
8 and each person receives a percentage of the asset equal in
9 value to the person's share of distributions.

10 (d) Status as creditor.--If a member or transferee becomes
11 entitled to receive a distribution, the member or transferee has
12 the status of, and is entitled to all remedies available to, a
13 creditor of the limited liability company with respect to the
14 distribution, except that the company's obligation to make a
15 distribution is subject to offset for any amount owed to the
16 company by the member or transferee on whose account the
17 distribution is made.

18 (e) Distribution upon an event of dissociation.--Upon the
19 effectiveness of a transaction under Chapter 3 (relating to
20 entity transactions) or an amendment of the certificate of
21 organization or operating agreement that results in either case
22 in an event of dissociation but does not result in the
23 dissolution of the limited liability company, the dissociating
24 member may elect in record form to receive in lieu of the
25 property that the person would be entitled to receive pursuant
26 to the terms of the transaction or amendment:

27 (1) any distribution to which the member is entitled
28 under the operating agreement on the terms provided in the
29 operating agreement; and

30 (2) within a reasonable time after dissociation, the

1 fair value of the interest of the member in the company as of
2 the date of dissociation based upon the right of the member
3 to share in distributions from the company.

4 § 8845. Limitations on distributions.

5 (a) General rule.--A limited liability company may not make
6 a distribution, including a distribution under section 8877
7 (relating to disposition of assets in winding up), if after the
8 distribution:

9 (1) the company would not be able to pay its debts as
10 they become due in the ordinary course of the company's
11 activities and affairs; or

12 (2) the company's total assets would be less than the
13 sum of its total liabilities plus the amount that would be
14 needed, if the company were to be dissolved and wound up at
15 the time of the distribution, to satisfy the preferential
16 rights upon dissolution and winding up of members and
17 transferees whose preferential rights are superior to the
18 rights of persons receiving the distribution.

19 (b) Valuation.--A limited liability company may base a
20 determination that a distribution is not prohibited under
21 subsection (a) (2) on:

22 (1) the book values of the assets and liabilities of the
23 company, as reflected on its books and records;

24 (2) a valuation that takes into consideration unrealized
25 appreciation and depreciation or other changes in value of
26 the assets and liabilities of the company;

27 (3) the current value of the assets and liabilities of
28 the company, either valued separately or valued in segments
29 or as an entirety as a going concern; or

30 (4) any other method that is reasonable in the

1 circumstances.

2 (c) Excluded liabilities.--In determining whether a
3 distribution is prohibited under subsection (a)(2), the company
4 need not consider obligations and liabilities unless they are
5 required to be reflected on a balance sheet, not including the
6 notes to the balance sheet, prepared on the basis of generally
7 accepted accounting principles, or such other accounting
8 practices and principles as are used generally by the company in
9 the maintenance of its books and records and as are reasonable
10 in the circumstances.

11 (d) Measuring date of distribution.--Except as provided in
12 subsection (e), the effect of a distribution under subsection
13 (a) is measured:

14 (1) as of the date specified by the company when it
15 authorizes the distribution if the distribution occurs within
16 125 days of the earlier of the date so specified or the date
17 of authorization; or

18 (2) as of the date of distribution in all other cases.

19 (e) Date of redemption.--In the case of a distribution
20 described under paragraph (1) of the definition of
21 "distribution" in section 8812 (relating to definitions), the
22 distribution is deemed to occur as of the earlier of the date
23 money or other property is transferred or debt is incurred by
24 the company or the date the person entitled to the distribution
25 ceases to own the interest or right being acquired by the
26 company in return for the distribution.

27 (f) Status of distribution debt.--The indebtedness of a
28 limited liability company to a member or transferee incurred by
29 reason of a distribution made in accordance with this section
30 shall be at least on a parity with the company's indebtedness to

1 its general, unsecured creditors, except to the extent
2 subordinated by agreement.

3 (g) Certain subordinated debt.--The indebtedness of a
4 limited liability company, including indebtedness issued as a
5 distribution, is not a liability for purposes of subsection (a)
6 if the terms of the indebtedness provide that payment of
7 principal and interest is made only if and to the extent that
8 payment of a distribution could then be made under this
9 section. If the indebtedness is issued as a distribution, each
10 payment of principal or interest is treated as a distribution,
11 the effect of which is measured on the date the payment is made.

12 (h) Distributions in winding up.--In measuring the effect of
13 a distribution under section 8877, the liabilities of a
14 dissolved limited liability company do not include any claim
15 that has been barred under section 8874 (relating to known
16 claims against dissolved limited liability company) or 8875
17 (relating to other claims against dissolved limited liability
18 company), or for which security has been provided under section
19 8876 (relating to court proceedings).

20 (i) Cross references.--See:

21 Section 8815(d)(1)(ii) (relating to contents of operating
22 agreement).

23 Section 8849.1 (relating to standards of conduct for
24 members).

25 Section 8849.2 (relating to standards of conduct for
26 managers).

27 § 8846. Liability for improper distributions.

28 (a) General rule.--Except as provided in subsection (b), if
29 a member of a member-managed limited liability company or
30 manager of a manager-managed limited liability company consents

1 to a distribution made in violation of section 8845 (relating to
2 limitations on distributions) and in consenting to the
3 distribution fails to comply with section 8849.1 (relating to
4 standards of conduct for members) or 8849.2 (relating to
5 standards of conduct for managers), the member or manager is
6 personally liable to the company for the amount of the
7 distribution which exceeds the amount that could have been
8 distributed without the violation of section 8845.

9 (b) Members without authority.--To the extent the operating
10 agreement of a member-managed limited liability company relieves
11 a member of the authority and responsibility to consent to
12 distributions and imposes that authority and responsibility on
13 one or more other members, the liability stated in subsection
14 (a) applies to the other members and not the member that the
15 operating agreement relieves of authority and responsibility.

16 (c) Recipients.--A person that receives a distribution
17 knowing that the distribution violated section 8845 is
18 personally liable to the limited liability company but only to
19 the extent that the distribution received by the person exceeded
20 the amount that could have been properly paid under section
21 8845.

22 (d) Contribution.--A person against which an action is
23 commenced because the person is liable under subsection (a) may:

24 (1) join any other person that is liable under
25 subsection (a) or otherwise seek to enforce a right of
26 contribution from the person; and

27 (2) join any person that is liable under subsection (c)
28 or otherwise seek to enforce a right of contribution from the
29 person in the amount the person is liable for under
30 subsection (c).

1 (e) Statute of repose.--An action under this section is
2 barred unless commenced within two years after the distribution.
3 § 8847. Management of limited liability company.

4 (a) Determination of management of company.--A limited
5 liability company is a member-managed limited liability company
6 unless the operating agreement:

7 (1) expressly provides that:

8 (i) the company is or will be manager-managed;

9 (ii) the company is or will be managed by managers;

10 or

11 (iii) management of the company is or will be vested
12 in managers; or

13 (2) includes words of similar import.

14 (b) Member-managed company.--In a member-managed limited
15 liability company, the following rules apply:

16 (1) Except as expressly provided in this title, the
17 management and conduct of the company are vested in the
18 members.

19 (2) Each member has equal rights in the management and
20 conduct of the company's activities and affairs.

21 (3) A difference arising among members as to a matter in
22 the ordinary course of the activities and affairs of the
23 company may be decided by a majority of the members.

24 (4) Except as provided under section 325 (relating to
25 approval by limited liability company) with respect to a
26 transaction under Chapter 3 (relating to entity
27 transactions), an act outside the ordinary course of the
28 activities and affairs of the company may be undertaken only
29 with the affirmative vote or consent of all members.

30 (5) Except as provided under section 8822(d) (relating

1 to amendment or restatement of certificate of organization),
2 the certificate of organization may be amended only with the
3 affirmative vote or consent of all members.

4 (6) The operating agreement may be amended only with the
5 affirmative vote or consent of all members.

6 (c) Manager-managed company.--In a manager-managed limited
7 liability company, the following rules apply:

8 (1) Except as expressly provided in this title, any
9 matter relating to the activities and affairs of the company
10 is decided exclusively by the manager, or, if there is more
11 than one manager, by a majority of the managers.

12 (2) Each manager has equal rights in the management and
13 conduct of the company's activities and affairs.

14 (3) The affirmative vote or consent of all members is
15 required:

16 (i) except as provided under section 325 with
17 respect to a transaction under Chapter 3, to undertake
18 any act outside the ordinary course of the company's
19 activities and affairs;

20 (ii) except as provided under section 8822(d), to
21 amend the certificate of organization; or

22 (iii) to amend the operating agreement.

23 (4) A manager may be chosen at any time by the
24 affirmative vote or consent of a majority of the members and
25 remains a manager until a successor has been chosen, unless
26 the manager at an earlier time resigns, is removed or dies,
27 or, in the case of a manager that is not an individual,
28 terminates. A manager may be removed at any time by the
29 affirmative vote or consent of a majority of the members
30 without notice or cause.

1 (5) A person need not be a member to be a manager,
2 except that the dissociation of a member that is also a
3 manager removes the person as a manager. If a person that is
4 both a manager and a member ceases to be a manager, that
5 cessation does not by itself dissociate the person as a
6 member.

7 (6) A person's ceasing to be a manager does not
8 discharge any debt, obligation or other liability to the
9 limited liability company or members which the person
10 incurred while a manager.

11 (d) Action by consent or proxy.--An action requiring the
12 vote or consent of members under this title may be taken without
13 a meeting and a member may appoint a proxy or other agent to
14 vote, consent or otherwise act for the member by signing an
15 appointing document in record form, personally or by the
16 member's agent.

17 (e) Effect of dissolution.--The dissolution of a limited
18 liability company does not affect the applicability of this
19 section, except that a person that wrongfully causes dissolution
20 of the company loses the right to participate in management as a
21 member and a manager.

22 (f) Reimbursement of advances.--A limited liability company
23 shall reimburse a member for an advance to the company beyond
24 the amount of capital the member agreed to contribute.

25 (g) Interest on advance.--A payment or advance made by a
26 member which gives rise to an obligation of the limited
27 liability company under subsection (f) or section 8848(a)
28 (relating to reimbursement, indemnification, advancement and
29 insurance) constitutes a loan to the company which accrues
30 interest from the date of the payment or advance.

1 (h) No remuneration for services.--A member is not entitled
2 to remuneration for services performed for a member-managed
3 limited liability company, except for reasonable compensation
4 for services rendered in winding up the activities of the
5 company.

6 (i) Increased vote requirements.--Whenever the certificate
7 of organization or operating agreement requires for the taking
8 of any action by the members or a class of members a specific
9 number or percentage of votes or consents, the provision of the
10 certificate or agreement setting forth that requirement shall
11 not be amended or repealed by any lesser number or percentage of
12 votes or consents of the members or the class of members. This
13 subsection does not apply to a provision setting forth the right
14 of members to act by unanimous consent in lieu of a meeting.

15 (j) Exception.--None of the following shall be considered an
16 amendment of the certificate of organization for purposes of the
17 voting rules in subsections (b) (6) and (c) (3) (iii):

18 (1) a restatement of all the operative provisions of the
19 certificate of organization without change;

20 (2) a change in the name or registered office of the
21 limited liability company; or

22 (3) any combination of the foregoing purposes.

23 (k) Approval of minor amendments.--Unless otherwise provided
24 in record form in the operating agreement, an amendment
25 described in subsection (j) may be made by the affirmative vote
26 or consent of a majority of the managers or, in the case of a
27 member-managed limited liability company, of a majority of the
28 members.

29 § 8848. Reimbursement, indemnification, advancement and
30 insurance.

1 (a) Reimbursement.--A limited liability company shall
2 reimburse a member of a member-managed company or manager of a
3 manager-managed company for any payment made by the member or in
4 the course of the member's or manager's activities on behalf of
5 the company, if the member or manager complied with the
6 applicable provisions of sections 8847 (relating to management
7 of limited liability company), 8849.1 (relating to standards of
8 conduct for members) and 8849.2 (relating to standards of
9 conduct for managers) in making the payment.

10 (b) Indemnification.--A limited liability company shall
11 indemnify and hold harmless a person with respect to any claim
12 or demand against the person and any debt, obligation or other
13 liability incurred by the person by reason of the person's
14 former or present capacity as a member or manager, if the claim,
15 demand, debt, obligation or other liability does not arise from
16 the person's breach of section 8845 (relating to limitations on
17 distributions), 8847, 8849.1 or 8849.2.

18 (c) Advancement.--In the ordinary course of its activities
19 and affairs, a limited liability company may advance expenses,
20 including attorney fees and costs, incurred by a person in
21 connection with a claim or demand against the person by reason
22 of the person's former or present capacity as a member or
23 manager, if the person promises to repay the company if the
24 person ultimately is determined not to be entitled to be
25 indemnified.

26 (d) Insurance.--A limited liability company may purchase and
27 maintain insurance on behalf of a member or manager of the
28 company against liability asserted against or incurred by the
29 member or manager in that capacity or arising from that status
30 even if, under subsection (g), the operating agreement could not

1 provide indemnification against the liability or eliminate or
2 limit the person's liability to the company for the conduct
3 giving rise to the liability.

4 (e) Nonexclusivity.--The rights provided by subsections (a),
5 (b), (c) and (d) shall not be deemed exclusive of any other
6 rights to which a person seeking reimbursement, indemnification,
7 advancement of expenses or insurance may be entitled under the
8 operating agreement, vote of members or disinterested managers,
9 contract or otherwise, both as to action in his official
10 capacity and as to action in another capacity while holding that
11 position. Sections 8849.1(f) and 8849.2(e) shall be applicable
12 to a vote, contract or other action under this subsection. A
13 limited liability company may create a fund of any nature, which
14 may, but need not be, under the control of a trustee, or
15 otherwise secure or insure in any manner its indemnification
16 obligations, whether arising under this section or otherwise.

17 (f) Grounds.--Indemnification under subsection (e) may be
18 granted for any action taken and may be made whether or not the
19 limited liability company would have the power to indemnify the
20 person under any other provision of law except as provided in
21 this section and whether or not the indemnified liability arises
22 or arose from any threatened, pending or completed action by or
23 in the right of the company. Indemnification under subsection
24 (e) is declared to be consistent with the public policy of the
25 Commonwealth.

26 (g) Limitation.--Indemnification under this section shall
27 not be made in any case where the act giving rise to the claim
28 for indemnification is determined by a court to constitute
29 recklessness, willful misconduct or a knowing violation of law.
30 § 8849. (Reserved).

1 § 8849.1. Standards of conduct for members.

2 (a) General rule.--A member of a member-managed limited
3 liability company owes to the company and, subject to section
4 8881(b) (relating to direct action by member), the other members
5 the duties of loyalty and care stated under subsections (b) and
6 (c).

7 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
8 member in a member-managed limited liability company includes
9 the duties:

10 (1) to account to the company and to hold as trustee for
11 it any property, profit or benefit derived by the member:

12 (i) in the conduct or winding up of the company's
13 activities and affairs;

14 (ii) from a use by the member of the company's
15 property; or

16 (iii) from the appropriation of a company
17 opportunity;

18 (2) to refrain from dealing with the company in the
19 conduct or winding up of the company's activities and affairs
20 as or on behalf of a person having an interest adverse to the
21 company; and

22 (3) to refrain from competing with the company in the
23 conduct of the company's activities and affairs before the
24 dissolution of the company.

25 (c) Duty of care.--The duty of care of a member of a member-
26 managed limited liability company in the conduct or winding up
27 of the company's activities and affairs is to refrain from
28 engaging in gross negligence, recklessness, willful misconduct
29 or knowing violation of law.

30 (d) Good faith and fair dealing.--A member shall discharge

1 the duties and obligations under this title or under the
2 operating agreement and exercise any rights consistent with the
3 contractual obligation of good faith and fair dealing.

4 (e) Self-serving conduct.--A member does not violate a duty
5 or obligation under this title or under the operating agreement
6 solely because the member's conduct furthers the member's own
7 interest.

8 (f) Authorization or ratification.--All the members of a
9 member-managed limited liability company may authorize or
10 ratify, after disclosure of all material facts, a specific act
11 or transaction that otherwise would violate the duty of loyalty
12 of a member.

13 (g) Fairness as a defense.--It is a defense to a claim under
14 subsection (b) (2) and any comparable claim in equity or at
15 common law that the transaction was fair to the limited
16 liability company at the time it is authorized or ratified under
17 subsection (f).

18 (h) Rights and obligations in approved transaction.--If a
19 member enters into a transaction with the limited liability
20 company which otherwise would be prohibited under subsection (b)
21 (2), and the transaction is authorized or ratified as provided
22 under subsection (f) or the operating agreement, the member's
23 rights and obligations arising from the transaction are the same
24 as those of a person that is not a member.

25 (i) Duties of members in manager-managed company.--Subject
26 to subsection (d), a member does not have any duty to a manager-
27 managed limited liability company or to any other member of the
28 company solely by reason of being or acting as a member.

29 (j) Exoneration.--The operating agreement may provide that a
30 member in a member-managed limited liability company shall not

1 be personally liable for monetary damages to the company or the
2 other members for a breach of subsection (c), except that a
3 member may not be exonerated for an act that constitutes
4 recklessness, willful misconduct or a knowing violation of law.

5 (k) Cross reference.--See section 8815 (relating to contents
6 of operating agreement).

7 § 8849.2. Standards of conduct for managers.

8 (a) General rule.--A manager of a manager-managed limited
9 liability company owes to the company and, subject to section
10 8881(b) (relating to direct action by member), the members the
11 duties of loyalty and care stated under subsections (b) and (c).

12 (b) Duty of loyalty.--The fiduciary duty of loyalty of a
13 manager in a manager-managed limited liability company includes
14 the duties:

15 (1) to account to the company and to hold as trustee for
16 it any property, profit or benefit derived by the manager:

17 (i) in the conduct or winding up of the company's
18 activities and affairs;

19 (ii) from a use by the manager of the company's
20 property; or

21 (iii) from the appropriation of a company
22 opportunity;

23 (2) to refrain from dealing with the company in the
24 conduct or winding up of the company's activities and affairs
25 as or on behalf of a person having an interest adverse to the
26 company; and

27 (3) to refrain from competing with the company in the
28 conduct of the company's activities and affairs until
29 completion of the winding up of the company.

30 (c) Duty of care.--The duty of care of a manager of a

1 manager-managed limited liability company in the conduct or
2 winding up of the company's activities and affairs is to refrain
3 from engaging in gross negligence, recklessness, willful
4 misconduct or knowing violation of law.

5 (d) Good faith and fair dealing.--A manager of a manager-
6 managed limited liability company shall discharge the duties and
7 obligations under this title or under the operating agreement
8 and exercise any rights consistently with the contractual
9 obligation of good faith and fair dealing.

10 (e) Ratification of breach of duty of loyalty.--All the
11 members, or a majority of disinterested managers, of a manager-
12 managed limited liability company may authorize or ratify, after
13 disclosure of all material facts, a specific act or transaction
14 by a manager that otherwise would violate the duty of loyalty.

15 (f) Fairness as a defense.--It is a defense to a claim under
16 subsection (b) (2) and any comparable claim in equity or at
17 common law that the transaction was fair to the limited
18 liability company.

19 (g) Manager's rights in approved transaction.--If a manager
20 enters into a transaction with the limited liability company
21 which otherwise would be prohibited by subsection (b) (2), and
22 the transaction is approved or ratified as provided by
23 subsection (e) or the operating agreement, the manager's rights
24 and obligations arising from the transaction are the same as
25 those of a person that is not a manager.

26 (h) Exoneration.--The operating agreement may provide that a
27 manager in a manager-managed limited liability company shall not
28 be personally liable for monetary damages to the company or the
29 members for a breach of subsection (c), except that a manager
30 may not be exonerated for an act that constitutes recklessness,

1 willful misconduct or a knowing violation of law.

2 (i) Cross reference.--See section 8815 (relating to contents
3 of operating agreement).

4 § 8850. Rights to information.

5 (a) In member-managed company.--In a member-managed limited
6 liability company, the following rules apply:

7 (1) On reasonable notice, a member may inspect and copy
8 during regular business hours, at a reasonable location
9 specified by the company, any record maintained by the
10 company regarding the company's activities, affairs,
11 financial condition and other circumstances.

12 (2) The company shall furnish to each member, without
13 demand, any information concerning the company's activities,
14 affairs, financial condition and other circumstances which
15 the company knows and is material to the proper exercise of
16 the member's rights and duties under the operating agreement
17 or this title, except to the extent the company can establish
18 that it reasonably believes the member already knows the
19 information.

20 (3) The duty to furnish information under paragraph (2)
21 also applies to each member to the extent the member knows
22 any of the information described in paragraph (2).

23 (b) In manager-managed company.--In a manager-managed
24 limited liability company, the following rules apply:

25 (1) The informational rights stated in subsection (a)
26 and the duty stated in subsection (a)(3) apply to the
27 managers and not the members.

28 (2) During regular business hours and at a reasonable
29 location specified by the company, a member may inspect and
30 copy full information regarding the activities, affairs,

1 financial condition and other circumstances of the company as
2 is just and reasonable if:

3 (i) the member seeks the information for a purpose
4 reasonably related to the member's interest as a member;

5 (ii) the member makes a demand in record form
6 received by the company, describing with reasonable
7 particularity the information sought and the purpose for
8 seeking the information; and

9 (iii) the information sought is directly connected
10 to the member's purpose.

11 (3) Within 10 days after receiving a demand under
12 paragraph (2)(ii), the company shall, in record form, inform
13 the member that made the demand of:

14 (i) the information that the company will provide in
15 response to the demand and when and where the company
16 will provide the information; and

17 (ii) the company's reasons for declining, if the
18 company declines to provide any demanded information.

19 (c) Rights of person dissociated as member.--Subject to
20 subsection (h), within 10 days after receipt by a limited
21 liability company of a demand made in record form, a person
22 dissociated as a member may have access to information to which
23 the person was entitled while a member if:

24 (1) the information pertains to the period during which
25 the person was a member;

26 (2) the person seeks the information in good faith; and

27 (3) the person satisfies the requirements imposed on a
28 member under subsection (b)(2).

29 (d) Response of company.--A limited liability company shall
30 respond to a demand made under subsection (c) in the manner

1 provided in subsection (b) (3).

2 (e) Copying costs.--A limited liability company may charge a
3 person that makes a demand under this section the reasonable
4 costs of copying.

5 (f) Rights of agent or guardian.--A member or person
6 dissociated as a member may exercise rights under this section
7 through an agent or, in the case of an individual under legal
8 disability, a guardian. Any restriction or condition imposed by
9 the operating agreement or under subsection (h) applies both to
10 the agent or guardian and the member or person dissociated as a
11 member.

12 (g) No rights of transferee.--Subject to section 8854
13 (relating to power of personal representative of deceased
14 member), the rights under this section do not extend to a person
15 as transferee.

16 (h) Limitations on access.--In addition to any restriction
17 or condition stated in the operating agreement, a limited
18 liability company, as a matter within the ordinary course of its
19 activities and affairs, may impose reasonable restrictions and
20 conditions on access to and use of information to be furnished
21 under this section, including designating information
22 confidential and imposing nondisclosure and safeguarding
23 obligations on the recipient. In a dispute concerning the
24 reasonableness of a restriction under this subsection, the
25 company has the burden of proving reasonableness.

26 (i) Cross reference.--See section 8815 (relating to contents
27 of operating agreement).

28 SUBCHAPTER E

29 TRANSFERABLE INTERESTS AND RIGHTS

30 OF TRANSFEREES AND CREDITORS

1 Sec.

2 8851. Nature of transferable interest.

3 8852. Transfer of transferable interest.

4 8853. Charging order.

5 8854. Power of personal representative of deceased member.

6 § 8851. Nature of transferable interest.

7 (a) Personal property.--A transferable interest is personal
8 property.

9 (b) Only right that may be transferred.--A person may not
10 transfer to a person not a member any rights in a limited
11 liability company other than a transferable interest.

12 § 8852. Transfer of transferable interest.

13 (a) General rule.--Subject to section 8853(f) (relating to
14 charging order), a transfer, in whole or in part, of a
15 transferable interest:

16 (1) is permissible;

17 (2) does not by itself cause the dissociation of the
18 transferor as a member or a dissolution and winding up of the
19 limited liability company's activities and affairs; and

20 (3) subject to section 8854 (relating to power of
21 personal representative of deceased member), does not entitle
22 the transferee to:

23 (i) participate in the management or conduct of the
24 company's activities and affairs; or

25 (ii) except as provided in subsection (c), have
26 access to records or other information concerning the
27 company's activities and affairs.

28 (b) Right to distributions.--A transferee has the right to
29 receive, in accordance with the transfer, distributions to which
30 the transferor would otherwise be entitled.

1 (c) Right to account on dissolution.--In a dissolution and
2 winding up of a limited liability company, a transferee is
3 entitled to an account of the company's transactions only from
4 the date of dissolution.

5 (d) Certificate of interest.--A transferable interest may be
6 evidenced by a certificate of the interest issued by the limited
7 liability company in record form and, subject to this section,
8 the interest represented by the certificate may be transferred
9 by a transfer of the certificate.

10 (e) Recognition of transferee's rights.--A limited liability
11 company need not give effect to a transferee's rights under this
12 section until the company knows or has notice of the transfer.

13 (f) Transfer restrictions.--A transfer of a transferable
14 interest in violation of a restriction on transfer contained in
15 the operating agreement is ineffective if the intended
16 transferee has knowledge or notice of the restriction at the
17 time of transfer.

18 (g) Rights retained by transferor.--Except as provided in
19 section 8861(5)(ii) (relating to events causing dissociation),
20 if a member transfers a transferable interest, the transferor
21 retains the rights of a member other than the transferable
22 interest transferred and retains all the duties and obligations
23 of a member.

24 § 8853. Charging order.

25 (a) General rule.--On application by a judgment creditor of
26 a member or transferee, a court may enter a charging order
27 against the transferable interest of the judgment debtor for the
28 unsatisfied amount of the judgment. Except as provided in
29 subsection (f), a charging order constitutes a lien on a
30 judgment debtor's transferable interest and requires the limited

1 liability company to pay over to the person to which the
2 charging order was issued any distribution that otherwise would
3 be paid to the judgment debtor.

4 (b) Available relief.--To the extent necessary to effectuate
5 the collection of distributions pursuant to a charging order in
6 effect under subsection (a), the court may:

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

10 (2) make all other orders necessary to give effect to
11 the charging order.

12 (c) Foreclosure.--Upon a showing that distributions under a
13 charging order will not pay the judgment debt within a
14 reasonable time, the court may foreclose the lien and order the
15 sale of the transferable interest. Except as provided in
16 subsection (f), the purchaser at the foreclosure sale only
17 obtains the transferable interest, does not thereby become a
18 member, and is subject to section 8852 (relating to transfer of
19 transferable interest).

20 (d) Satisfaction of judgment.--At any time before
21 foreclosure under subsection (c), the member or transferee whose
22 transferable interest is subject to a charging order under
23 subsection (a) may extinguish the charging order by satisfying
24 the judgment and filing a certified copy of the satisfaction
25 with the court that issued the charging order.

26 (e) Purchase of rights.--At any time before foreclosure
27 under subsection (c), a limited liability company or one or more
28 members whose transferable interests are not subject to the
29 charging order may pay to the judgment creditor the full amount
30 due under the judgment and thereby succeed to the rights of the

1 judgment creditor, including the charging order.

2 (f) Foreclosure against sole member.--If a court orders
3 foreclosure of a charging order lien against the sole member of
4 a limited liability company:

5 (1) the court shall confirm the sale;

6 (2) the purchaser at the sale obtains the member's
7 entire interest, not only the member's transferable interest;

8 (3) the purchaser thereby becomes a member; and

9 (4) the person whose interest was subject to the
10 foreclosed charging order is dissociated as a member.

11 (g) Exemption laws preserved.--This chapter shall not
12 deprive any member or transferee of the benefit of any exemption
13 laws applicable to the transferable interest of the member or
14 transferee.

15 (h) Exclusive remedy.--This section provides the exclusive
16 remedy by which a person seeking to enforce a judgment against a
17 member or transferee may, in the capacity of judgment creditor,
18 satisfy the judgment from the judgment debtor's transferable
19 interest.

20 § 8854. Power of personal representative of deceased member.

21 If a member dies, the deceased member's personal
22 representative may exercise:

23 (1) the rights of a transferee provided in section
24 8852(c) (relating to transfer of transferable interest); and

25 (2) for the purposes of settling the estate, the rights
26 the deceased member had under section 8850 (relating to
27 rights to information).

28 SUBCHAPTER F

29 DISSOCIATION

30 Sec.

1 8861. Events causing dissociation.

2 8862. Power to dissociate and wrongful dissociation.

3 8863. Effects of dissociation.

4 § 8861. Events causing dissociation.

5 A person is dissociated as a member when any of the following
6 occurs:

7 (1) The limited liability company knows or has notice of
8 the person's express will to withdraw as a member, except
9 that, if the person specified a withdrawal date later than
10 the date the company knew or had notice, on that later date.

11 (2) An event stated in the operating agreement as
12 causing the person's dissociation occurs.

13 (3) The person's entire interest is transferred in a
14 foreclosure sale under section 8853(f) (relating to charging
15 order).

16 (4) The person is expelled as a member pursuant to the
17 operating agreement.

18 (5) The person is expelled as a member by the
19 affirmative vote or consent of all the other members if:

20 (i) it is unlawful to carry on the company's
21 activities and affairs with the person as a member;

22 (ii) there has been a transfer of all the person's
23 transferable interest in the company, other than:

24 (A) a transfer for security purposes; or

25 (B) a charging order in effect under section
26 8853 which has not been foreclosed;

27 (iii) the person is an entity and:

28 (A) the company notifies the person that it will
29 be expelled as a member because:

30 (I) the person has filed a certificate of

1 dissolution or the equivalent;

2 (II) the person has been administratively
3 dissolved;

4 (III) the person's charter or its equivalent
5 has been revoked; or

6 (IV) the person's right to conduct business
7 has been suspended by the person's jurisdiction
8 of formation; and

9 (B) within 90 days after the notification:

10 (I) the certificate of dissolution or the
11 equivalent has not been withdrawn, rescinded or
12 revoked;

13 (II) the person has not been reinstated;

14 (III) the person's charter or the equivalent
15 has not been reinstated; or

16 (IV) the person's right to conduct business
17 has not been reinstated; or

18 (iv) the person is an unincorporated entity that has
19 been dissolved and whose activities and affairs are being
20 wound up.

21 (6) On application by the company or a member in a
22 direct action under section 8881 (relating to direct action
23 by member), the person is expelled as a member by judicial
24 order because the person:

25 (i) has engaged or is engaging in wrongful conduct
26 that has affected adversely and materially, or will
27 affect adversely and materially, the company's activities
28 and affairs;

29 (ii) has committed willfully or persistently, or is
30 committing willfully or persistently, a material breach

1 of the operating agreement or a duty or obligation under
2 section 8849.1 (relating to standards of conduct for
3 members); or

4 (iii) has engaged or is engaging in conduct relating
5 to the company's activities and affairs which makes it
6 not reasonably practicable to carry on the activities and
7 affairs with the person as a member.

8 (7) In the case of an individual:

9 (i) the individual dies; or

10 (ii) in a member-managed limited liability company:

11 (A) a guardian for the individual is appointed;

12 or

13 (B) a court orders that the individual has
14 otherwise become incapable of performing the
15 individual's duties as a member under this title or
16 the operating agreement.

17 (8) In a member-managed limited liability company, the
18 person:

19 (i) becomes a debtor in bankruptcy;

20 (ii) executes an assignment for the benefit of
21 creditors; or

22 (iii) seeks, consents to or acquiesces in the
23 appointment of a trustee, receiver or liquidator of the
24 person or of all or substantially all the person's
25 property.

26 (9) In the case of a person that is a testamentary or
27 inter vivos trust or is acting as a member by virtue of being
28 a trustee of such a trust, the trust's entire transferable
29 interest in the company is distributed.

30 (10) In the case of a person that is an estate or is

1 acting as a member by virtue of being a personal
2 representative of an estate, the estate's entire transferable
3 interest in the company is distributed.

4 (11) In the case of a person that is not an individual,
5 the existence of the person terminates.

6 (12) The company participates in a merger under Chapter
7 3 (relating to entity transactions) and:

8 (i) the company is not the surviving entity; or

9 (ii) otherwise as a result of the merger, the person
10 ceases to be a member.

11 (13) The company participates in an interest exchange
12 under Chapter 3 and, as a result of the interest exchange,
13 the person ceases to be a member.

14 (14) The company participates in a conversion under
15 Chapter 3.

16 (15) The company participates in a division under
17 Chapter 3 and:

18 (i) the company is not a resulting association; or

19 (ii) as a result of the division, the person ceases
20 to be a member.

21 (16) The company participates in a domestication under
22 Chapter 3 and, as a result of the domestication, the person
23 ceases to be a member.

24 (17) The company dissolves and completes winding up.

25 § 8862. Power to dissociate and wrongful dissociation.

26 (a) Power to dissociate.--A person has the power to
27 dissociate as a member at any time, rightfully or wrongfully, by
28 withdrawing as a member by express will under section 8861(1)
29 (relating to events causing dissociation).

30 (b) Wrongful dissociation.--A person's dissociation as a

1 member is wrongful only if the dissociation:

2 (1) is in breach of an express provision of the
3 operating agreement; or

4 (2) occurs before the completion of the winding up of
5 the limited liability company and:

6 (i) the person withdraws as a member by express
7 will;

8 (ii) the person is expelled as a member by judicial
9 order under section 8861(6);

10 (iii) the person is dissociated under section
11 8861(8); or

12 (iv) the person is expelled or otherwise dissociated
13 as a member because it willfully dissolved or terminated,
14 except that this subparagraph does not apply to a person
15 that is:

16 (A) a trust that is not a business or statutory
17 trust;

18 (B) an estate; or

19 (C) an individual.

20 (c) Damages for wrongful dissociation.--A person that
21 wrongfully dissociates as a member is liable to the limited
22 liability company and, subject to section 8881 (relating to
23 direct action by member), to the other members for damages
24 caused by the dissociation. The liability is in addition to any
25 debt, obligation or other liability of the member to the company
26 or the other members.

27 § 8863. Effects of dissociation.

28 (a) General rule.--If a person is dissociated as a member:

29 (1) the person's rights as a member terminate;

30 (2) if the company is member-managed, the person's

1 duties and obligations under section 8849.1 (relating to
2 standards of conduct for members) as a member end with regard
3 to matters arising and events occurring after the person's
4 dissociation; and

5 (3) subject to sections 8844(e) (relating to sharing of
6 and right to distributions before dissolution) and 8854
7 (relating to power of personal representative of deceased
8 member) and Chapter 3 (relating to entity transactions), any
9 transferable interest owned by the person in the person's
10 capacity as a member immediately before dissociation as a
11 member is owned by the person solely as a transferee.

12 (b) Existing obligations not discharged.--A person's
13 dissociation as a member does not of itself discharge the person
14 from any debt, obligation or other liability to the company or
15 the other members which the person incurred while a member.

16 SUBCHAPTER G

17 DISSOLUTION AND WINDING UP

18 Sec.

19 8871. Events causing dissolution.

20 8872. Winding up and filing of certificates.

21 8873. (Reserved).

22 8874. Known claims against dissolved limited liability company.

23 8875. Other claims against dissolved limited liability company.

24 8876. Court proceedings.

25 8877. Disposition of assets in winding up.

26 8878. Voluntary termination by members or organizers.

27 § 8871. Events causing dissolution.

28 (a) General rule.--A limited liability company is dissolved,
29 and its activities and affairs shall be wound up, upon the
30 occurrence of any of the following:

1 (1) An event or circumstance that the operating
2 agreement states causes dissolution.

3 (2) The consent of all the members.

4 (3) The passage of 180 consecutive days after the
5 company ceases to have any members unless before the end of
6 the period:

7 (i) consent to admit at least one specified person
8 as a member is given by transferees owning the rights to
9 receive a majority of distributions as transferees at the
10 time the consent is to be effective; and

11 (ii) at least one person becomes a member in
12 accordance with the consent.

13 (4) On application by a member, the entry by the court
14 of an order dissolving the company on the grounds that:

15 (i) the conduct of all or substantially all the
16 company's activities and affairs is unlawful;

17 (ii) it is not reasonably practicable to carry on
18 the company's activities and affairs in conformity with
19 the certificate of organization and the operating
20 agreement; or

21 (iii) the managers or those members in control of
22 the company:

23 (A) have acted, are acting, or will act in a
24 manner that is illegal or fraudulent; or

25 (B) have acted or are acting in a manner that is
26 oppressive and was, is or will be directly harmful to
27 the applicant.

28 (b) Other remedies.--In a proceeding brought under
29 subsection (a) (4) (iii) (B), the court may order a remedy other
30 than dissolution.

1 (c) Cross reference.--See section 8815(c)(15) (relating to
2 contents of operating agreement).

3 § 8872. Winding up and filing of certificates.

4 (a) General rule.--A dissolved limited liability company
5 shall wind up its activities and affairs and the company
6 continues after dissolution only for the purpose of winding up.

7 (b) Conduct of winding up.--In winding up its activities and
8 affairs, a limited liability company:

9 (1) shall discharge the company's debts, obligations and
10 other liabilities, settle and close the company's activities
11 and affairs, and marshal and distribute the assets of the
12 company; and

13 (2) may:

14 (i) deliver to the department for filing a
15 certificate of dissolution stating:

16 (A) the name of the company;

17 (B) subject to section 109 (relating to name of
18 commercial registered office provider in lieu of
19 registered address), the address, including street
20 and number, if any, of the registered office of the
21 company; and

22 (C) that the company is dissolved;

23 (ii) preserve the company's activities, affairs and
24 property as a going concern for a reasonable time;

25 (iii) prosecute and defend actions and proceedings,
26 whether civil, criminal or administrative;

27 (iv) transfer the company's property;

28 (v) settle disputes by mediation or arbitration; and

29 (vi) perform other acts necessary or appropriate to
30 the winding up.

1 (c) Conduct of winding up when no members.--If a dissolved
2 limited liability company has no members, the personal
3 representative, guardian or other person authorized to act on
4 behalf of the last person to have been a member may wind up the
5 activities and affairs of the company. If the person does so,
6 the person has the powers of a sole manager under section
7 8847(c) (relating to management of limited liability company)
8 and is deemed to be a manager for the purposes of section
9 8834(a) (relating to liability of members and managers).

10 (d) Action by transferees.--If the personal representative,
11 guardian or other person authorized to act under subsection (c)
12 declines or fails to wind up the company's activities and
13 affairs, a person may be appointed to do so by the consent of
14 transferees owning a majority of the rights to receive
15 distributions as transferees at the time the consent is to be
16 effective. A person appointed under this subsection:

17 (1) has the powers of a sole manager under section
18 8847(c) and is deemed to be a manager for the purposes of
19 section 8834(a); and

20 (2) shall promptly deliver to the department for filing
21 an amendment to the company's certificate of organization
22 stating:

23 (i) that the company has no members;

24 (ii) the name and street and mailing addresses of
25 the person; and

26 (iii) that the person has been appointed under this
27 subsection to wind up the company.

28 (e) Judicial supervision.--The court may order judicial
29 supervision of the winding up of a dissolved limited liability
30 company, including the appointment of a person to wind up the

1 company's activities and affairs:

2 (1) on the application of a member, if the applicant
3 establishes good cause;

4 (2) on the application of a transferee, if:

5 (i) the company does not have any members;

6 (ii) the legal representative of the last person to
7 have been a member declines or fails to wind up the
8 company's activities; and

9 (iii) within a reasonable time following the
10 dissolution a person has not been appointed under
11 subsection (c); or

12 (3) in connection with a proceeding under section
13 8871(a)(4) (relating to events causing dissolution).

14 (f) Certificate of termination.--When all debts, obligations
15 and other liabilities of the limited liability company have been
16 paid and discharged or adequate provision has been made therefor
17 and all of the remaining property and assets of the company have
18 been distributed to the members, a certificate of termination
19 shall be delivered to the department for filing along with the
20 certificates required by section 139 (relating to tax clearance
21 of certain fundamental transactions). The certificate of
22 termination shall set forth:

23 (1) The name of the limited liability company.

24 (2) Subject to section 109 (relating to name of
25 commercial registered office provider in lieu of registered
26 address), the address, including street and number, if any,
27 of the registered office of the company.

28 (3) That all debts, obligations and other liabilities of
29 the company have been paid and discharged or that adequate
30 provision has been made therefor.

1 (4) That all the remaining property and assets of the
2 company have been distributed among its members in accordance
3 with their respective rights and interests.

4 (5) That there are no actions pending against the
5 company in any court or that adequate provision has been made
6 for the satisfaction of any judgment that may be entered
7 against it in any pending action.

8 (6) That the company is terminated.

9 (g) Cross references.--See:

10 Section 134 (relating to docketing statement).

11 Section 135 (requirements to be met by filed documents).

12 Section 136(c) (relating to processing of documents by
13 Department of State).

14 Section 8815(c)(16) (relating to contents of operating
15 agreement).

16 Section 8823 (relating to signing of filed documents).

17 § 8873. (Reserved).

18 § 8874. Known claims against dissolved limited liability
19 company.

20 (a) General rule.--Except as provided in subsection (d), a
21 dissolved limited liability company may give notice of a known
22 claim under subsection (b), which has the effect provided in
23 subsection (c).

24 (b) Required notice.--A dissolved limited liability company
25 may notify in record form its known claimants of the
26 dissolution. The notice must:

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

29 (2) state that a claim must be in writing and provide a
30 mailing address to which the claim is to be sent;

1 (3) state the deadline for receipt of a claim, which may
2 not be less than 120 days after the date the notice is
3 received by the claimant; and

4 (4) state that the claim will be barred if not received
5 by the deadline.

6 (c) Claims barred.--A claim against a dissolved limited
7 liability company is barred if the requirements of subsection
8 (b) are met and:

9 (1) the claim is not received by the specified deadline;
10 or

11 (2) if the claim is timely received but rejected by the
12 company:

13 (i) the company causes the claimant to receive a
14 notice in record form stating that the claim is rejected
15 and will be barred unless the claimant commences an
16 action against the company to enforce the claim within 90
17 days after the claimant receives the notice; and

18 (ii) the claimant does not commence the required
19 action within 90 days after the complainant receives the
20 notice.

21 (d) Later arising claims.--This section shall not apply to a
22 claim based on an event occurring after the effective date of
23 dissolution or a liability that on that date is contingent.

24 § 8875. Other claims against dissolved limited liability
25 company.

26 (a) Permissive notice.--A dissolved limited liability
27 company may publish notice of its dissolution and request
28 persons having claims against the company to present them in
29 accordance with the notice.

30 (b) Notice procedure.--A notice under subsection (a) must:

1 (1) be officially published one time;

2 (2) describe the information required to be contained in
3 a claim, state that the claim must be in writing and provide
4 a mailing address to which the claim is to be sent; and

5 (3) state that a claim against the limited liability
6 company is barred unless an action to enforce the claim is
7 commenced within two years after publication of the notice.

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

13 (1) a claimant that did not receive notice in record
14 form under section 8874 (relating to known claims against
15 dissolved limited liability company);

16 (2) a claimant whose claim was timely sent to the
17 company but not acted on; and

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

20 (d) Claims not barred.--A claim not barred under this
21 section or section 8874 may be enforced:

22 (1) against a dissolved limited liability company, to
23 the extent of its undistributed assets; and

24 (2) except as provided in section 8876 (relating to
25 court proceedings), if assets of the company have been
26 distributed after dissolution, against a member or transferee
27 to the extent of that person's proportionate share of the
28 claim or of the company's assets distributed to the member or
29 transferee after dissolution, whichever is less, except that
30 a person's total liability for all claims under this

1 paragraph may not exceed the total amount of assets
2 distributed to the person after dissolution.

3 § 8876. Court proceedings.

4 (a) Determination of security.--A dissolved limited
5 liability company that has officially published a notice under
6 section 8875 (relating to other claims against dissolved limited
7 liability company) may file an application with the court for a
8 determination of the amount and form of security to be provided
9 for payment of claims that are reasonably expected to arise
10 after the date of dissolution based on facts known to the
11 company and:

12 (1) at the time of application:

13 (i) are contingent; or

14 (ii) have not been made known to the company; or

15 (2) are based on an event occurring after the effective
16 date of dissolution.

17 (b) When security not required.--Security is not required
18 for any claim that is or is reasonably anticipated to be barred
19 under section 8875(c).

20 (c) Notice.--Within 10 days after the filing of an
21 application under subsection (a), the dissolved limited
22 liability company shall give notice of the proceeding to each
23 claimant holding a contingent claim known to the company.

24 (d) Guardian ad litem.--In any proceeding under this
25 section, the court may appoint a guardian ad litem to represent
26 all claimants whose identities are unknown. The reasonable fees
27 and expenses of the guardian, including all reasonable expert
28 witness fees, must be paid by the dissolved limited liability
29 company.

30 (e) Effect on contingent claims.--A dissolved limited

1 liability company that provides security in the amount and form
2 ordered by the court under subsection (a) satisfies the
3 company's obligations with respect to claims that are
4 contingent, have not been made known to the company or are based
5 on an event occurring after the effective date of dissolution.
6 The claims may not be enforced against a member or transferee
7 that received assets in liquidation.

8 § 8877. Disposition of assets in winding up.

9 (a) Creditors.--In winding up its activities and affairs, a
10 limited liability company shall apply its assets to discharge
11 its obligations to creditors, including members that are
12 creditors.

13 (b) Surplus.--After a limited liability company complies
14 with subsection (a), any surplus shall be distributed in the
15 following order, subject to any charging order in effect under
16 section 8853 (relating to charging order):

17 (1) to each owner of a transferable interest that
18 reflects contributions made and not previously returned, an
19 amount equal to the value of the unreturned contributions;
20 and

21 (2) among owners of transferable interests in proportion
22 to their respective rights to share in distributions
23 immediately before the dissolution of the company.

24 (c) Insufficient assets.--If a limited liability company
25 does not have sufficient surplus to comply with subsection (b)
26 (1), any surplus must be distributed among the owners of
27 transferable interests in proportion to the value of the
28 respective unreturned contributions.

29 (d) Form of payment.--All distributions made under
30 subsections (b) and (c) must be paid in money.

1 § 8878. Voluntary termination by members or organizers.

2 (a) General rule.--The members or organizers of a limited
3 liability company that has never transacted business or held
4 assets other than money received as capital contributions may
5 effect the termination of the company by delivering to the
6 department for filing a certificate of termination signed by an
7 organizer or a member and stating:

8 (1) the name of the company;

9 (2) subject to section 109 (relating to name of
10 commercial registered office provider in lieu of registered
11 address), the address, including street and number, if any,
12 of the registered office of the company;

13 (3) that the company has never transacted business or
14 held assets other than money received as capital
15 contributions;

16 (4) that the amounts, if any, actually paid in as
17 capital contributions, less any part disbursed for necessary
18 expenses, have been returned to those entitled to the return
19 of the amounts;

20 (5) that all liabilities of the company have been
21 discharged or that adequate provision has been made for those
22 liabilities; and

23 (6) that a majority of the organizers or a majority in
24 interest of the members elect that the company be terminated.

25 (b) Effect.--Upon the filing of the certificate of
26 termination, the existence of the limited liability company
27 shall cease.

28 (c) Cross references.--See:

29 Section 134 (relating to docketing statement).

30 Section 135 (relating to requirements to be met by filed

1 documents).

2 Section 136(c) (relating to processing of documents by
3 Department of State).

4 SUBCHAPTER H

5 ACTIONS BY MEMBERS

6 Sec.

7 8881. Direct action by member.

8 8882. Derivative action.

9 8883. Security for costs.

10 8884. Special litigation committee.

11 8885. Proceeds and expenses.

12 § 8881. Direct action by member.

13 (a) General rule.--Subject to subsection (b), a member may
14 maintain a direct action against another member, a manager or
15 the limited liability company to enforce the member's rights and
16 protect the member's interests, including rights and interests
17 under the operating agreement or this title or arising
18 independently of the membership relationship.

19 (b) Required injury.--A member maintaining a direct action
20 under this section must plead and prove an actual or threatened
21 injury that is not solely the result of an injury suffered or
22 threatened to be suffered by the limited liability company.

23 (c) Cross reference.--See section 8815(c)(17) (relating to
24 contents of operating agreement).

25 § 8882. Derivative action.

26 (a) General rule.--Subject to subsection (b), a member or
27 manager may maintain a derivative action to enforce a right of a
28 limited liability company only if:

29 (1) the plaintiff first makes a demand on the other
30 members in a member-managed limited liability company, or the

1 managers of a manager-managed limited liability company,
2 requesting that they cause the company to bring an action to
3 enforce the right and:

4 (i) if a special litigation committee is not
5 appointed under section 8884 (relating to special
6 litigation committee), the company does not bring the
7 action within a reasonable time; or

8 (ii) if a special litigation committee is appointed
9 under section 8884, a determination is made:

10 (A) under section 8884(e)(1) that the company
11 not object to the action; or

12 (B) under section 8884(e)(5)(i) that the
13 plaintiff continue the action;

14 (2) demand is excused under subsection (b);

15 (3) the action is maintained for the limited purpose of
16 seeking court review under section 8884(f); or

17 (4) the court has allowed the action to continue
18 under the control of the plaintiff under section 8884(f)

19 (3)(ii).

20 (b) Prior demand excused.--

21 (1) A demand under subsection (a)(1) is excused only if
22 the plaintiff makes a specific showing that irreparable harm
23 to the limited liability company would otherwise result.

24 (2) If demand is excused under paragraph (1), demand
25 should be made promptly after commencement of the action.

26 (c) Contents of demand.--A demand under this section must be
27 in record form and give notice with reasonable specificity of
28 the essential facts relied upon to support each of the claims
29 made in the demand.

30 (d) Additional claims.--If a derivative action is commenced

1 after a demand has been made under this section and includes a
2 claim that was not fairly subsumed under the demand, a new
3 demand must be made with respect to that claim. The new demand
4 shall not relate back to the date of the original demand for
5 purposes of subsection (e).

6 (e) Statute of limitations.--The making of a demand tolls
7 any applicable statute of limitations with respect to a claim
8 asserted in the demand until the earlier of the date:

9 (1) the plaintiff making the demand is notified either:

10 (i) that the managers or members have decided not to
11 bring an action and not to appoint a special litigation
12 committee; or

13 (ii) of a determination under section 8884(e) after
14 the appointment of a special litigation committee under
15 section 8884; or

16 (2) the plaintiff commences an action asserting the
17 claim.

18 (f) Cross reference.--See section 8815(c)(17) (relating to
19 contents of operating agreement).

20 § 8883. Security for costs.

21 In any action or proceeding instituted or maintained by
22 members holding transferable interests entitled to receive less
23 than 5% of any distribution by a limited liability company,
24 unless the transferable interests held by the members have an
25 aggregate fair market value in excess of \$200,000, the company
26 in whose right the action or proceeding is brought shall be
27 entitled at any stage of the proceedings to require the
28 plaintiffs to give security for the reasonable expenses,
29 including attorney fees, that may be incurred by the company in
30 connection therewith or for which it may become liable pursuant

1 to section 8848(b) (relating to reimbursement, indemnification,
2 advancement and insurance) to which security the company shall
3 have recourse in such amount as the court determines upon the
4 termination of the action or proceeding. The amount of security
5 may, from time to time, be increased or decreased in the
6 discretion of the court upon showing that the security provided
7 has or may become inadequate or excessive. The security may be
8 denied or limited by the court if the court finds after an
9 evidentiary hearing that undue hardship on plaintiffs and
10 serious injustice would result.

11 § 8884. Special litigation committee.

12 (a) General rule.--If a limited liability company or its
13 members or managers receive a demand to bring an action to
14 enforce a right of the company, or if a derivative action is
15 commenced before demand has been made on the company or its
16 members or managers, the members in a member-managed limited
17 liability company, or the managers in a manager-managed limited
18 liability company, may appoint a special litigation committee to
19 investigate the claims asserted in the demand or action and to
20 determine on behalf of the company or recommend to the managers
21 or members whether pursuing any of the claims asserted is in the
22 best interests of the company. The company shall send a notice
23 in record form to the plaintiff promptly after the appointment
24 of a committee under this section notifying the plaintiff that a
25 committee has been appointed and identifying by name the members
26 of the committee. A committee may not be appointed under this
27 section if:

28 (1) every member of the company is also a manager of the
29 company; or

30 (2) the company is member-managed and every member is

1 actively involved in the management of the company.

2 (b) Discovery stay.--If the members or managers appoint a
3 special litigation committee and an action is commenced before a
4 determination has been made under subsection (e):

5 (1) On motion by the committee made in the name of the
6 limited liability company, the court shall stay discovery for
7 the time reasonably necessary to permit the committee to make
8 its investigation, except for good cause shown.

9 (2) The time for the defendants to plead shall be tolled
10 until the process provided for under subsection (f) has been
11 completed.

12 (c) Composition of committee.--A special litigation
13 committee shall be composed of two or more individuals who:

14 (1) are not interested in the claims asserted in the
15 demand;

16 (2) are capable as a group of objective judgment in the
17 circumstances; and

18 (3) may, but need not, be members or managers.

19 (d) Appointment of committee.--A special litigation
20 committee may be appointed:

21 (1) in a member-managed limited liability company:

22 (i) by a majority of the members not named as actual
23 or potential parties in the demand or action; and

24 (ii) if all members are named as actual or potential
25 parties in the demand or action, by a majority of the
26 members so named; or

27 (2) in a manager-managed limited liability company:

28 (i) by a majority of the managers not named as
29 actual or potential parties in the demand or action; and

30 (ii) if all managers are named as actual or

1 potential parties in the demand or action, by a majority
2 of the managers so named.

3 (e) Determination.--After appropriate investigation by a
4 special litigation committee, the committee or the managers or
5 members may determine that it is in the best interests of the
6 limited liability company that:

7 (1) an action based on some or all of the claims
8 asserted in the demand not be brought by the company but that
9 the company not object to an action being brought by the
10 party that made the demand:

11 (2) an action based on some or all of the claims
12 asserted in the demand be brought by the company;

13 (3) some or all of the claims asserted in the demand be
14 settled on terms approved by the committee;

15 (4) an action not be brought based on any of the claims
16 asserted in the demand;

17 (5) an action already commenced continue under the
18 control of:

19 (i) the plaintiff;

20 (ii) the company; or

21 (iii) the committee;

22 (6) some or all of the claims asserted in an action
23 already commenced be settled on terms approved by the
24 committee; or

25 (7) an action already commenced be dismissed.

26 (f) Court review and action.--If a special litigation
27 committee is appointed and a derivative action is commenced
28 either before or after a determination is made under subsection
29 (e):

30 (1) The limited liability company shall file with the

1 court after a determination is made under subsection (e) a
2 statement of the determination and a report of the committee.
3 The company shall serve each party with a copy of the
4 determination and report. If the company moves to file the
5 report under seal, the report shall be served on the parties
6 subject to an appropriate stipulation agreed to by the
7 parties or a protective order issued by the court.

8 (2) The company shall file with the court a motion,
9 pleading or notice consistent with the determination under
10 subsection (e).

11 (3) If the determination is one described in subsection
12 (e) (2), (3), (4), (5) (ii), (6) or (7), the court shall
13 determine whether the members of the committee met the
14 qualifications required under subsection (c) (1) and (2) and
15 whether the committee conducted its investigation and made
16 its recommendation in good faith, independently and with
17 reasonable care. If the court finds that the members of the
18 committee met the qualifications required under subsection
19 (c) (1) and (2) and that the committee acted in good faith,
20 independently and with reasonable care, the court shall
21 enforce the determination of the committee. Otherwise, the
22 court shall:

23 (i) dissolve any stay of discovery entered under
24 subsection (b);

25 (ii) allow the action to continue under the control
26 of the plaintiff; and

27 (iii) permit the defendants to file preliminary
28 objections and other appropriate motions and pleadings.

29 (g) Attorney General.--Nothing in this section shall limit
30 the rights, powers and duties of the Attorney General under

1 other applicable law with respect to a limited liability company
2 organized for a charitable purpose.

3 (h) Cross reference.--See section 8815(c)(18) (relating to
4 contents of operating agreement).

5 § 8885. Proceeds and expenses.

6 (a) Proceeds.--Except as provided in subsection (b):

7 (1) any proceeds or other benefits of a derivative
8 action, whether by judgment, compromise or settlement, belong
9 to the limited liability company and not to the plaintiff;
10 and

11 (2) if the plaintiff or its counsel receives any
12 proceeds, the proceeds shall be remitted immediately to the
13 company.

14 (b) Expenses.--If a derivative action is successful in whole
15 or in part, the court may award the plaintiff reasonable
16 expenses, including reasonable attorney fees and costs, from the
17 recovery of the limited liability company, but in no event shall
18 the attorney fees awarded exceed a reasonable proportion of the
19 value of the relief, including nonpecuniary relief, obtained by
20 the plaintiff for the company.

21 (c) Cross reference.--See section 8815(c)(13) (relating to
22 contents of operating agreement).

23 SUBCHAPTER I

24 BENEFIT COMPANIES

25 Sec.

26 8891. Application and effect of subchapter.

27 8892. Definitions.

28 8893. Benefit company status.

29 8894. Purposes.

30 8895. Standard of conduct for members.

1 8896. Standard of conduct for managers and officers.

2 8897. Right of action.

3 8898. Annual benefit report.

4 § 8891. Application and effect of subchapter.

5 (a) General rule.--This subchapter shall apply to all
6 benefit companies.

7 (b) Limited application of subchapter.--The existence of a
8 provision of this subchapter shall not of itself create any
9 implication that a contrary or different rule of law is or would
10 be applicable to a limited liability company that is not a
11 benefit company. This subchapter shall not affect any statute or
12 rule of law that is or would be applicable to a limited
13 liability company that is not a benefit company.

14 (c) Laws applicable to benefit companies.--Except as
15 otherwise provided in this subchapter, the provisions of Part I
16 (relating to preliminary provisions) and this chapter shall
17 apply generally to benefit companies. The provisions of this
18 subchapter shall control over inconsistent provisions of this
19 title.

20 (d) Organic rules may not be inconsistent.--See section
21 8815(c)(19) (relating to contents of operating agreement).

22 § 8892. Definitions.

23 The following words and phrases when used in this subchapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Benefit company." A limited liability company that is
27 subject to this subchapter.

28 "Benefit enforcement proceeding." A claim or action for:

29 (1) failure to pursue or create the general public
30 benefit purpose of the benefit company or any specific public

1 benefit purpose set forth in its certificate of organization;

2 or

3 (2) violation of any obligation, duty or standard of
4 conduct under this subchapter.

5 "General public benefit." A material positive impact on
6 society and the environment, taken as a whole and assessed
7 against a third-party standard, from the business and operations
8 of a benefit company.

9 "Independent." When a person has no material relationship
10 with a benefit company or any of its subsidiaries. A material
11 relationship between an individual and a benefit company or any
12 of its subsidiaries will be conclusively presumed to exist if:

13 (1) the person is or has been within the last three
14 years an employee of the benefit company or any of its
15 subsidiaries;

16 (2) an immediate family member of the person is or has
17 been within the last three years an executive officer of the
18 benefit company or any of its subsidiaries; or

19 (3) the person, or an association of which the person is
20 a governor or officer or in which the person owns
21 beneficially or of record 5% or more of the outstanding
22 interests, owns beneficially or of record 5% or more of the
23 outstanding interests of the benefit company. The percentage
24 of ownership in an association shall be calculated as if all
25 outstanding rights to acquire interests in the association
26 had been exercised.

27 "Minimum status vote." As follows:

28 (1) In the case of a limited liability company, in
29 addition to any other required approval or vote, the
30 satisfaction of the following conditions:

1 (i) The members of every class or series must be
2 entitled, as a class, to vote on the action regardless of
3 a limitation stated in the certificate of organization or
4 operating agreement on the voting rights of any class or
5 series.

6 (ii) The action must be approved by a vote of the
7 members of each class or series entitled to cast at least
8 two-thirds of the votes that all members of the class or
9 series are entitled to cast on the action.

10 (2) In the case of a domestic association other than a
11 limited liability company, in addition to any other required
12 approval, vote or consent, the satisfaction of the following
13 conditions:

14 (i) The holders of every class or series of interest
15 in the association that are entitled to receive a
16 distribution of any kind from the association must be
17 entitled as a class to vote on or consent to the action
18 regardless of any otherwise applicable limitation on the
19 voting or consent rights of any class or series.

20 (ii) The action must be approved by vote or consent
21 of the holders described in subparagraph (i) entitled to
22 cast at least two-thirds of the votes or consents that
23 all of those holders are entitled to cast on the action.

24 "Specific public benefit." The term shall have the meaning
25 specified in section 3302 (relating to definitions).

26 "Subsidiary." The term shall have the meaning specified in
27 section 3302.

28 "Third-party standard." A standard for defining, reporting
29 and assessing overall social and environmental performance which
30 is:

1 (1) Comprehensive in that it assesses the effect of the
2 business and its operations upon the interests listed in
3 section 8895(a)(1)(ii), (iii), (iv) and (v) (relating to
4 standard of conduct for members).

5 (2) Developed by an organization that is independent of
6 the benefit company and satisfies the following requirements:

7 (i) Not more than one-third of the members of the
8 governing body of the organization are representatives of
9 any of the following:

10 (A) An association of businesses operating in a
11 specific industry the performance of whose members is
12 measured by the standard.

13 (B) Businesses from a specific industry or an
14 association of businesses in that industry.

15 (C) Businesses whose performance is assessed
16 against the standard.

17 (ii) The organization is not materially financed by
18 an association or business described in subparagraph (i).

19 (3) Credible because the standard is developed by a
20 person that both:

21 (i) Has access to necessary expertise to assess
22 overall social and environmental performance.

23 (ii) Uses a balanced multistakeholder approach,
24 including a public comment period of at least 30 days to
25 develop the standard.

26 (4) Transparent because the following information is
27 publicly available:

28 (i) About the standard:

29 (A) The criteria considered when measuring the
30 overall social and environmental performance of a

1 business.

2 (B) The relative weightings, if any, of those
3 criteria.

4 (ii) About the development and revision of the
5 standard:

6 (A) The identity of the directors, officers,
7 material owners and the governing body of the
8 organization that developed and controls revisions to
9 the standard.

10 (B) The process by which revisions to the
11 standard and changes to the membership of the
12 governing body are made.

13 (C) An accounting of the sources of financial
14 support for the organization, with sufficient detail
15 to disclose any relationships that could reasonably
16 be considered to present a potential conflict of
17 interest.

18 § 8893. Benefit company status.

19 (a) Formation of benefit company.--A benefit company shall
20 be formed in accordance with section 8821 (relating to formation
21 of limited liability company and certificate of organization)
22 except that its certificate of organization shall also state
23 that it is a benefit company.

24 (b) Election of benefit company status.--An existing limited
25 liability company may elect to become a benefit company by
26 amending its certificate of organization so that it contains, in
27 addition to the requirements of section 8821, a statement that
28 the company is a benefit company. The amendment shall not be
29 effective unless it is adopted by at least the minimum status
30 vote.

1 (c) Election of status in a fundamental transaction.--If an
2 association that is not a benefit company is a party to a merger
3 or division or is the exchanging association in an interest
4 exchange, and the surviving, new or any resulting association in
5 the merger, division or interest exchange is to be a benefit
6 company, then the plan of merger, division or interest exchange
7 shall not be effective unless it is adopted by the association
8 by at least the minimum status vote.

9 (d) Termination of benefit company status.--A benefit
10 company may terminate its status as a benefit company and cease
11 to be subject to this subchapter by amending its certificate of
12 organization to delete the provision required by subsection (a)
13 or (b) to be stated in the certificate of organization of a
14 benefit company. The amendment shall not be effective unless it
15 is adopted by at least the minimum status vote.

16 (e) Termination of status in a fundamental transaction.--If
17 a plan would have the effect of terminating the status of a
18 limited liability company as a benefit company, the plan shall
19 not be effective unless it is adopted by at least the minimum
20 status vote. Any sale, lease, exchange or other disposition of
21 all or substantially all of the assets of a benefit company,
22 unless the transaction is in the usual and regular course of
23 business, shall not be effective unless the transaction is
24 approved by at least the minimum status vote.

25 § 8894. Purposes.

26 (a) General public benefit purpose.--A benefit company shall
27 have a purpose of creating general public benefit. This purpose
28 is in addition to its purpose under section 8818(b) (relating to
29 characteristics of limited liability company).

30 (b) Optional specific public benefit purpose.--The

1 certificate of organization of a benefit company may identify
2 one or more specific public benefits that it is the purpose of
3 the benefit company to create in addition to its purposes under
4 subsection (a) and section 8818(b). The identification of a
5 specific public benefit does not limit the obligation of a
6 benefit company to create general public benefit.

7 (c) Effect of purposes.--The creation of general and
8 specific public benefit as provided in subsections (a) and (b)
9 is in the best interests of the benefit company.

10 (d) Amendment.--A benefit company may amend its certificate
11 of organization to add, amend or delete the identification of a
12 specific public benefit that it is the purpose of the benefit
13 company to create. The amendment shall not be effective unless
14 it is adopted by at least the minimum status vote.

15 (e) Professional companies.--A professional company that is
16 a benefit company does not violate a restriction on its
17 permissible purposes or activities by having the purpose to
18 create general public benefit or a specific public benefit.

19 § 8895. Standard of conduct for members.

20 (a) Consideration of interests.--The members of a member-
21 managed limited liability company that is a benefit company,
22 when discharging their duties under this title or under the
23 operating agreement:

24 (1) shall consider the effects of any action upon:

25 (i) the members of the benefit company;

26 (ii) the employees and work force of the benefit
27 company and its subsidiaries and suppliers;

28 (iii) the interests of customers as beneficiaries of
29 the general or specific public benefit purposes of the
30 benefit company;

1 (iv) community and societal considerations,
2 including those of any community in which offices or
3 facilities of the benefit company or its subsidiaries or
4 suppliers are located;

5 (v) the local and global environment;

6 (vi) the short-term and long-term interests of the
7 benefit company, including benefits that may accrue to
8 the benefit company from its long-term plans and the
9 possibility that these interests may be best served by
10 the continued independence of the benefit company; and

11 (vii) the ability of the benefit company to
12 accomplish its general public benefit purpose and any
13 specific public benefit purpose; and

14 (2) may consider any other pertinent factors or the
15 interests of any other group that they deem appropriate; but

16 (3) shall not be required to give priority to the
17 interests of any person or group referred to in paragraph (1)
18 or (2) over the interests of any other person or group unless
19 the benefit company has stated in its certificate of
20 organization its intention to give priority to certain
21 interests related to its accomplishment of its general public
22 benefit purpose or of a specific public benefit purpose
23 identified in the certificate.

24 (b) Coordination with other provisions of law.--The
25 consideration of interests and factors in the manner required
26 under subsection (a) shall not constitute a violation of section
27 8849.1 (relating to standards of conduct for members).

28 (c) Exoneration from personal liability.--

29 (1) A member shall not be personally liable for monetary
30 damages for any action taken as a member of a member-managed

1 limited liability company in the course of performing the
2 duties specified in subsection (a) unless the action
3 constitutes self-dealing, willful misconduct or a knowing
4 violation of law.

5 (2) A member shall not be personally liable for monetary
6 damages for failure of the benefit company to pursue or
7 create general public benefit or a specific public benefit.

8 (d) Limitation on standing.--A member of a member-managed
9 limited liability company that is a benefit company does not
10 have a duty to a person that is a beneficiary of the general
11 public benefit purpose or a specific public benefit purpose of
12 the benefit company arising from the status of the person as a
13 beneficiary.

14 § 8896. Standard of conduct for managers and officers.

15 (a) Managers.--Each manager of a manager-managed limited
16 liability company that is a benefit company shall consider the
17 interests and factors described in section 8895(a) (relating to
18 standard of conduct for members) when discharging his or her
19 duties under this title and under the operating agreement.

20 (b) Officers.--If a benefit company has a person serving in
21 the capacity of an officer, the person shall consider the
22 interests and factors described in section 8895(a) when
23 discharging the person's duties under this title and under the
24 operating agreement if:

25 (1) the officer has discretion to act with respect to a
26 matter; and

27 (2) it reasonably appears to the officer that the matter
28 may have a material effect on the creation by the benefit
29 company of general public benefit or a specific public
30 benefit identified in the certificate of organization of the

1 benefit company.

2 (c) Coordination with other provisions of law.--The
3 consideration of interests and factors by a manager in the
4 manner described in subsection (a) shall not constitute a
5 violation of section 8849.2 (relating to standards of conduct
6 for managers).

7 (d) Exoneration from personal liability.--

8 (1) A manager or officer shall not be personally liable,
9 as such, for monetary damages for any action taken as a
10 manager or officer in the course of performing the duties
11 specified in subsection (a) or (b) unless the action
12 constitutes self-dealing, willful misconduct or a knowing
13 violation of law.

14 (2) A manager or officer shall not be personally liable
15 for monetary damages for failure of the benefit company to
16 pursue or create general public benefit or a specific public
17 benefit.

18 (e) Limitation on standing.--A manager or officer does not
19 have a duty to a person that is a beneficiary of the general
20 public benefit purpose or a specific public benefit purpose of a
21 benefit company arising from the status of the person as a
22 beneficiary.

23 § 8897. Right of action.

24 (a) Limitations.--

25 (1) Except in a benefit enforcement proceeding, no
26 person may bring an action or assert a claim against a
27 benefit company or its members, managers or officers with
28 respect to:

29 (i) failure to pursue or create general public
30 benefit or a specific public benefit set forth in its

1 certificate of organization; or

2 (ii) violation of a duty or standard of conduct
3 under this subchapter.

4 (2) A benefit company shall not be liable for monetary
5 damages under this subchapter for any failure of the benefit
6 company to pursue or create general public benefit or a
7 specific public benefit.

8 (b) Parties with standing.--A benefit enforcement proceeding
9 may be commenced or maintained only:

10 (1) directly by the benefit company; or

11 (2) derivatively by:

12 (i) a member that owned at least 2% of the total
13 number of interests of a class or series outstanding at
14 the time of the act complained of;

15 (ii) a manager of a manager-managed limited
16 liability company;

17 (iii) a person or group of persons that owns
18 beneficially or of record 5% or more of the interests in
19 an association of which the benefit company is a
20 subsidiary at the time of the act complained of; or

21 (iv) such other persons as may be specified in the
22 certificate of organization or operating agreement of the
23 benefit company.

24 (c) Cross reference.--The provisions of Subchapter H
25 (relating to actions by members) shall apply to derivative
26 actions under this section.

27 § 8898. Annual benefit report.

28 (a) Contents.--A benefit company must deliver to each member
29 an annual benefit report, including:

30 (1) A narrative description of:

1 (i) the ways in which the benefit company pursued
2 general public benefit during the year and the extent to
3 which general public benefit was created;

4 (ii) the ways in which the benefit company pursued
5 any specific public benefit that the certificate of
6 organization states is the purpose of the benefit company
7 to create and the extent to which that specific public
8 benefit was created;

9 (iii) any circumstances that have hindered the
10 creation by the benefit company of general or specific
11 public benefit; and

12 (iv) the process and rationale for selecting or
13 changing the third-party standard used to prepare the
14 benefit report.

15 (2) An assessment of the overall social and
16 environmental performance of the benefit company against a
17 third-party standard applied consistently with any
18 application of that standard in prior benefit reports or
19 accompanied by an explanation of the reasons for any
20 inconsistent application. The assessment does not need to be
21 audited or certified by a third-party standards provider.

22 (3) A statement of any connection between the
23 organization that established the third-party standard, or
24 its directors, officers or any holder of 5% or more of the
25 governance interests in the organization, and the benefit
26 company or its members, managers or officers or any holder of
27 5% or more of the outstanding interests in the benefit
28 company, including any financial or governance relationship
29 which might materially affect the credibility of the use of
30 the third-party standard.

1 (b) Timing of report.--A benefit company shall annually send
2 a benefit report to each member either:

3 (1) within 120 days following the end of the fiscal year
4 of the benefit company; or

5 (2) at the same time that the benefit company delivers
6 any other annual report to its members.

7 (c) Internet website posting.--A benefit company must post
8 all of its benefit reports on the public portion of its Internet
9 website, if any, except that any financial or proprietary
10 information included in the benefit report may be omitted from
11 the benefit report as posted.

12 (d) Availability of copies.--If a benefit company does not
13 have an Internet website, the benefit company shall provide a
14 copy of its most recent benefit report, without charge, to any
15 person that requests a copy, but any financial or proprietary
16 information included in the benefit report may be omitted from
17 the copy of the benefit report provided.

18 (e) Filing of report.--Concurrently with the delivery of the
19 benefit report to members pursuant to subsection (b), the
20 benefit company must deliver a copy of the benefit report to the
21 department for filing, except that any financial or proprietary
22 information included in the benefit report may be omitted from
23 the benefit report as filed under this section. The department
24 shall charge a fee of \$70 for filing a benefit report.

25 Section 30. Repeals are as follows:

26 (1) The General Assembly finds and declares as follows:

27 (i) The limited liability company has been evolving
28 as a legal entity over the last 25 years, and statutory
29 law must be updated to deal with the evolving entity.

30 (ii) Existing statutory law on limited liability

1 companies was enacted in 1994. Discrete amendments were
2 enacted in 1997, 1998, 2006, 2013 and 2014; and
3 significant amendments were made by section 2 of the act
4 of June 22, 2001 (P.L.418, No.34), known as the GAA
5 Amendments Act of 2001. A more comprehensive legislative
6 approach was taken in sections 54 and 55 of the act of
7 October 22, 2014 (P.L.2640, No.172), known as the
8 Associations Transactions Act.

9 (iii) Section 22 of this act adds a new chapter on
10 limited liability companies. The new chapter continues
11 the approach under the GAA Amendments Act of 2001 and the
12 Associations Transactions Act and extensively revises
13 existing statutory law to the degree that identification
14 of individual changes or reproduction of voluminous text
15 to be eliminated would inhibit rather than enhance
16 serious legal analysis.

17 (iv) The repeal under paragraph (2) is necessary to
18 carry out this paragraph.

19 (2) Subchapters A, B, C, D, E, F, I and K of Chapter 89
20 of Title 15 are repealed.

21 Section 31. Sections 8995(c), (d) and (e), 8997, 8998(g) and
22 9115 of Title 15 are amended to read:

23 § 8995. Application and effect of subchapter.

24 * * *

25 (c) Laws applicable to restricted professional companies.--
26 Except as otherwise provided in this subchapter, [this chapter]
27 Chapter 88 (relating to limited liability companies) shall be
28 generally applicable to all restricted professional companies.
29 The specific provisions of this subchapter shall control over
30 the general provisions of [this chapter] Chapter 88.

1 (d) Election of restricted professional company status.--At
2 the time an existing limited liability company that has
3 previously conducted a business not involving the rendering of a
4 restricted professional service begins to render one or more
5 restricted professional services, the company shall amend its
6 certificate of organization to include [the statement required
7 by section 8913(7) (relating to certificate of organization)] a
8 statement that it is a restricted professional company. For
9 purposes of sections [8925] 8835 (relating to taxation of
10 limited liability companies) and 8997, the company shall be
11 deemed to have become a restricted professional company on the
12 first day of the taxable year of the company following the
13 taxable year in which the amendment of its certificate of
14 organization required by this subsection is filed.

15 (e) Termination of restricted professional company status.--
16 Except as provided in this subsection, the status of a
17 restricted professional company as such shall terminate, and the
18 company shall cease to be subject to this subchapter, at such
19 time as it ceases to render any restricted professional
20 services. Upon ceasing to render any restricted professional
21 services, the company shall amend its certificate of
22 organization to delete the statement required by [section
23 8913(7)] subsection (d). For purposes of sections [8925] 8835
24 and 8997, the company shall be deemed to have ceased being a
25 restricted professional company on the first day of the taxable
26 year of the company following the taxable year in which it
27 ceased to render any restricted professional services.

28 § 8997. Taxation of restricted professional companies.

29 (a) General rule.--Except as provided in subsection (b) [and
30 in section 8925(b) (relating to taxation of limited liability

1 companies)], for the purposes of the imposition by the
2 Commonwealth or any political subdivision of any tax or license
3 fee on or with respect to any income, property, privilege,
4 transaction, subject or occupation OTHER THAN THE CORPORATE NET <--
5 INCOME TAX, CAPITAL STOCK AND FOREIGN FRANCHISE TAX AND PERSONAL
6 INCOME TAX, a domestic or [qualified] registered foreign
7 restricted professional company shall be deemed to be a limited
8 partnership organized and existing under Chapter [85] 86
9 (relating to limited partnerships), and a member of such a
10 company, as such, shall be deemed a limited partner of a limited
11 partnership.

12 (b) Exception.--A domestic or qualified foreign restricted
13 professional company shall be subject to section [8925(a)]
14 8835(a), instead of subsection (a), for the whole of any taxable
15 year of the company during any part of which the company has:

16 (1) engaged in any business not permitted by section
17 8996(a) (relating to purposes of restricted professional
18 companies);

19 (3) been a member of a limited liability company.

20 § 8998. Annual registration.

21 * * *

22 (g) Cross [references.--See section 8907 (relating to
23 execution of documents) and] reference.--See 18 Pa.C.S. § 4904
24 (relating to unsworn falsification to authorities).

25 § 9115. Ownership and transfer of property.

26 (a) General rule.--A nonprofit association may acquire, hold
27 or transfer, in its name, an interest in property.

28 (b) Testamentary and fiduciary dispositions.--A nonprofit
29 association may be a beneficiary of a trust or contract, a
30 legatee or a devisee.

1 (c) Authority to take and hold trust property.--Every
2 nonprofit association organized for a charitable purpose or
3 purposes may take, receive and hold real and personal property
4 as may be given, devised to or otherwise vested in the nonprofit
5 association, in trust, for the purpose or purposes set forth in
6 its governing principles. The managers of the nonprofit
7 association shall, as trustees of the property, be held to the
8 same degree of responsibility and accountability as other
9 trustees, unless a lesser degree or a particular degree of
10 responsibility and accountability is prescribed in the trust
11 instrument, or unless the managers remain under the control of
12 the members of the nonprofit association or third persons who
13 retain the right to direct, and do direct, the actions of the
14 managers as to the use of the trust property from time to time.

15 (d) Nondiversion of certain property.--Property of a
16 nonprofit association committed to charitable purposes shall
17 not, by any proceeding under Chapter 3 (relating to entity
18 transactions) or otherwise, be diverted from the objects to
19 which it was donated, granted or devised, unless and until the
20 nonprofit association obtains from the court an order under 20
21 Pa.C.S. Ch. 77 (relating to trusts) specifying the disposition
22 of the property.

23 Section 32. Section 9302 of Title 15, amended October 22,
24 2014 (P.L.2640, No.172), is amended to read:

25 § 9302. Application of chapter.

26 (a) General rule.--This chapter shall apply to and the word
27 "association" in this chapter shall mean a professional
28 association organized under the act of August 7, 1961 (P.L.941,
29 No.416), known as the Professional Association Act, which has
30 not:

1 (1) Reorganized as an electing partnership under Chapter
2 87 (relating to electing partnerships).

3 (2) Elected to become a professional corporation in the
4 manner provided by section 2905 (relating to election of
5 professional associations to become professional
6 corporations).

7 (3) Converted to a limited liability company under
8 Subchapter E of Chapter 3 (relating to conversion).

9 (b) No new associations.--An association may not be
10 originally organized under this chapter.

11 Section 33. Sections 9501 and 9506 of Title 15 are amended
12 to read:

13 § 9501. Application and effect of chapter.

14 (a) General rule.--

15 (1) Unless the context clearly indicates otherwise, this
16 chapter shall apply to and the words "business trust" in this
17 chapter shall mean an association organized as a trust:

18 (i) [Hereafter established under the laws of this
19 Commonwealth.] Whose deed of trust or other organic
20 document has been filed in the department and is in
21 effect under this chapter.

22 (ii) Whose deed of trust or other organic document
23 states, by amendment or otherwise, that the trust exists
24 subject to the provisions of this chapter, in the case of
25 a business trust heretofore established under the laws of
26 this Commonwealth or heretofore or hereafter established
27 under the laws of any other jurisdiction.

28 (2) The words "business trust" in this chapter shall not
29 include:

30 (i) A trust contemplated by section 1768 (relating

1 to voting trusts and other agreements among shareholders)
2 or any similar provision of law.

3 (ii) A trust for creditors.

4 (iii) A mortgage, deed of trust or other indenture
5 or similar instrument or agreement under which debt
6 securities are outstanding or to be issued.

7 (iv) A trust for the benefit of one or more
8 investors with respect to a lease of real or personal
9 property, unless the instrument creating the trust is
10 filed under this chapter.

11 (b) No franchise.--This chapter shall not confer on a
12 business trust the power to engage in any activity that may be
13 undertaken only in corporate form.

14 (c) Effect on taxation.--This chapter is enacted to codify
15 and clarify certain common law principles applicable to business
16 trusts and is not intended to affect the liability of any
17 business trust to any tax. A trust that is subject to this
18 chapter shall not be deemed to be organized or created by or
19 under this or any other statute or to have the benefit of any
20 state franchise for the purpose of existing law relating to
21 taxation.

22 (d) Multistate application.--It is the intent of the General
23 Assembly in enacting this chapter that the legal existence of
24 business trusts organized in this Commonwealth be recognized
25 outside the boundaries of this Commonwealth and that, subject to
26 any reasonable requirement of registration, a domestic business
27 trust transacting business outside this Commonwealth be granted
28 protection of full faith and credit under the Constitution of
29 the United States.

30 § 9506. Liability of trustees and beneficiaries.

1 (a) General rule.--

2 (1) Except as otherwise provided in the instrument, the
3 beneficiaries of a business trust shall be entitled to the
4 same limitation of personal liability as is extended to
5 shareholders in a domestic business corporation.

6 (2) Except as otherwise provided in the instrument, the
7 trustees of a trust, as such, shall not be personally liable
8 to any person for any act or obligation of the trust or any
9 other trustee.

10 (3) An obligation of a trust based upon a writing may be
11 limited to a specific fund or other identified pool or group
12 of assets of the trust.

13 (b) Standards and immunities.--Except as otherwise provided
14 in the instrument governing the trust, the provisions of
15 Subchapters B (relating to fiduciary duty) and D (relating to
16 indemnification) of Chapter 17 shall be applicable to
17 representatives of a business trust.

18 (c) Certain specifically authorized debt terms.--A business
19 trust shall be subject to section 1510 (relating to certain
20 specifically authorized debt terms) to the same extent as if it
21 were a business corporation.

22 (d) Professional relationship unaffected.--Subsection (a)
23 shall not afford trustees or beneficiaries of a business trust
24 providing professional services with greater immunity than is
25 available to the officers, shareholders, employees or agents of
26 a professional corporation. See section 2925 (relating to
27 professional relationship retained).

28 (e) Disciplinary jurisdiction unaffected.--A business trust
29 providing professional services shall be subject to the
30 applicable rules and regulations adopted by, and all the

1 disciplinary powers of, the court, department, board, commission
2 or other government unit regulating the profession in which the
3 business trust is engaged. The court, department, board or other
4 government unit may require that a business trust include in its
5 instrument provisions that conform to any rule or regulation
6 heretofore or hereafter promulgated for the purpose of enforcing
7 the ethics of a profession. This chapter shall not affect or
8 impair the disciplinary powers of the court, department, board,
9 commission or other government unit over licensed persons or any
10 law, rule or regulation pertaining to the standards for
11 professional conduct of licensed persons or to the professional
12 relationship between any licensed person rendering professional
13 services and the person receiving professional services.

14 (f) Permissible beneficiaries.--Except as otherwise provided
15 by a statute, rule or regulation applicable to a particular
16 profession, all of the ultimate beneficial owners of interests
17 in a business trust that renders one or more restricted
18 professional services shall be licensed persons[. As used in
19 this subsection, the term "restricted professional services"
20 shall have the meaning specified in section 8903 (relating to
21 definitions and index of definitions).] in the profession the
22 trust practices if the trust renders any of the following
23 professional services: chiropractic, dentistry, law, medicine
24 and surgery, optometry, osteopathic medicine and surgery,
25 podiatric medicine, public accounting, psychology or veterinary
26 medicine.

27 (g) Conflict of laws.--The personal liability of a trustee
28 or beneficiary of a business trust to any person or in any
29 action or proceeding for the debts, obligations or liabilities
30 of the trust or for the acts or omissions of other trustees,

1 beneficiaries, employees or agents of the trust shall be
2 governed solely and exclusively by this chapter and the laws of
3 this Commonwealth. Whenever a conflict arises between the laws
4 of this Commonwealth and the laws of any other state with
5 respect to the liability of trustees or beneficiaries of a trust
6 organized and existing under this chapter for the debts,
7 obligations and liabilities of the trust or for the acts or
8 omissions of the other trustees, beneficiaries, employees or
9 agents of the trust, the laws of this Commonwealth shall govern
10 in determining such liability.

11 (h) Medical professional liability.--A business trust shall
12 be deemed to be a professional corporation for purposes of
13 section [811 of the act of October 15, 1975 (P.L.390, No.111),
14 known as the Health Care Services Malpractice Act.] 744 of the
15 act of March 20, 2002 (P.L.154, No.13), known as the Medical
16 Care Availability and Reduction of Error (Mcare) Act.

17 (i) Failure to observe formalities.--The failure of a
18 business trust to observe formalities relating to the exercise
19 of its powers or management of its activities and affairs is not
20 a ground for imposing liability on a beneficiary or trustee of
21 the trust for a debt, obligation or other liability of the
22 trust.

23 Section 34. Sections 501(a)(6) and (8) and 502(d) of Title
24 54, amended October 22, 2014 (P.L.2640, No.172), are amended to
25 read:

26 § 501. Register established.

27 (a) General rule.--A register is established by this chapter
28 which shall consist of such of the following names as are not
29 deleted therefrom by operation of section 504 (relating to
30 effect of failure to make filings) or 506 (relating to voluntary

1 termination of registration by corporations and other
2 associations):

3 * * *

4 (6) In the case of a limited partnership or limited
5 liability company subject to 15 Pa.C.S. Ch. [85] 86 (relating
6 to limited partnerships) or [89] 88 (relating to limited
7 liability companies), the name of the partnership or company
8 as set forth in the certificate of limited partnership,
9 certificate of organization or statement of registration as a
10 [registered] foreign association.

11 (8) In the case of a [registered] limited liability
12 partnership subject to 15 Pa.C.S. Ch. 82 (relating to
13 [registered] limited liability partnerships and limited
14 liability limited partnerships) that is not also a limited
15 partnership, the name of the partnership as set forth in the
16 statement of registration as a [registered] foreign
17 association.

18 * * *

19 § 502. Certain additions to register.

20 * * *

21 (d) Annual renewal.--A person who has in effect a
22 registration of a [corporate] name may renew the registration
23 from year to year by annually filing an application for renewal
24 setting forth the facts required to be set forth in an original
25 application for registration. A renewal application may be filed
26 between October 1 and December 31 in each year and shall extend
27 the registration for the following calendar year.

28 * * *

29 Section 35. This act shall take effect in 90 days.