

42:2A-1 to 42:2A-72

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NJSA: 42:2A-1 to 42:2A-72

("Uniform Limited Partnership Law"--updates statutes)

LAWS OF: 1983

CHAPTER: 489

Bill No: S1456

Sponsor(s): O'Connor

Date Introduced: June 3, 1992

Committee: Assembly: Judiciary, Law, Public Safety & Defense

Senate: State Government, Federal & Interstate Relations & Veterans Affairs

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National Conference of Commissioners on Uniform State Laws Handbook...and proceedings. July 31-August 6, 1976. Atlanta, Georgia, 1976. (see pp. 171-201 and index for approval dates)

National Conference of Commissioners on Uniform State Laws Handbook...and proceedings. August 2-8, 1975. Quebec City, Canada, 1975.

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SENATE, No. 1456

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1982

By Senator O'CONNOR

Referred to Committee on State Government, Federal and  
Interstate Relations and Veterans Affairs

AN ACT concerning limited partnerships, revising parts of the  
statutory law, and enacting an additional chapter to be compiled  
in Title 42 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

UNIFORM LIMITED PARTNERSHIP LAW

ARTICLE 1. IN GENERAL

- 1 1. Short title.
- 2 2. Rules of construction.
- 3 3. When uniform partnership law applicable.
- 4 4. Existing limited partnerships brought under this chapter.
- 5 5. Definitions.
- 6 6. Name of limited partnership.
- 7 7. Reservation of name.
- 8 8. Registered office and registered agent.
- 9 9. Records to be kept and maintained at the registered office.
- 10 10. What business authorized.
- 11 11. Business transactions of partner with partnership.
- 12 12. Nature of partnership interest.
- 13 12.1. County Clerk to transmit documents to Secretary of State.

ARTICLE 2. FORMATION OF LIMITED PARTNERSHIP

- 1 13. Certificate of limited partnership.
- 2 14. Time when partnership formed.
- 3 15. Amendment to certificate.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendment adopted June 21, 1982.

\*\*—Assembly committee amendments adopted December 12, 1983.

- 4 16. When amendment to certificate required.
- 5 17. Cancellation of certificate.
- 6 18. Execution of certificate.
- 7 19. Amendment or cancellation by judicial act.
- 8 20. Filing in office of Secretary of State; effect of filing.
- 9 21. Liability for false statement in certificate.
- 10 22. Notice.
- 11 23. Delivery of certificate to limited partners.

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- 1 24. Admission of additional limited partners.
- 2 25. Voting.
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- 5 28. Right to information.

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- 4 32. Contributions by general partner; profits and losses; distri-  
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- 5 *ship.*
- 6 68. *Rules and regulations.*
- 7 69. *Exemption from filing business name certificate.\*\**

## ARTICLE 1. IN GENERAL

- 1 1. Short title. This chapter may be cited as the "Uniform
- 2 Limited Partnership Law (1976)".
- 3 Source: R. S. 42:2-1.
- 1 2. Rules of construction. a. The rule that statutes in derogation
- 2 of the common law are to be strictly construed shall have no appli-
- 3 cation to this chapter.
- 4 b. This chapter shall be so interpreted and construed as to effect
- 5 its general purpose to make uniform the law of those states which
- 6 enact it.
- 7 c. This chapter shall not be so construed as to impair the obliga-
- 8 tions of any contract existing on the effective date of this chapter,

9 nor to affect any action or proceedings begun or right accrued  
10 before that date.

11 Source: R. S. 42:2-2.

1 3. When Uniform Partnership Law applicable. In any case not  
2 provided for in this chapter, the provisions of the "Uniform  
3 Partnership Law" (R. S. 42:1-1 et seq.) shall govern.

4 Source: New.

1 4. Existing limited partnerships brought under this chapter.  
2 a. A limited partnership formed under any statute of this State,  
3 prior to the effective date of this chapter may become a limited  
4 partnership under this chapter by complying with the provisions  
5 of sections 13 and 14, provided the certificate sets forth:

6 (1) The amount of the original contribution of each limited  
7 partner, and the time when the contribution was made, and

8 (2) That the property of the partnership exceeds the amount  
9 sufficient to discharge its liabilities to persons not claiming as gen-  
10 eral or limited partners by an amount greater than the sum of the  
11 contributions of its limited partners.

12 b. A limited partnership formed under any statute of this State  
13 prior to the effective date of this chapter, **\*\*[until or unless it**  
14 **becomes a limited partnership under this chapter, shall continue to**  
15 **be]\*\* *shall be*** governed by the provisions of **\*\*[the statute**  
16 **under which it was formed and the amendments thereof and supple-**  
17 **ments thereto,]\*\* *this chapter*** except that the partnership shall  
18 **\*\*[not be renewed unless so provided in the original agreement, and**  
19 **a copy of the original agreement and certificate of renewal and all**  
20 **amendments thereto shall be filed in the office of the Secretary of**  
21 **State]\*\* *be deemed to have complied with the provisions in***  
22 ***sections 6 and 13 of this chapter and the partnership shall be deemed***  
23 ***to be formed on the date set by the provisions of the statute under***  
24 ***which it was formed.\*\****

25 Source: R. S. 42:2-4.

1 5. Definitions. As used in this chapter, unless the context other-  
2 wise requires:

3 a. "Certificate of limited partnership" means the certificate re-  
4 ferred to in section 13, and the certificate as amended.

5 b. "Contribution" means any cash, property, services rendered,  
6 or a promissory note or other binding obligation to contribute  
7 cash or property or to perform services, which a partner contributes  
8 to a limited partnership in his capacity as a partner.

9 c. "Event of withdrawal of a general partner" means an event  
10 that causes a person to cease to be a general partner as provided  
11 in section 39.

12 d. "Foreign limited partnership" means a partnership formed  
13 under the laws of any state other than this State and having as  
14 partners one or more general partners and one or more limited  
15 partners.

16 e. "General partner" means a person who has been admitted to  
17 a limited partnership as a general partner in accordance with the  
18 partnership agreement and named in the certificate of limited  
19 partnership as a general partner.

20 f. "Limited partner" means a person who has been admitted to  
21 a limited partnership as a limited partner in accordance with the  
22 partnership agreement and named in the certificate of limited  
23 partnership as a limited partner.

24 g. "Limited partnership" and "domestic limited partnership"  
25 mean a partnership formed by two or more persons under the laws  
26 of this State and having one or more general partners and one or  
27 more limited partners.

28 h. "Partner" means a limited or general partner.

29 i. "Partnership agreement" means any valid agreement,  
30 written or oral, of the partners as to the affairs of a limited partner-  
31 ship and the conduct of its business.

32 j. "Partnership interest" means a partner's share of the profits  
33 and losses of a limited partnership and the right to receive distribu-  
34 tions of partnership assets.

35 k. "Person" means a natural person, partnership, limited  
36 partnership (domestic or foreign), trust, estate, association, or  
37 corporation.

38 l. "State" means a state, territory, or possession of the United  
39 States, the District of Columbia, or the Commonwealth of Puerto  
40 Rico.

41 Source: New.

1 6. Name of limited partnership. a. The name of each limited  
2 partnership as set forth in its certificate of limited partnership:

3 (1) Shall contain without abbreviation the words "limited  
4 partnership";

5 (2) May not contain the name of a limited partner unless it is  
6 also the name of a general partner or the corporate name of a  
7 corporate general partner, or the business of the limited partner-  
8 ship had been carried on under that name before the admission of  
9 that limited partner;

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

13 (4) Shall not be the same as, or confusingly similar to, the name

14 of any domestic limited partnership including a limited partnership  
15 name set forth in a certificate of limited partnership filed in the  
16 office of the Secretary of State whose effective date is subsequent to  
17 the date of filing, as authorized by section 14 of this chapter, or of  
18 any foreign limited partnership authorized to transact business in  
19 this State or any limited partnership name reserved or registered  
20 under this chapter, *\*\*or the name of any profit or nonprofit corpora-*  
21 *tion on file with the Secretary of State,\*\** unless the written consent  
22 of the other domestic or foreign limited partnership or holder of a  
23 reserved or registered name to the adoption of its name, or a con-  
24 fusingly similar name is filed in the office of the Secretary of State  
25 with the certificate of limited partnership or with the application  
26 for an original or amended certificate of authority to transact  
27 business in this State or, in lieu of the consent, there is filed a  
28 certified copy of a final judgment of a court of competent jurisdic-  
28A tion establishing the prior right of the limited partnership to the  
28B use of the name in this State;

29 (5) Shall not contain any word or phrase, or any abbreviation or  
30 derivative thereof, the use of which is prohibited or restricted by  
31 any other statute of this State, unless the restrictions have been  
32 complied with.

33 b. This section shall not require any domestic limited partner-  
34 ship organized prior to the effective date of this chapter to change  
35 its name in accordance with this section, if the name is otherwise  
36 lawful on the effective date of this chapter, and a limited partner-  
37 ship shall not change its limited partnership name on or after the  
38 effective date of this chapter to a name which is not available for  
39 limited partnership use under this section.

40 c. If the name of a foreign limited partnership is not available  
41 for use in this State because of paragraph (4) of subsection a., the  
42 limited partnership may be authorized to transact business in this  
43 State under a fictitious name which is available for a limited part-  
44 nership use under this section, by filing in the office of the Secretary  
45 of State with its application for an original or amended certificate  
46 of authority a certificate of its general partner adopting the ficti-  
47 tious name for use in transacting business in this State.

48 d. The limited partnership name of a domestic limited partner-  
49 ship whose certificate of limited partnership has been cancelled and  
50 any name confusingly similar to the name of a domestic limited  
51 partnership which has been terminated shall not be available for  
52 limited partnership use for 2 years after the effective time of can-  
53 cellation or termination, unless, within the 2-year period, the  
54 written consent of the dissolved limited partnership to the adoption

55 of its name, or a confusingly similar name, is filed in the office of  
56 the Secretary of State with the certificate of limited partnership  
57 of another domestic limited partnership or with the application of  
58 a foreign limited partnership for an original or amended certificate  
59 of authority to transact business in this State.

60 e. The filing in the office of the Secretary of State of the certificate  
61 of limited partnership of a domestic limited partnership or the  
62 issuance by the Secretary of State of a certificate to a foreign  
63 limited partnership authorizing it to transact business in this State  
64 shall not preclude an action by this State to enjoin a violation of  
65 this section or an action by any person adversely affected to enjoin  
66 the violation or the use of a limited partnership name in violation  
67 of the rights of that person, whether on principles of unfair com-  
68 petition or otherwise, and the court may grant any other appro-  
69 priate relief in the action.

70 Source: R. S. 2:2-9; N. J. S. 14A:2-2.

1 7. Reservation of name. a. The exclusive right to the use of a  
2 limited partnership name may be reserved by:

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

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

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

10 (4) Any person intending to organize a foreign limited part-  
11 nership and intending to have it register in this State and adopt  
12 that name.

13 b. The reservation shall be made by filing with the Secretary of  
14 State an application, executed by the applicant, to reserve a speci-  
15 fied name or the first name available for limited partnership use  
16 among not more than three specified names. If the Secretary of  
17 State finds that the name is available for use by a domestic or  
18 foreign limited partnership, he shall reserve the name for the  
19 exclusive use of the applicant for a period of 120 days from the date  
19A of the application and shall issue a certificate of reservation.

20 c. The right to the exclusive use of a reserved name may be  
21 transferred to any other person by filing in the office of the Secre-  
22 tary of State a notice of the transfer, executed by the applicant  
23 for whom the name was reserved and specifying the name and  
24 address of the transferee.

25 d. Any foreign limited partnership may register its partnership  
26 name under this chapter, provided its partnership name is available

27 for use under section 6 of this chapter by filing an application for  
28 registration executed by a general partner setting forth name of  
29 the foreign limited partnership, the state and date of its forma-  
30 tion, a brief statement of the business in which it is engaged, and  
31 the address of the office required to be maintained in the state of  
32 its organization by the laws of that state or, if not so required, the  
33 address of the principal office of the foreign limited partnership.  
34 Source: New.

1 8. Registered office and registered agent. a. Every domestic and  
2 foreign limited partnership shall continuously maintain in this  
3 State a registered office, and a registered agent having a business  
4 office identical with the registered office.

5 b. All the records required by section 9 to be maintained shall  
6 be kept at the registered office.

7 c. The registered agent shall be an agent for service of process  
8 upon the limited partnership, and shall be an individual resident  
9 of this State, a domestic corporation or a foreign corporation  
10 authorized to do business in this State.

11 Source: New.

1 9. Records to be kept and maintained at the registered office.  
2 Every limited partnership shall keep and maintain at its registered  
3 office the following:

4 a. A current list of the full name and last known business address  
5 or home address of each partner set forth in alphabetical order;

6 b. A copy of the certificate of limited partnership and all cer-  
7 tificates of amendment thereto, together with executed copies of  
8 any powers of attorney pursuant to which any certificate has been  
9 executed;

10 c. Copies of the limited partnership's Federal, State and local  
11 income tax returns and reports, if any, for the 3 most recent years;  
12 and

13 d. Copies of any then effective written partnership agreements  
14 and of any financial statements of the limited partnership for  
15 the 3 most recent years.

16 The records set forth in this section shall be subject to inspection  
17 and copying at the reasonable request, and at the expense, of any  
18 partner during ordinary business hours.

19 Source: New.

1 10. What business authorized. A limited partnership may carry  
2 on any business which a partnership without limited partners may  
3 carry on.

4 Source: R. S. 42:2-7.

1 11. Business transactions of partner with partnership. Except  
 2 as provided in the partnership agreement, a partner may lend  
 3 money to and transact business with the limited partnership and,  
 4 subject to other applicable law, has the same rights and obligations  
 5 with respect thereto as a person who is not a partner.

6 Source: R. S. 42:2-17.

1 12. Nature of partnership interest. A partnership interest is  
 2 personal property.

3 Source: R. S. 42:2-22.

1 12.1. County clerk to transmit documents to Secretary of State.  
 2 Within 90 days after this **chapter** *section* becomes effec-  
 3 tive, each county clerk shall transmit to the Secretary of State  
 4 copies *in the manner prescribed by the Secretary of State,* of all  
 5 limited partnership certificates and amendments thereto, and all  
 6 certificates of termination or cancellation of limited partnerships  
 7 filed in his office prior to the effective date of this chapter.

8 Source: New.

#### ARTICLE 2. FORMATION OF LIMITED PARTNERSHIP

1 13. Certificate of limited partnership. Two or more persons  
 2 desiring to form a limited partnership shall execute a certificate of  
 3 limited partnership which shall be filed in the office of the Secretary  
 4 of State and shall set forth:

- 5 a. The name of the limited partnership;
- 6 b. The general character of its business;
- 7 c. The address<sup>\*\*</sup>, *including the actual location as well as postal*  
 8 *designation, if different,*<sup>\*\*</sup> of the registered office and the name and  
 8A address of the registered agent for service of process required to be  
 9 maintained by section 8;
- 10 d. The name and the business address or place of residence of  
 11 each partner (specifying separately the general partners and  
 12 limited partners);
- 13 e. The amount of cash and a description and statement of the  
 14 agreed value of the other property or services contributed by each  
 15 partner and which each partner has agreed to contribute in the  
 16 future;
- 17 f. The times at which or events on the happening of which any  
 18 additional contributions agreed to be made by each partner are to  
 19 be made;
- 20 g. Any power of a limited partner to grant the right to become  
 21 a limited partner to an assignee of any part of his partnership  
 22 interest, and the terms and conditions of the power;
- 23 h. If agreed upon, the time at which or the events on the happen-  
 24 ing of which a partner may terminate his membership in the limited

25 partnership and the amount of, or the method of determining, the  
26 distribution to which he may be entitled respecting his partnership  
27 interest, and the terms and conditions of the termination and  
28 distribution;

29 i. Any right of a partner to receive distributions of property,  
30 including cash from the limited partnership;

31 j. Any right of a partner to receive, or of a general partner to  
32 make, distributions to a partner which include a return of all or  
33 any part of the partner's contribution;

34 k. Any time at which or events upon the happening of which the  
35 limited partnership is to be dissolved and its affairs wound up;

36 l. Any right of the remaining general partners to continue the  
37 business on the happening of an event of withdrawal of a general  
38 partner; and

39 m. Any other matters the partners determine to include therein.

40 Source: R. S. 42:2-6; 42:2-8.

1 14. Time when partnership formed. A limited partnership is  
2 formed at the time of the filing of the certificate of limited partner-  
3 ship in the office of the Secretary of State or at any later time  
4 specified in the certificate of limited partnership not later than 30  
5 days of the date of filing if, in either case, there has been sub-  
6 stantial compliance with the requirements of section 13.

7 Source: R. S. 42:2-6.

1 15. Amendment to certificate. A certificate of limited partner-  
2 ship is amended by the filing of a written certificate of amendment  
3 thereto in the office of the Secretary of State which shall set forth:

4 a. The name of the limited partnership;

5 b. The date of filing of the original certificate;

6 c. The amendment or amendments to the certificate of limited  
7 partnership; and

8 d. The amendment or amendments shall take effect upon filing  
9 of the certificate of amendment in the office of the Secretary of  
10 State or at any time specified in the certificate of amendment not  
11 later than 30 days of the date of filing.

12 Source: R. S. 42:2-29 amended 1953, c. 40, s. 4.

1 16. When amendment to certificate required. An amendment to  
2 a certificate of limited partnership shall be filed within 30 days  
3 when:

4 a. There is a change in the name of the partnership;

5 b. There is a change in the amount or character of the contribu-  
6 tion of any partner or in any partner's obligation to make a  
7 contribution;

8 c. There is the admission of a new partner or the withdrawal  
9 of a partner;

10 d. There is a change in the character of the business of the  
11 partnership;

12 e. There is a continuation of the partnership business under  
13 section 50 after the withdrawal of a general partner;

14 f. There is a change in the time as stated in the certificate for  
15 dissolution of the partnership or for the return of a contribution;

16 g. There is a time fixed for dissolution of the partnership or the  
17 return of a contribution, no time therefor having been specified  
18 in the certificate;

19 h. There is a false or erroneous statement in the certificate or  
20 that any arrangements or other facts described in the certificate  
21 have changed making the certificate inaccurate in any respect, pro-  
22 vided, however, an amendment to show a change of address of a  
23 limited partner need be filed only once every 12 months; and

24 i. The general partners determine to amend the partnership  
25 agreement for any purpose but only to the extent the general  
25A partners may amend the partnership agreement.

26 A partner shall not incur any liability if an amendment to a  
27 certificate of limited partnership reflecting the occurrence of any  
28 event referred to in this section is filed within the 30-day period  
29 specified herein.

30 Source: R. S. 42:2-28.

1 17. Cancellation of certificate. A certificate of limited partner-  
2 ship shall be cancelled upon the dissolution and the commencement  
3 of winding up of the partnership or at any other time there are no  
4 limited partners. The certificate of cancellation shall be filed in  
5 the office of the Secretary of State and shall set forth:

6 a. The name of the limited partnership;

7 b. The date of filing of its certificate of limited partnership;

8 c. The reason for filing the certificate of cancellation;

9 d. The effective date (which shall be a date certain) of cancella-  
10 tion if it is not to be effective upon the filing of the certificate; and

11 e. Any other information the general partners filing the certifi-  
12 cate determine.

13 Source: R. S. 42:2-28.

1 18. Execution of certificate. Each certificate required by this  
2 article to be filed in the office of the Secretary of State shall be  
3 executed in the following manner:

4 a. An original certificate of limited partnership must be signed  
5 by all partners named therein;

6 b. A certificate of amendment must be signed by at least one  
7 general partner and by each other partner designated in the cer-  
8 tificate as a new partner or whose contribution is described as  
9 having been increased;

10 c. A certificate of cancellation must be signed by all general  
11 partners;

12 d. Any person may sign a certificate by an attorney-in-fact, but  
13 a power of attorney to sign a certificate relating to the admission,  
14 or increased contribution, of a partner must specifically describe  
15 the admission or increase; and

16 e. The execution of a certificate by a general partner constitutes  
17 an affirmation under the penalties of perjury that the facts stated  
18 therein are true.

19 Source: R. S. 42:2-6; 42:2-29 amended 1953, c. 40, s. 4.

1 19. Amendment or cancellation by judicial act. If a person re-  
2 quired to execute a certificate of amendment or cancellation fails  
3 or refuses to do so, any other partner, and any assignee of a part-  
4 nership interest, who is adversely affected by the failure or refusal,  
5 may file a complaint in the Superior Court, for an order or judg-  
6 ment to direct the amendment or cancellation. The court may  
7 proceed in the action in a summary manner or otherwise. If the  
8 court finds that the amendment or cancellation is proper and that  
9 any person so designated has failed or refused to execute the cer-  
10 tificate, a copy of the order or judgment shall serve as the required  
11 certificate.

12 A certified copy of the order or judgment setting forth the amend-  
13 ment or cancellation shall be filed in the office of the Secretary  
14 of State.

15 Source: R. S. 42:2-29 amended 1953, c. 40, s. 4.

1 20. Filing in office of Secretary of State; effect of filing. a. Two  
2 signed copies of the certificate of limited partnership and of any  
3 certificates of amendment or cancellation or any order or judgment  
4 of amendment or cancellation shall be delivered to the Secretary  
5 of State. A person who executes a certificate as an agent or fiduciary  
6 need not exhibit evidence of his authority as a prerequisite to  
7 filing. Unless the Secretary of State finds that any certificate does  
8 not conform to law, upon receipt of all filing fees required by  
9 law he shall:

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

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

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

15 b. Upon the filing of a certificate of amendment or an order or  
16 judgment of amendment in the office of the Secretary of State, the  
17 certificate of limited partnership shall be amended as set forth  
18 therein, and upon the effective date of either a certificate of cancel-

19 lation or an order or judgment of cancellation, the certificate of  
20 limited partnership is canceled.

21 Source: R. S. 42:2-6; 42:2-29 amended 1953, c. 40, s. 4.

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

5 a. Any person who executed the certificate, or caused another  
6 to execute it on his behalf, and knew, and any general partner  
7 who knew or should have known, the statement to be false at the  
8 time the certificate was executed; and

9 b. Any general partner who thereafter knows or should have  
10 known that any arrangement or other fact described in the cer-  
11 tificate has changed, making the statement inaccurate in any  
12 respect, within a sufficient time before the statement was relied  
13 upon reasonably to have enabled that general partner to cancel  
14 or amend the certificate, or to file a complaint for its cancellation  
15 or amendment under section 19.

16 Source: R. S. 42:2-10.

1 22. Notice. The fact that a certificate of limited partnership or  
2 any amendment thereto is on file in the office of the Secretary of  
3 State is notice that the partnership is a limited partnership and  
4 the persons designated therein as limited partners are limited  
5 partners, but it is not notice of any other fact not set forth in the  
6 certificate or amendment thereto.

7 Source: New.

1 23. Delivery of certificates to limited partners. Upon the return  
2 of a certificate marked "filed" by the Secretary of State as pro-  
3 vided in section 20, the general partners shall promptly deliver or  
4 mail a copy of the certificate of limited partnership and any other  
5 certificate to each limited partner unless the partnership agree-  
6 ment provides otherwise.

7 Source: New.

### ARTICLE 3. LIMITED PARTNERS

1 24. Admission of additional limited partners. After the filing of  
2 a limited partnership's original certificate of limited partnership,  
3 a person may be admitted as an additional limited partner:

4 a. In the case of a person acquiring a partnership interest  
5 directly from the limited partnership, upon compliance with the  
6 partnership agreement or, if the partnership agreement does not  
7 so provide, upon the written consent of all partners; or

8 b. In the case of an assignee of a partnership interest of a

9 partner who has the power, as provided in section 48, to grant the  
 10 assignee the right to become a limited partner, upon the exercise  
 11 of that power and compliance with any conditions limiting the  
 12 grant or exercise of the power.

13 In each case under this section, the person acquiring the  
 14 partnership interest becomes a limited partner only upon amend-  
 15 ment of the certificate of limited partnership reflecting that fact.  
 16 Source: R. S. 42:2-12; 42:2-23.

1 25. Voting. **["The"]** *Subject to section 26 the* partnership  
 2 agreement may grant to all or a specified group of the limited  
 3 partners the right to vote, on a per capita or other basis, upon  
 4 **["any matter"]** *such matters as set forth in the partnership*  
 5 *agreement*.

6 Source: New.

1 26. Liability to third parties. a. Except as provided in sub-  
 2 section d., a limited partner is not liable for the obligations of a  
 3 limited partnership unless he is also a general partner or, in  
 4 addition to the exercise of his rights and powers as a limited  
 5 partner, he takes part in the control of the business. However, if  
 6 the limited partner's participation in the control of the business  
 7 is not substantially the same as the exercise of the powers of a  
 8 general partner, he is liable only to persons who transact business  
 9 with the limited partnership with actual knowledge of, and reliance  
 10 on, his participation in control.

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

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

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

18 (3) Acting as surety for the limited partnership;

19 (4) Approving or disapproving an amendment to the partner-  
 20 ship agreement;

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

22 (a) The dissolution and winding up of the limited partner-  
 23 ship;

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

27 (c) The incurrence of indebtedness by the limited partner-  
 28 ship other than in the ordinary course of its business;

29 (d) A change in the nature of the business, or

30 (e) The removal of a general partner.

31 (6) Serving as an officer, director or shareholder of a corporate  
32 general partner; or

33 (7) Approving or disapproving matters related to the business of  
34 the partnership as shall be stated in the certificate and partnership  
35 agreement.

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

40 d. A limited partner who knowingly permits his name to be used  
41 in the name of the limited partnership, except under circumstances  
42 permitted by subsection a. (2) of section 6, is liable to creditors  
43 who extend credit to the limited partnership without actual  
44 knowledge that the limited partner is not a general partner.

45 Source: R. S. 42:2-9; 42:2-11.

1 27. Person erroneously believing himself a limited partner.

2 a. Except as provided in subsection b., a person who makes a  
3 contribution to a business enterprise and erroneously but in good  
4 faith believes that he has become a limited partner in the enter-  
5 prise is not a general partner in the enterprise and is not bound  
6 by its obligations by reason of making the contribution, receiving  
7 distributions from the enterprise, or exercising any rights of a  
8 limited partner, if, on ascertaining the mistake, he:

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

11 (2) Withdraws from future equity participation in the enterprise.  
11A *\*\*by executing and filing in the office of the Secretary of State a*  
11B *certificate declaring withdrawal under this section\*\*.*

12 b. A person who makes a contribution of the kind described in  
13 subsection a. is liable as a general partner to any third party who  
14 transacts business with the enterprise:

15 (1) before the person withdraws and an appropriate certificate  
16 is filed to show the withdrawal; or

17 (2) before an appropriate certificate is filed to show his status  
18 as a limited partner and, in the case of an amendment, after  
19 expiration of the 30-day period for filing an amendment relating  
20 to the person as a limited partner under section 16, but in either  
21 case only if the third party actually believed in good faith that the  
22 person was a general partner at the time of the transaction.

23 Source: R. S. 42:2-15.

1 28. Right to information. A limited partner has the right to:

2 a. Inspect and copy any of the partnership records required to  
3 be maintained by section 9;

- 4 b. Obtain from the general partners from time to time upon  
5 reasonable demand true and full information regarding the state  
6 of the business and financial condition of the limited partnership;  
7 c. Receive promptly after becoming available, a copy of the  
8 limited partnership's Federal, State and local income tax returns  
9 for each year, and  
10 d. Other information regarding the affairs of the limited  
11 partnership as is just and reasonable.  
12 Source: R. S. 42:2-14 amended 1953, c. 40, s. 3.

#### ARTICLE 4. GENERAL PARTNERS

- 1 29. Admission of additional general partners. After the filing  
2 of a limited partnership's original certificate of limited partner-  
3 ship, additional general partners may be admitted only with the  
4 specific written consent of each partner.  
5 Source: R. S. 42:2-13.
- 1 30. Events of withdrawal of a general partner. Except as ap-  
2 proved by the specific written consent of all partners at the time,  
3 a person ceases to be a general partner of a limited partnership  
4 upon the happening of any of the following events:  
5 a. The general partner withdraws from the limited partnership  
6 as provided in section 39;  
7 b. The general partner ceases to be a member of the limited  
8 partnership as provided in section 46;  
9 c. The general partner is removed as a general partner in ac-  
10 cordance with the partnership agreement;  
11 d. Unless otherwise provided in the certificate of limited part-  
12 nership, the general partner: (1) makes an assignment for the  
13 benefit of creditors; (2) files a voluntary petition in bankruptcy;  
14 (3) is adjudicated a bankrupt or insolvent; (4) files a petition or  
15 answer seeking for himself any reorganization, arrangement, com-  
16 position, readjustment, liquidation, dissolution or similar relief  
17 under any statute, law, or regulation; (5) files an answer or other  
18 pleading admitting or failing to contest the material allegations  
19 of a petition filed against him in any proceeding set forth in  
20 (4) above; or (6) seeks, consents to, or acquiesces in the appoint-  
21 ment of a trustee, receiver, or liquidator of the general partner  
22 or of all or any substantial part of his properties;  
23 e. Unless otherwise provided in the certificate of limited part-  
24 nership, 120 days after the commencement of any proceeding against  
25 the general partner seeking reorganization, arrangement, compo-  
26 sition, readjustment, liquidation, dissolution or similar relief under  
27 any statute, law, or regulation, the proceeding has not been dis-

28 missed, or if within 90 days after the appointment without his  
 29 consent or acquiescence of a trustee, receiver, or liquidator of the  
 30 general partner or of all or any substantial part of his properties,  
 31 the appointment is not vacated or stayed, or within 90 days after  
 32 the expiration of any such stay, the appointment is not vacated;

33 f. In the case of a general partner who is a natural person his  
 34 death or the entry by a court of competent jurisdiction of a judg-  
 35 ment adjudicating him incompetent to manage his person or estate;

36 g. In the case of a general partner who is acting as a general  
 37 partner by virtue of being a trustee of a trust, the termination  
 38 of the trust (but not merely the substitution of new trustee);

39 h. In the case of a general partner that is a separate partnership,  
 40 the dissolution and commencement of winding up of the separate  
 41 partnership;

42 i. In the case of a general partner that is a corporation, the  
 43 filing of a certificate of dissolution, or its equivalent, for the cor-  
 44 poration or the revocation of its charter; or

45 j. In the case of an estate, the distribution by the fiduciary of  
 46 the estate's entire interest in the partnership.

47 Source: R. S. 42:2-24.

1 \***[31. General powers and liabilities. Except as provided in this**  
 2 chapter or in the partnership agreement, a general partner of a  
 3 limited partnership has the rights and powers and is subject to  
 4 the restrictions and liabilities of a partner in a partnership without  
 5 limited partners.]\*

1 *\*31. General powers and liabilities. \*\*a.\*\* Except as expressly  
 2 provided in this chapter, a general partner of a limited partnership  
 3 is subject to the restrictions **\*\*[and liabilities]\*\*** of a partner in a  
 4 partnership without limited partners and except as provided in this  
 5 chapter or in the partnership agreement has the rights and powers  
 6 of a partner in a partnership without limited partners.\**

7 *\*\*b. Except as provided in this chapter, a general partner of a*  
 8 *limited partnership has the liabilities of a partner in a partnership*  
 9 *without limited partners to persons other than the partnership and*  
 10 *the other partners. Except as provided in this chapter or the*  
 11 *partnership agreement, a general partner of a limited partnership*  
 12 *has the liabilities of a partner in a partnership without limited*  
 13 *partners to the partnership and to the other partners.\*\**

14 Source: R. S. 42:2-13.

1 32. Contributions by general partner; profits and losses; distri-  
 2 butions. A general partner of a limited partnership may make  
 3 contributions to the partnership and share in the profits and losses  
 4 of, and in distributions from, the limited partnership as a general

5 partner. A general partner also may make contributions to and  
6 share in profits, losses, and distributions as a limited partner. A  
7 person who is both a general partner and a limited partner has  
8 the rights and powers, and is subject to the restrictions and lia-  
9 bilities, of a general partner and, except as provided in the part-  
10 nership agreement, also has the powers, and is subject to the re-  
11 strictions, of a limited partner to the extent of his participation  
12 in the partnership as a limited partner.

13 Source: R. S. 42:2-16.

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

5 Source: New.

#### ARTICLE 5. FINANCE.

1 34. Form of contribution by partners. The contribution of a  
2 partner may be in cash, property, or services rendered, or a  
3 promissory note or other obligation to contribute cash or property  
4 or to perform services.

5 Source: R. S. 42:2-8.

1 35. Liability of partner for contribution. a. Except as provided  
2 in the certificate of limited partnership, a partner or the personal  
3 representative of his estate is obligated to the limited partnership  
4 to perform any promise to contribute cash or property or to per-  
5 form services. If a partner does not make the required contribution  
6 of property or services, he or the personal representative of his  
7 estate is obligated at the option of the limited partnership to  
8 contribute cash equal to that portion of the value, as stated in  
9 the certificate of limited partnership, of the stated contribution  
10 that has not been made.

11 b. Unless otherwise provided in the partnership agreement, the  
12 obligation of a partner to make a contribution or return money  
13 or other property paid or distributed in violation of this chapter  
14 may be compromised only by consent of all the partners. Notwith-  
15 standing the compromise, a creditor of a limited partnership who  
16 extends credit, or whose claim arises, after the filing of the cer-  
17 tificate of limited partnership or an amendment thereto which,  
18 in either case, reflects the obligation, and before the amendment or  
19 cancellation thereof to reflect the compromise, may enforce the  
20 original obligation.

21 Source: R. S. 42:2-21.

1 36. Sharing of profits and losses. The profits and losses of a  
2 limited partnership shall be allocated among the partners, and  
3 among classes of partners, in the manner provided in the partner-  
4 ship agreement. If the partnership agreement does not so provide,  
5 profits and losses shall be allocated on the basis of the value (as  
6 stated in the certificate of limited partnership) of the contributions  
7 made by each partner to the extent they have been received by  
8 the partnership and have not been returned.

9 Source: R. S. 42:2-19.

1 37. Sharing of distributions. Distributions of cash or other  
2 assets of a limited partnership shall be allocated among the  
3 partners, and among classes of partners, in the manner provided  
4 in the partnership agreement. If the partnership agreement does  
5 not so provide, distributions shall be made on the basis of the value  
6 (as stated in the certificate of limited partnership) of the contribu-  
7 tions made by each partner to the extent they have been received  
8 by the partnership and have not been returned.

9 Source: New.

#### ARTICLE 6. DISTRIBUTIONS AND WITHDRAWALS

1 38. Interim distributions. Except as provided in this Article, a  
2 partner is entitled to receive distributions from a limited partner-  
3 ship before his withdrawal from the limited partnership and before  
4 the dissolution and winding up thereof:

5 a. To the extent and at the times or upon the happening of the  
6 events specified in the partnership agreement; and

7 b. If any distribution constitutes a return of any part of his  
8 contribution, to the extent and at the times or upon the happening  
9 of the events specified in the certificate of limited partnership.

10 Source: New.

1 39. Withdrawal of general partner. A general partner may with-  
2 draw from a limited partnership at any time by giving written  
3 notice to the other partners, but if the withdrawal violates the  
4 partnership agreement, the limited partnership may recover from  
5 the withdrawing general partner damages for breach of the partner-  
6 ship agreement and offset the damages against the amount other-  
7 wise distributable to him.

8 Source: New.

1 40. Withdrawal of limited partner. A limited partner may with-  
2 draw from a limited partnership at the time or upon the happening  
3 of events specified in the certificate of limited partnership and in  
4 accordance with the partnership agreement. If the certificate does  
5 not specify the time or the events upon the happening of which a

6 limited partner may withdraw or a definite time for the dissolution  
7 and winding up of the limited partnership, a limited partner may  
8 withdraw upon not less than 6 months' prior written notice to  
9 each general partner at his address on the books of the limited  
10 partnership at its office in this State.

11 Source: R. S. 42:2-20.

1 41. Distribution upon withdrawal. Except as provided in this  
2 article, upon withdrawal any withdrawing partner is entitled to  
3 receive any distribution to which he is entitled under the partner-  
4 ship agreement and, if not otherwise provided in the agreement,  
5 he is entitled to receive, within a reasonable time after with-  
6 drawal, the fair value of his interest in the limited partnership as  
7 of the date of withdrawal, based upon his right to share in distribu-  
8 tions from the limited partnership.

9 Source: New.

1 42. Distribution in cash or kind. Except as provided in the  
2 certificate of limited partnership, a partner, regardless of the  
3 nature of his contribution, has no right to demand and receive any  
4 distribution from a limited partnership in any form other than  
5 cash. Except as provided in the partnership agreement, a partner  
6 may not be compelled to accept a distribution of any asset in kind  
7 from a limited partnership to the extent that the percentage of the  
8 asset distributed to him exceeds a percentage of that asset which  
9 is equal to the percentage in which he shares in distribution from  
10 the limited partnership.

11 Source: R. S. 42:2-20.

1 43. Right to distribution. At the time a partner becomes en-  
2 titled to receive a distribution, he has the status of, and is entitled  
3 to all remedies available to, a creditor of the limited partnership  
4 with respect to the distribution.

5 Source: R. S. 42:2-20.

1 44. Limitations on distribution. A partner may not receive a  
2 distribution from a limited partnership to the extent that, after  
3 giving effect to the distribution, all liabilities of the limited part-  
4 nership, other than liabilities to partners on account of their  
5 partnership interests, exceed the fair value of the partnership  
6 assets.

7 Source: R. S. 42:2-20.

1 45. Liability upon return of contribution. a. If a limited  
2 partner has received the return of any part of his contribution with-  
3 out violation of the partnership agreement or this chapter, he is  
4 liable to the limited partnership for a period of 1 year thereafter  
5 for the amount of the returned contribution, but only to the extent

6 necessary to discharge the limited partnership's liabilities to cred-  
7 itors who extended credit to the limited partnership during the  
8 period the contribution was held by the partnership.

9 b. If a limited partner has received the return of any part of  
10 his contribution in violation of the partnership agreement or this  
11 chapter, he is liable to the limited partnership for a period of 6  
12 years thereafter for the amount of the contribution wrongfully  
13 returned.

14 c. If a general partner has received the return of any part of  
15 his contribution without violation of the partnership agreement or  
16 this chapter, he is liable, until the termination of the applicable  
17 statute of limitations, to the limited partnership for the amount of  
18 the returned contribution, but only to the extent necessary to dis-  
19 charge the limited partnership's liabilities to creditors who ex-  
20 tended credit to the limited partnership during the period the  
21 contribution was held by the partnership.

22 d. If a general partner has received the return of any part of  
23 his contribution in violation of the partnership agreement or this  
24 chapter, he is liable, until the termination of the applicable statute  
25 of limitations, to the limited partnership for the amount of the  
26 contribution wrongfully returned.

27 e. A general or limited partner receives a return of his contribu-  
28 tion to the extent that a distribution to him reduces his share of the  
29 fair value of the net assets of the limited partnership below the  
30 value (as set forth in the certificate of limited partnership) of his  
31 contribution which has not been distributed to him.

32 Source: R. S. 42:2-21.

#### ARTICLE 7. ASSIGNMENT OF PARTNERSHIP INTERESTS

1 46. Assignment of partnership interest; rights of assignee.  
2 Except as provided in the partnership agreement, a partnership  
3 interest is assignable in whole or in part. An assignment of a  
4 partnership interest does not dissolve a limited partnership or  
5 entitle the assignee to become or to exercise any rights of a partner.  
6 An assignment entitles the assignee to receive, to the extent  
7 assigned, only the distribution to which the assignor would be  
8 entitled. Except as provided in the partnership agreement, a  
9 partner ceases to be a partner upon assignment of all his partner-  
9A ship interest.

10 Source: R. S. 42:2-23.

1 47. Rights of judgment creditor of a partner. On application to  
2 a court of competent jurisdiction by any judgment creditor of a  
3 partner, the court may charge the partnership interest of the

4 partner with payment of the unsatisfied amount of the judgment  
5 with interest. To the extent so charged, the judgment creditor has  
6 only the rights of an assignee of the partnership interest. This  
7 chapter does not deprive any partner of the benefit of any exemp-  
8 tion laws applicable to his partnership interest.

9 Source: R. S. 42:2-26.

1 48. Right of assignee to become limited partner; rights, restric-  
2 tions and liabilities. a. An assignee of a partnership interest,  
3 including an assignee of a general partner, may become a limited  
4 partner if and to the extent that the assignor gives the assignee  
5 that right in accordance with authority described in the certificate  
6 of limited partnership or, all other partners consent.

7 b. An assignee who has become a limited partner has, to the  
8 extent assigned, the rights and powers, and is subject to the restric-  
9 tions and liabilities, of a limited partner under the partnership  
10 agreement and this chapter. An assignee who becomes a limited  
11 partner also is liable for the obligations of his assignor to make  
12 and return contributions as provided in article 6. However, the  
13 assignee is not obligated for liabilities unknown to the assignee  
14 at the time he became a limited partner and which could not be  
15 ascertained from the certificate of limited partnership.

16 c. If an assignee of a partnership interest becomes a limited  
17 partner, the assignor is not released from his liability to the limited  
18 partnership under sections 21 and 35.

19 Source: R. S. 42:2-23.

1 49. Power of personal representative of deceased or incompetent  
2 person; representative or successor of corporation, trust or other  
3 entity. If a partner who is an individual dies or a court of  
4 competent jurisdiction adjudges him to be incompetent to manage  
5 his person or his property, the partner's executor, administrator,  
6 guardian, conservator, or other legal representative may exercise  
7 all the partner's rights for the purpose of settling his estate or  
8-9 administering his property, including any power the partner had  
10 to give an assignee the right to become a limited partner. If a  
11 partner is a corporation, trust, or other entity and is dissolved  
12 or terminated, the powers of that partner may be exercised by its  
13 legal representative or successor.

14 Source: R. S. 42:2-25.

#### ARTICLE 8. DISSOLUTION

1 50. Dissolution. A limited partnership is dissolved and its affairs  
2 shall be wound up upon the happening of any of the following:

3 a. At the time fixed in or upon the happening of events specified  
4 in the certificate of limited partnership;

5 b. The written consent of all partners;

6 c. An event of withdrawal of a general partner unless at the  
7 time there is at least one other general partner and the certificate  
8 of limited partnership permits the business of the limited part-  
9 nership to be carried on by the remaining general partner or  
10 partners and that partner or partners do so, but the limited part-  
11 nership is not dissolved and is not required to be wound up by  
12 reason of any event of withdrawal, if, within 90 days after the  
13 withdrawal, all remaining partners agree in writing to continue  
14 the business of the limited partnership and to the appointment of  
15 one or more additional general partners if necessary or desired;

16 d. The entry of an order or judgment of dissolution under sec-  
17 tion 51.

18 Source: R. S. 42:2-13; 42:2-24.

1 51. Judicial dissolution. On application by or for a partner the  
2 Superior Court may order dissolution of a limited partnership  
3 whenever it is not reasonably practicable to carry on the business  
4 in conformity with the partnership agreement.

5 Source: New.

1 52. Right to wind up partnership affairs. Except as provided  
2 in the partnership agreement, the general partners who have not  
3 wrongfully dissolved a limited partnership or, if none, the limited  
4 partners, may wind up the limited partnership's affairs; but the  
5 Superior Court may wind up the limited partnership's affairs upon  
6 application of any partner, his legal representative, or assignee.

7 Source: New.

1 53. Distribution of assets. Upon the winding up of a limited  
2 partnership, the assets shall be distributed as follows:

3 a. To creditors, including partners who are creditors, to the  
4 extent permitted by law, in satisfaction of liabilities of the limited  
5 partnership other than liabilities for distributions to partners  
6 under sections 38 or 41;

7 b. Except as provided in the partnership agreement, to partners  
8 and former partners in satisfaction of liabilities for distributions  
9 under sections 38 or 41;

10 c. Except as provided in the partnership agreement, to limited  
11 partners first for the return of their contributions and secondly  
12 respecting their partnership interests, in the proportions in which  
13 the limited partners share in distributions; and

14 d. Except as provided in the partnership agreement, to general  
15 partners first for return of their contributions and secondly re-  
16 specting their partnership interests, in proportions in which the  
17 general partners share in distributions.

18 Source: R. S. 42:2-27.

## ARTICLE 9. FOREIGN LIMITED PARTNERSHIPS

1 54. Law governing. The laws of the state under which a foreign  
 2 limited partnership is organized govern its organization and in-  
 3 ternal affairs and the liability of its limited partners, and a foreign  
 4 limited partnership may not be denied a certificate of authority  
 5 to transact business in this State by reason of any difference be-  
 6 tween those laws and the laws of this State.

7 Source: New.

1 55. Name of foreign limited partnership. A foreign limited part-  
 2 nership may not apply for a certificate of authority to transact  
 3 business in this State under any name that does not include without  
 4 abbreviation the words "limited partnership" or *\*\*the name used*  
 5 *by any profit or nonprofit corporation, or the name\*\** used or  
 6 reserved by a domestic or foreign limited partnership.

7 Source: New.

1 56. Application for certificate of authority to transact business.  
 2 Before transacting business in this State, a foreign limited part-  
 3 nership shall file in the office of the Secretary of State an applica-  
 4 tion signed and sworn to by a general partner setting forth:

5 a. The name of the foreign limited partnership and, if different,  
 6 the name under which it proposes to transact business in this State;

7 b. The name and business address of each partner (specifying  
 8 separately the general partners and limited partners);

9 c. The amount of cash and a description and statement of the  
 10 agreed value of the other property or services contributed by each  
 11 partner and which each partner has agreed to contribute in the  
 12 future;

13 d. The state and date of its formation;

14 e. The general character of the business it proposes to transact  
 15 in this State;

16 f. The name and address\*\*, *including the actual location as well*  
 17 *as the postal designation, if different,\*\** of the agent for service of  
 18 process on the foreign limited partnership whom the foreign limited  
 19 partnership designates who must be an individual resident of this  
 20 State, a domestic corporation, or a foreign corporation having a  
 20A place of business in, and authorized to do business in, this State;

21 g. A statement that the Secretary of State is appointed the agent  
 22 of the foreign limited partnership for service of process if no agent  
 23 has been appointed under subsection d. or, if appointed, the agent's  
 24 authority has been revoked or if the agent cannot be found or  
 25 served with the exercise of reasonable diligence; and

26 h. The address of the office required to be maintained in the

27 state of its organization by the laws of that state or, if not so re-  
28 quired, of the principal office of the foreign limited partnership.

29 i. If the Secretary of State finds that the application conforms  
30 to law and the requisite fees have been paid, he shall issue to the  
31 foreign limited partnership a certificate of authority to transact  
32 business in this State.

33 Source: New.

1 57. Changes in and amendments to application for certificate.  
2 If any statement in the application of a foreign limited partnership  
3 for a certificate of authority to transact business in this State was  
4 false when made or any arrangements or other facts described have  
5 changed, making the application inaccurate in any respect, the  
6 foreign limited partnership shall promptly file in the office of the  
7 Secretary of State a certificate, signed and sworn to by a general  
8 partner, correcting the statement.

9 Source: New.

1 58. Cancellation of certificate of authority to do business in the  
2 State. A foreign limited partnership may cancel its certificate of  
3 authority to transact business in this State by filing with the Sec-  
4 retary of State a certificate of cancellation signed and sworn to  
5 by a general partner. A cancellation does not terminate the au-  
6 thority of the Secretary of State to accept service of process on the  
7 foreign limited partnership with respect to claims arising out of  
8 the transactions of business in this State. The Secretary of State  
9 shall cancel the certificate of authority of a foreign limited partner-  
10 ship when the certificate in the state of organization of the foreign  
11 limited partnership is cancelled.

12 Source: New.

1 59. Transacting business without certificate of authority. a. A  
2 foreign limited partnership transacting business in this State may  
3 not maintain an action in any court of this State until it has ob-  
4 tained a certificate of authority to transact business in this State.

5 b. The failure of a foreign limited partnership to obtain a cer-  
6 tificate of authority to transact business in this State does not  
7 impair the validity of any contract or act of the foreign limited  
8 partnership or prevent the foreign limited partnership from de-  
9 fending an action in any court of this State.

10 c. A limited partner of a foreign limited partnership is not liable  
11 as a general partner of the foreign limited partnership solely by  
12 reason of having transacted business in this State without having  
13 obtained a certificate of authority to transact business.

14 d. A foreign limited partnership, by transacting business in this  
15 State without having obtained a certificate of authority to transact

16 business, appoints the Secretary of State as its agent for service  
 17 of process with respect to claims arising out of the transaction of  
 18 business in this State.

19 e. A foreign limited partnership which transacts business in this  
 20 State without a certificate of authority to transact business shall  
 21 forfeit to the State a penalty of not less than \$200.00, nor more  
 22 than \$1,000.00 for each calendar year, not more than 5 years prior  
 23 thereto, in which it shall have transacted business in this State  
 24 without the certificate. The penalty shall be recovered with costs  
 25 in an action prosecuted by the Attorney General. The court may  
 26 proceed in the action in a summary manner or otherwise.

27 Source: New.

1 60. Injunction against foreign limited partnership. a. The  
 2 Attorney General may bring an action in the Superior Court in the  
 3 name of the State to enjoin a foreign limited partnership from  
 4 transacting business in this State

5 (1) Without having first obtained a certificate of authority to  
 6 transact business pursuant to this article; or

7 (2) Of a character not set forth in its application for a certifi-  
 8 cate of authority to transact business or for an amended certificate;  
 9 or

10 (3) After its certificate of authority to transact business in this  
 11 State has been surrendered; or

12 (4) After it is dissolved or its authority or existence is other-  
 13 wise terminated or canceled in the jurisdiction of its organization.

14 b. The provisions of this section shall not exclude any other  
 15 ground provided by law for injunctive relief against a foreign  
 16 limited partnership to restrain it from the exercise of any franchise  
 17 or the transaction of any business within this State.

18 c. The Superior Court may proceed in the action in a summary  
 19 manner or otherwise.

20 Source: New.

#### ARTICLE 10. DERIVATIVE ACTIONS BY LIMITED PARTNERS

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

6 Source: New.

1 62. Proper plaintiff. In a derivative action by a limited partner,  
 2 he shall be a limited partner at the time of bringing the action and  
 3 have been a limited partner at the time of the transaction of which  
 4 he complains or his status as a limited partner had devolved upon

5 : him by operation of law or pursuant to the terms of the partnership  
6 agreement from a person who was a partner at the time of the  
7 transaction.

8 Source: New.

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

5 Source: New.

1 63.1. Security for expenses. Unless the contributions of or  
2 allocable to plaintiff or plaintiffs to partnership property amount to  
3 5% or more of the contributions of all limited partners, in their  
4 status as limited partners, or the contributions of or allocable to the  
5 plaintiff or plaintiffs have a fair value in excess of twenty-five  
6 thousand dollars, the limited partnership in whose right such action  
7 is brought shall be entitled at any stage of the proceedings before  
8 final judgment to require the plaintiff or plaintiffs to give security  
9 for the reasonable expenses, including attorneys' fees, which may  
10 be incurred by it in connection with the action.

11 Source: New.

1 64. Expenses. If a derivative action is successful, in whole or  
2 in part, or if anything is received by the plaintiff as a result of a  
3 judgment, compromise or settlement of an action, the court may  
4 award the plaintiff reasonable expenses, including reasonable  
5 attorney's fees, and shall direct him to remit to the limited partner-  
6 ship the remainder of the proceeds received by him.

7 Source: New.

1 64.1. Indemnification of general partner. a. A domestic limited  
2 partnership may indemnify any general partner, made a party to  
3 an action in the right of a limited partnership to procure a judg-  
4 ment in its favor by reason of the fact that he was a general partner  
5 in the limited partnership, against the reasonable expenses, includ-  
6 ing attorneys' fees, actually and necessarily incurred by him in  
7 connection with the defense of the action, or in connection with an  
8 appeal therein if the general partner acted in good faith and in a  
9 manner the general partner reasonably believed to be in or not  
10 opposed to the best interests of the limited partnership. However,  
11 in the proceedings no indemnification shall be provided in respect  
12 of any claim, issue or matter as to which the general partner shall  
13 have been adjudged to be liable for the negligence or misconduct,  
14 unless and only to the extent that the Superior Court or the court  
15 in which the proceeding was brought shall determine upon applica-  
16 tion that despite the adjudication of liability, but in view of all

17 circumstances of the case, the general partner is fairly and reason-  
18 ably entitled to indemnity for the expenses as the Superior Court  
19 or any other court shall deem proper.

20 b. The indemnification authorized under subsection a. of this  
21 section shall in no case include:

22 (1) Amounts paid in settling or otherwise disposing of a  
23 threatened action, or pending action with or without court  
24 approval; or

25 (2) Expenses incurred in defending a threatened action, or pend-  
26 ing action which is settled or otherwise disposed of without court  
27 approval.

28 c. No indemnification shall be made under this section in any  
29 circumstances where it appears that indemnification would be  
30 inconsistent with a provision of the certificate of limited partner-  
31 ship, partnership agreement or other proper partnership action, in  
32 effect at the time of accrual of the alleged cause of action asserted  
33 in the threatened or pending action in which the expenses were  
34 incurred or other amounts were paid, which prohibits or otherwise  
35 limits indemnification.

36 Source: N. J. S. 14A:3-5.

#### ARTICLE 11. MISCELLANEOUS

1 65. Filing fees of the Secretary of State. On filing any certificate  
2 or other papers relative to limited partnerships in the Office of the  
3 Secretary of State, there shall be paid to the Secretary of State,  
4 filing fees, in addition to any applicable recording fees:

- 5 a. Filing an application to reserve a specified limited  
6 partnership name and issuing a certificate of reser-  
7 vation ..... \*\*[\$20.00]\*\* \*\*\$25.00\*\*  
8 If application is for the first name available for limited  
9 partnership use among not more than three speci-  
10 fied names ..... \*\*[25.00]\*\* \*\*30.00\*\*
- 11 b. Filing a notice of transfer of a reserved limited  
12 partnership name ..... \*\*[10.00]\*\* \*\*25.00\*\*
- 13 c. Filing original certificate of limited  
13A partnership ..... \*\*[35.00]\*\* \*\*50.00\*\*
- 14 d. Filing a certificate of amendment to the certificate of  
15 limited partnership, including any number of  
16 amendments ..... \*\*[35.00]\*\* \*\*50.00\*\*
- 17 e. Filing certificate of cancellation ..... \*\*[25.00]\*\* \*\*35.00\*\*
- 18 f. Filing order or judgment amending certificate of  
19 limited partnership or cancellation ..... 35.00

- 20 g. Filing application by a foreign limited partnership to  
 21 transact business in this State and issuing a certifi-  
 22 cate of authority ..... **\*\*[165.00]\*\*** **\*\*175.00\*\***
- 23 h. Filing application by a foreign limited partnership for  
 24 amended certificate to transact business in this State  
 25 and issuing an amended certificate of au-  
 25A thority ..... **\*\*[30]\*\*** **\*\*50.00\*\***
- 26 **\*\*i. Filing annual report** ..... **15.00\*\***

27 Source: New.

1 **\*\*66. Annual report to Secretary of State by domestic limited**  
 2 **partnership.**

3 a. Every domestic limited partnership authorized in this State  
 4 shall file in the Office of the Secretary of State, within the time pre-  
 5 scribed by this section, an annual report, executed on behalf of the  
 6 limited partnership setting forth:

- 7 1. The name of the limited partnership;  
 8 2. The address, including the actual location as well as the postal  
 9 designation, if different, of the registered agent in this State; and  
 10 3. The name of the registered agent.

11 b. The Secretary of State shall designate a date of filing annual  
 12 reports for each limited partnership required to submit a report  
 13 pursuant to this section.

14 c. If the report is not filed for two consecutive years, the certifi-  
 15 cate of limited partnership shall, after written demand for the  
 16 reports by the Secretary of State by mail addressed to the limited  
 17 partnership at the last address appearing of record in the office of  
 18 the Secretary of State remain filed but be transferred to an inactive  
 19 list. A limited partnership shall not have its certificate of limited  
 20 partnership transferred to the inactive list if it shall, within 60 days  
 21 after the written demand, file the reports required by law and pay to  
 22 the Secretary of State the fee provided by law for the filing of each  
 23 report.

24 d. Any domestic limited partnership on the inactive list may  
 25 return to active status by:

26 1. Paying to the Secretary of State double the amount of the  
 27 current report fee for each year an annual report was not filed.  
 28 Years prior to becoming inactive and years subsequent to being  
 29 declared inactive shall be included in calculating this fee;

30 2. Filing a current annual report; and

31 3. Submitting a certificate of amendment adopting a name which  
 32 complies with paragraph 4 of subsection a. of section 6 of this  
 33 chapter, if the name of the inactive limited partnership does not  
 34 comply with paragraph 4 of subsection a. of section 6.

35 e. A limited partnership whose certificate has been transferred  
36 to the inactive list shall remain a limited partnership formed under  
37 this chapter or under R. S. 42:2-1 et seq., but no name reservations,  
38 transfers of reserved names, or certificates of amendments may be  
39 filed until the limited partnership whose certificate has been placed  
40 on the inactive list regains active status. A limited partner of a  
41 limited partnership is not liable as a general partner of the limited  
42 partnership solely by reason of the transfer of the certificate of  
43 limited partnership to the inactive list.

44 f. The Secretary of State shall furnish annual report forms, shall  
45 keep all the reports and shall prepare an index thereof. The reports  
46 shall be open to public inspection at proper hours.

47 Source: New.

1 67. Annual report to Secretary of State by foreign limited  
2 partnership.

3 a. Every foreign limited partnership authorized to transact busi-  
4 ness in this State shall file in the office of the Secretary of State,  
5 within the time prescribed by this section, an annual report,  
6 executed on behalf of the foreign limited partnership setting forth:

7 1. The name of the foreign limited partnership;

8 2. The address, including the actual location as well as postal  
9 designation, if different, of the registered agent in this State; and  
10 the name of the registered agent.

11 b. The Secretary of State shall designate a date for filing annual  
12 reports for each foreign limited partnership required to submit a  
13 report pursuant to this section.

14 c. If the report is not filed for two consecutive years, the certifi-  
15 cate of a foreign limited partnership to transact business in this  
16 State shall, after written demand for the reports by the Secretary  
17 of State by certified mail addressed to the foreign limited partner-  
18 ship at the last address appearing of record in the office of the  
19 Secretary of State, be revoked for the failure to file reports. A  
20 foreign limited partnership shall not be subject to the revocation  
21 of its certificate to transact business in this State if it shall, within  
22 60 days after the written demand, file the reports required by law  
23 and pay to the Secretary of State the fee provided by law for the  
24 filing of each report.

25 d. Any foreign limited partnership may, within two years of the  
26 revocation of its certificate to transact business in this State, cause  
27 a reinstatement of the certificate upon payment to the Secretary of  
28 State double the amount of the current annual report fee for each  
29 year an annual report was not filed. Years prior to revocation and  
30 years after revocation shall be included in calculating this fee, and

31 *by filing a current annual report. A limited partner of a foreign*  
 32 *limited partnership is not liable as a general partner of the foreign*  
 33 *limited partnership solely by reason of the revocation, pursuant to*  
 34 *this section of the certificate of authority to transact business in*  
 35 *this State.*

36 *e. The Secretary of State shall furnish annual report forms, shall*  
 37 *keep all the reports and shall prepare an index thereof. The reports*  
 38 *shall be open to public inspection at proper hours.*

39 *Source: New.*

1 *68. Rules and regulations. The Secretary of State shall have full*  
 2 *authority to promulgate and adopt rules and regulations to imple-*  
 3 *ment the filing and reporting obligations created under the pro-*  
 4 *visions of this act.*

5 *Source: New.*

1 *69. Exemption from filing business name certificates. Any limited*  
 2 *partnership formed under this chapter or R. S. 42:2-1 et seq., or any*  
 3 *foreign limited partnership authorized to transact business in this*  
 4 *State, shall be exempt from the filing requirements of R. S. 56:1-1*  
 5 *et seq.*

6 *Source: New.\*\**

1 *\*\*[66.]\*\* \*\*70.\*\* Effective date. This act shall take effect **[270**  
 2 **days after enactment]** *\*\* \*\*January 1, 1985 except as to section*  
 3 *12.1 which shall take effect immediately\*\*.**

TITLE 42. PARTNERSHIPS AND PARTNERSHIP  
 ASSOCIATIONS  
 Uniform Limited Partnerships  
 Schedule of Allocation of Source Material

Source Sections	Revised Sections
1 R. S. 42:2-1 .....	1
2 R. S. 42:2-2 .....	2
3 R. S. 42:2-4 .....	4
4 R. S. 42:2-6 .....	{13 14 18 20
5 R. S. 42:2-7 .....	10
6 R. S. 42:2-8 .....	{13 34
7 R. S. 42:2-9 .....	{ 6 26
8 R. S. 42:2-10 .....	21

	Source Sections	Revised Sections
9	R. S. 42:2-11 .....	26
10	R. S. 42:2-12 .....	24
11	R. S. 42:2-13 .....	{29 31 32 50
12	R. S. 42:2-14 .... As am. L. 1953, c. 40, s. 3	28
13	R. S. 42:2-15 .....	27
14	R. S. 42:2-17 .....	11
15	R. S. 42:2-19 .....	36
16	R. S. 42:2-20 .....	{40 42 43 44
17	R. S. 42:2-21 .....	{35 45
18	R. S. 42:2-22 .....	12
19	R. S. 42:2-23 .....	{24 46 48
20	R. S. 42:2-24 .....	{30 50
21	R. S. 42:2-25 .....	49
22	R. S. 42:2-26 .....	47
23	R. S. 42:2-27 .....	53
24	R. S. 42:2-28 .....	17
25	R. S. 42:2-29 .... As am. L. 1953, c. 40, s. 4	{18 19 20

TITLE 42. PARTNERSHIPS AND PARTNERSHIP  
ASSOCIATIONS

Uniform Limited Partnerships  
Treatment of Source Material

Revised Section	Source	Treatment of Source
1	1	R. S. 42:2-1
		No change.
2	2	R. S. 42:2-2
		Editorial.
3	3	
		{New; derived from section 1105 of ULPA (1976).
4	4	R. S. 42:2-4
		Editorial.
5	5	
		{New; definitions derived from sec- tion 101 of ULPA (1976).
6	6	R. S. 42:2-9}
		N. J. S. 14A:2-2}
		{Revised section derived from sources and section 102 of ULPA (1976).
7	7	
		{New; revised section adapted from section 103 of ULPA (1976).

	Revised Section	Source	Treatment of Source
	8		{New; revised section adapted from }section 104 of ULPA (1976).
	9		{New; revised section adapted from }section 105 of ULPA (1976).
10	10	R. S. 42:2-7	No change.
11	11	R. S. 42:2-17	{Revised section derived from }source and section 107 of ULPA {(1976).
12	12	R. S. 42:2-22	No change.
12A	12.1		{New; requires county clerk to }transmit documents to Secretary }of State.
13	13	R. S. 42:2-6} R. S. 42:2-8}	{Revised section derived from }sources and section 201 of ULPA {(1976).
14	14	R. S. 42:2-6	{Revised section derived from }source and section 201 of ULPA {(1976).
15	15	R. S. 42:2-29	{Revised section derived from }source and section 202 of ULPA {(1976).
16	16	R. S. 42:2-28	{Revised section derived from }source and section 202 of ULPA {(1976).
17	17	R. S. 42:2-28	{Revised section derived from }source and section 203 of ULPA {(1976).
18	18	R. S. 42:2-6 } R. S. 42:2-29}	{Revised section derived from }sources and section 204 of ULPA {(1976).
19	19	R. S. 42:2-29	{Revised section derived from }source and section 205 of ULPA {(1976).
20	20	R. S. 42:2-6 } R. S. 42:2-29}	{Revised section derived from }sources and section 206 of ULPA {(1976).
21	21	R. S. 42:2-10	{Revised section derived from }source and section 207 of ULPA {(1976).
22	22		{New; adapted from section 208 of }ULPA (1976).
23	23		{New; adapted from section 209 of }ULPA (1976).
24	24	R. S. 42:2-12} R. S. 42:2-23}	{Revised section derived from }sources and section 301 of ULPA {(1976)
25	25		{New; adapted from section 302 of }ULPA (1976).

Revised Section	Source	Treatment of Source
26 26	R. S. 42:2-9 } R. S. 42:2-11 }	{ Revised section derived from sources and section 303 of ULPA (1976)
27 27	R. S. 42:2-15	{ Revised section derived from source and section 304 of ULPA (1976)
28 28	R. S. 42:2-14	{ Revised section derived from source and section 305 of ULPA (1976)
29 29	R. S. 42:2-13	{ Revised section derived from source and section 401 of ULPA (1976)
30 30	R. S. 42:2-24	{ Revised section derived from source and section 402 of ULPA (1976)
31 31	R. S. 42:2-13	{ Revised section derived from source and section 403 of ULPA (1976)
32 32	R. S. 42:2-13	{ Revised section derived from source and section 404 of ULPA (1976)
33 33		{ New; adapted from section 405 of ULPA (1976).
34 34	R. S. 42:2-8	{ Revised section derived from source and section 501 of ULPA (1976)
35 35	R. S. 42:2-21	{ Revised section derived from source and section 502 of ULPA (1976)
36 36	R. S. 42:2-19	{ Revised section derived from source and section 503 of ULPA (1976)
37 37		{ New; adapted from section 504 of ULPA (1976).
38 38		{ New; adapted from section 601 of ULPA (1976).
39 39		{ New; adapted from section 602 of ULPA (1976).
40 40	R. S. 42:2-20	{ Revised section derived from source and section 603 of ULPA (1976)
41 41		{ New; adapted from section 604 of ULPA (1976).
42 42	R. S. 42:2-20	{ Revised section derived from source and section 605 of ULPA (1976).

Revised		Source	Treatment of Source
Section			
43	43	R. S. 42:2-20	{Revised section derived from source and section 606 of ULPA (1976).
44	44	R. S. 42:2-20	{Revised section derived from source and section 607 of ULPA (1976).
45	45	R. S. 42:2-21	{Revised section derived from source and section 608 of ULPA (1976).
46	46	R. S. 42:2-23	{Revised section derived from source and section 702 of ULPA (1976).
47	47	R. S. 42:2-26	{Revised section derived from source and section 703 of ULPA (1976).
48	48	R. S. 42:2-23	{Revised section derived from source and section 704 of ULPA (1976).
49	49	R. S. 42:2-25	{Revised section derived from source and section 705 of ULPA (1976).
50	50	R. S. 42:2-13} R. S. 42:2-24}	{Revised section derived from sources and section 801 of ULPA (1976).
51	51		{New; adapted from section 802 of ULPA (1976).
52	52		{New; adapted from section 803 of ULPA (1976).
53	53	R. S. 42:2-27	{Revised section derived from source and section 804 of ULPA (1976).
54	54		{New; adapted from section 901 of ULPA (1976).
55	55		{New; adapted from section 904 of ULPA (1976).
56	56		{New; adapted from sections 902 and 903 of ULPA (1976).
57	57		{New; adapted from section 905 of ULPA (1976).
58	58		{New; adapted from section 906 of ULPA (1976).
59	59		{New; adapted from section 907 of ULPA (1976) and NJS 14A:13-11 (Corporations, General).
60	60		{New; adapted from section 908 of ULPA (1976) and NJS 14A:13-12 (Corporations, General).

## STATEMENT

## Background:

Limited partnerships have been employed in a variety of enterprises where the tax consequences to the limited partners and certain other advantages make the limited partnership more attractive than the corporate form. Perhaps the largest number of limited partnerships are found as investment vehicles in the areas of real estate development, oil and gas dealings, filming operations, theatre, film and television productions, cable television investments, equipment leasing and other sophisticated financial transactions.

The original Uniform Limited Partnership Act was approved by the Conference of Commissioners on Uniform State Laws in 1916 and enacted in New Jersey on April 15, 1919 as Chapter 211 of the Laws of 1919. Thereafter, the Uniform Limited Partnership Act was incorporated as Chapter 2 of Title 42 of the Revised Statutes. Since, its original enactment, the Uniform Limited Partnership Act has remained virtually unchanged.

The National Conference of Commissioners on Uniform State Laws recognized that the existing law required changes in order to bring it into harmony with modern conceptions and conditions. At its annual meeting held in Atlanta, Georgia, July 31-August 6, 1976 the Conference approved and recommended to all the states the Uniform Limited Partnership Act (1976) for enactment.

This bill reflects the changes and recommendations proposed by the Uniform Limited Partnership Act (1976).

The bill was drafted by the Division of Legal Services of the Office of Legislative Services. The division has a duty to receive and consider suggestions and recommendations from the National Conference of Commissioners on Uniform State Laws for the improvement and modification of the general and permanent statute law of the State, and bring the law of this State, civil and criminal, and the administration thereof, into harmony with modern conceptions and conditions.

## Provisions:

*Article 1*

Article 1 contains general provisions applicable to all limited partnerships. It also provides the definitions used throughout the act.

## Article 1 provides:

1. A procedure by which existing limited partnerships may become a limited partnership under the provisions of this bill

(limited partnerships not doing so would continue to be governed by the provisions of the statute under which it was formed).

2. A requirement that for the service of process on the partnership that a limited partnership maintain a registered office with a registered agent in charge.

3. A requirement that a partnership keep at its registered office for inspection of all partners a current list of either the last known home or business address of each partner, a copy of the limited partnership agreement and all amendments thereto and income tax returns.

4. That, except as provided in the partnership agreement, partners may lend money to and transact business with the partnership with the same rights and obligations as a third person.

5. That a partnership interest is personal property.

Additionally, Article 1 sets forth the requirement for the name of a limited partnership (i.e. the words, "limited partnership must appear in the name") and the procedure for reserving a name with the Secretary of State. The provisions in this area are intended to give limited partnership the same protections and clear procedure with respect to their names, now available for domestic and foreign corporations in New Jersey.

#### *Article 2*

Article 2 relates to the formation of a limited partnership and partnership agreement.

#### Section 13

Section 13 sets forth the information which must be contained in a certificate of limited partnership. That information includes: the name of the limited partnership; the general character of its business; the name and address of its partners and of its registered agent; a description of each partner's contribution either cash, other property or services; any power of assignment; conditions which result in the termination of the partnership, and the rights of partners and distribution of partnership assets.

#### Section 14

Section 14 provides that a limited partnership is formed at the later time of filing of the certificate of partnership or the date specified in the certificate of limited partnership. Any date specified in the partnership agreement must, however, be within 30 days of the date of filing. This is intended to prevent long term intentional or inadvertent "reservations" of names for entities which may never be formed and to prevent manipulative use of the limited partnership form.

#### Section 15

Section 15 requires that an amendment to a limited partnership

agreement contain the name of the limited partnership, the date of the filing of the original certificate and the amendment. An amendment to a limited partnership agreement must be effective either on filing or within 30 days thereafter. This is intended to insure certainty as to the effectiveness of amendments.

#### Section 16

Section 16 states the circumstances under which an amendment to a certificate of limited partnership must be filed. Those include: change of name; change in the amount or type of a partner's contribution; change in the character of the business; withdrawal of a general partner; time of dissolution of the partnership and in case of an erroneous statement in the original certificate. Failure to file a certificate of amendment as required by section 16 may result in liability to third persons and damages as provided in section 21.

There is also a paragraph in section 16 which indicates that an amendment to a certificate must be filed whenever the general partners amend the partnership agreement. However, no amendment to a certificate may be used to expand the implied powers of the general partners.

#### Section 17

Section 17 requires that the certificate of cancellation of a limited partnership contain the following information: the name of the partnership, the date of filing of its certificate; the reason for filing the certificate of cancellation and the effective date of cancellation.

Technical amendment was made in section 17.

#### Section 18

Section 18 deals with the execution of certificates relating to limited partnerships. The original certificate must be signed by all general partners and a certificate of amendment by at least one general partner and by each partner designated in the certificate of amendment as a new partner or whose contribution is increased. Certificates of cancellation must be signed by all general partners. A notable change in the law as provided in section 16 is the authorization that certificates may be signed by an attorney-in-fact.

#### Section 20

Presently, certificates relating to limited partnerships are filed in offices of the county clerk. In order to create a centralized registration system for limited partnerships essentially equal to that already existing for corporations, section 20 requires that all certificates relating to limited partnerships be filed with the Secretary of State.

To effectuate the purpose of section 20, within 90 days of the effective date of the bill, copies of all limited partnership

agreement-related certificates are to be transmitted by the county clerks to the Secretary of State.

#### Section 21

Section 21 provides that any person who suffers a loss because of reliance on a false statement contained in any limited partnership certificate may recover from any person who knew the statement as false or from any general partner who knew or should have known the statement to be false.

#### Section 22

Section 22 states the filing of a certificate of limited partnership is notice that the partnership is a limited partnership and that the persons designated therein are limited partners but it is not notice of any fact not set forth in the certificate or amendment.

#### Section 23

Section 23 requires general partners after the filing of a certificate of a limited partnership to mail copies of the certificate to each limited partner.

#### *Article 3*

Article 3 deals with limited partners, their powers and potential liabilities.

#### Section 24

Section 24 covers the admission of additional limited partners. Unless the partnership agreement provides otherwise, a new limited partner can only be admitted to the limited partnership with the consent of all partners. In the case of the assignment of a limited partnership interest, the assignee may become a limited partner to the extent or under the conditions set forth in the assignment.

#### Section 25

Section 25 states that the partnership agreement may grant to all or a specified group of the limited partners the right to vote on a per capita or other basis, upon any matter.

#### Section 26

The general principle set forth in section 26 is that a limited partner is not liable to third persons unless he participates in the control of partnership affairs to the same extent as a general partner, in which case, he becomes liable to third persons who had actual knowledge of his participation in control. Additionally, if a limited partner permits his name to be used in the name of partnership, he, except as permitted under section 6, is liable to creditors of the partnership without actual knowledge that he is not a general partner.

Among the activities listed in section 26 which do not constitute

participation in the control of the partnership by a limited partner are: being a contractor, agent, employee of the partnership; advising on management of the partnership; citing a surety; approving changes in the partnership agreement and voting on any of the following: The dissolution of the partnership; the sale of partnership assets; the incurrence of indebtedness other than in the ordinary course of business and the removal of a general partner.

With regard to the powers of a limited partner to vote on the removal of a general partner, it should be noted that the Internal Revenue Service has asserted that this power come close to a system of representative, centralized management which the I. R. S. views as a primary attribute of the corporate form. Therefore, a limited partnership agreement including such a provision may cause the I. R. S. to treat the entity as a corporation for tax purposes.

#### Section 27

Section 27 creates a procedure whereby a person, who erroneously but in good faith makes a contribution to a partnership believing that he has become a limited partner, can correct the mistake and relieve himself of liability to third persons.

#### Section 28

Section 28 gives limited partners the right to copy and inspect partnership's records; to obtain an account of the partnership's business and financial condition and copies of the partnership's tax returns.

#### Article 4

Article 4 deals with general partners, their powers and liabilities.

#### Section 29

Section 29 provides that after the filing of a limited partnership's original certificate of limited partnership, additional general partners may be added only with the specific written consent of each partner.

#### Section 30

Section 30 prescribes those events upon which a general partner ceases to be a general partner. Among those events are: withdrawal from the partnership; assignment of the general partner's interest; the general partner's filing a bankruptcy or other similar proceedings; the general partner's death or incompetence; if the general partner is a trust, the termination of the trust; if the general partner is a separate partnership or corporation, the dissolution of the partnership or corporation.

#### Section 31

Section 31 states a general partner of a limited partnership has

the rights and powers and is subject to the restrictions and liabilities of a partner in a partnership without limited partners.

While this section does not contain a list of prohibited transactions, it does not affect the fiduciary obligations of the general partner to limited partners under existing case law. Nor may a limited partnership agreement properly purport to relieve a general partner from those fiduciary responsibilities, or reduce the standard of care or duty of loyalty to which the general partner may otherwise be held.

#### Section 32

Section 32 permits a general partner to participate in a limited partnership both as a general partner and as a limited partner.

#### Section 33

Section 33 states that voting rights of a general partner may be prescribed by the partnership agreement.

#### *Article 5*

Article 5 is concerned with the financial structuring of a limited partnership.

#### Section 34

Section 34 states that the form of a partner's contribution to a limited partnership may include cash, property, service or a promise to make a future payment of cash, property or the performance of services.

#### Section 35

Section 35 provides that death, disability or any other reason does not relieve a partner from his obligation to make good his contributions. If the contribution is in the form of property or services he is obligated to contribute the cash equal to the value of the property or services as stated in the partnership agreement or the proportionate value thereof which has not been made.

#### Sections 36 and 37

Sections 36 and 37 provides that profit and losses and distributions of the partnership are to be shared in the manner provided in the partnership agreement. If the agreement is silent as to the manner in which profits and losses and distributions are to be shared, then they are allocated on the basis of contributors made by the partners.

#### *Article 6*

Article 6 deals with interim distributions and withdrawals of partners.

#### Section 38

Section 38 states that the partnership agreement may provide

that a partner shall be entitled to receive distributions from the partnership prior to its dissolution.

#### Section 39

Section 39 states that a general partner may withdraw from the partnership at any time upon written notice to the other partners, but, if the withdrawal violates the partnership agreement, the withdrawing partner may be liable to the partnership for damages for breach of the agreement.

#### Section 40

Section 40 provides that a limited partner may withdraw from the partnership at the time or upon the happening of the events specified in the partnership agreement. If the agreement is silent as to the withdrawal of a limited partner, the limited partner may withdraw upon not less than 6 months notice to each general partner.

#### Section 41

Section 41 provides that, except as otherwise provided in the partnership agreement, a withdrawing partner is entitled to receive the fair value of his interest in the partnership as of the date of his withdrawal based upon the right to share in distributions.

#### Section 42

Section 42 states that, generally, distribution shall be made in cash. However, the partnership agreement may provide that distributions be made in kind.

#### Section 43

Section 43 provides when a partner becomes entitled to a distribution, to the extent of the distribution, he becomes a creditor of the partnership and is entitled to all remedies available to a creditor.

#### Section 44

Section 44 provides that a partner may not receive a distribution from a limited partnership if giving effect is the distribution would mean that the partnership's liabilities, other than those to other partners, exceeds the fair value of the partnership assets.

#### Section 45

Section 45 establishes a statute of limitations that allows a partnership to recover all or part of the return of a partner's contribution if the contribution is necessary to discharge the partnership's liability to its creditors. If the return did not violate the partnership agreement or the act a partner is liable to retain the contribution for a period of 1 year. If the return did violate the agreement or the act, a partner is liable for 6 years.

*Article 7*

Article 7 deals with the assignability of partnership interests.

## Section 46

Section 46 provides that, except as otherwise provided in the partnership agreement, a partnership interest is assignable in whole or in part. As assignment of a partnership interest, of itself, does not dissolve the partnership nor does it make the assignee automatically a limited partner. The assignment does entitle the assignee to receive any distribution to which the assignor would be entitled.

## Section 47

Section 47 provides that a judgment against a partner may be satisfied by that partner's partnership interests. A judgment creditor, under those circumstances, obtains the rights of an assignee.

## Section 48

Section 48 provides that an assignee may become a limited partner to the extent he is given that right in the partnership agreement or if all other partners consent. An assignee who becomes a limited partner has all the rights and powers and is subject to the restrictions and liabilities of a limited partner under the partnership agreement and the act. The Superior Court may wind up the limited partnership's affairs upon application of any partner, his legal representative or assignee.

## Section 53

Section 53 provides for the manner in which assets of the partnership shall be distributed upon winding up of its affairs. The assets are distributed as follows: first to creditors including partners who are creditors other than for liabilities to partners for distributions; second to partners and former partners in satisfaction of liabilities for past distributions, and, lastly to partners first for the return of their contributions and secondly respecting their partnership interests.

*Article 9*

Article 9 introduces an entirely new concept in limited partnership law. It is concerned with the authority of a foreign limited partnership to do business in New Jersey. The provisions of Article 9 are similar to those found in the General Corporation Law (Title 14A) which require a foreign corporation to obtain authority to transact business in New Jersey.

## Section 54

Section 54 provides that laws of the state under which a foreign limited partnership is organized shall govern its operation and that no foreign limited partnership may be denied a certificate to trans-

act business in New Jersey on the basis of a difference between its home state's laws and New Jersey's.

#### Section 55

Section 55 provides that a foreign limited partnership may not apply for a certificate to transact business under a name used or reserved by a domestic limited partnership.

#### Section 56

Section 56 states that a foreign limited partnership must apply and receive from the Secretary of State a certificate of authority in order to transact business in New Jersey. Section 56 also sets forth the information which must be included in such an application. That information includes: The name of the partnership and, if different, the name its purposes to do business under in New Jersey; the state and date of its formation; the general character of its business; the name and address of its agent in New Jersey; the address of its principal office; and is not included in its partnership certificate, a list of the names and addresses of the partners.

#### Section 57

Section 57 requires that if any statement in an application of a foreign limited partnership is inaccurate, the partnership must promptly file a corrected statement.

#### Section 58

Section 58 states that a foreign limited partnership may cancel its certificate of authority to transact business in New Jersey by filing a certificate of cancellation with the Secretary of State. A cancellation, however, does not terminate the authority of the Secretary of State to accept service of process on the partnership with respect to claims arising out of business transactions in New Jersey.

#### Section 59

Section 59 allows the Attorney General to assess on a foreign limited partnership doing business in New Jersey without a certificate of authority a penalty of not less than \$200.00 nor more than \$1,000.00 per year with a limit of 5 years for each calendar year in which it transacted business in New Jersey without a certificate.

#### Section 60

Section 60 permits the Attorney General to bring an action for injunctive relief restraining a foreign limited partnership from doing business in New Jersey if, for example, the partnership has failed to obtain a certificate of authority.

*Article 10*

Article 10 authorizes a limited partner to bring a derivative action in behalf of the corporation.

## Section 61

Section 61 states that a limited partner may bring an action on behalf of the limited partnership if the general partners have refused to do so or if an effort to cause the general partners to bring an action is not likely to succeed.

## Section 62

Section 62 states that a person is a proper plaintiff in a derivative action if he was a limited partner at the time of the action and he was a limited partner at the time of the transaction which is the basis of action. The person is also a proper plaintiff if his status as a limited partner resulted from the operation of law or pursuant to the partnership agreement from a person who was a partner at the time of the transaction which is the basis of the action.

## Section 63

Section 63 requires that in a complaint for a derivative action, the plaintiff set forth the effort of the plaintiff to secure initiation of the action by a general partner or the reason for not making that effort.

## Section 63.1

Section 63.1 empowers a limited partnership involved in a derivative action brought by a limited partner holding a relatively small interest, i.e. \$25,000, to require the plaintiff to post security for expenses, including attorney's fee incurred by the limited partnership in the litigation. This provision is intended to parallel section 3-6(3) of the N. J. Business Corporation Act, from which it is derived with the expectation that judicial decisions interpreting section 3-6(3) would be relevant for section 63.1 and vice versa.

## Section 64

Section 64 states that if a derivative action is successful, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of the proceeds.

## Section 64.1

Section 64.1 permits a limited partnership to indemnify any general partner of the limited partnership for litigation expenses where the general partner acted in good faith and in a manner which the general partner reasonably believed to be in or not opposed to the best interests of the limited partnership. No indemni-

fication shall be provided where the general partner shall have been adjudged liable for negligence or misconduct, unless determined by a court. This is intended to parallel section 3-5(2)(a) of the N. J. Business Corporation from which it is derived with the expectation that decisions interpreting that section would be relevant to this section and vice versa. It is felt that the provisions of this section are important because general partners often control the drafting of the general partnership agreement including those terms of the agreement governing indemnification.

*Article 11*

Article 11 prescribes the fees to be charged by the Secretary of State for the filing of limited partnership instruments.

**OTHER PROVISIONS:**

Section 66 makes the bill effective 270 days after enactment.

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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO

**SENATE, No. 1456**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 5, 1984

This bill and Assembly Bill No. 1091, which were released in identical form by the committee, reflect the changes and recommendations proposed by the Uniform Limited Partnership Act (1976). The National Conference of Commissioners on Uniform State Laws approved and recommended that all states enact the Uniform Limited Partnership Act (1976) in order to bring limited partnership laws into harmony with modern conceptions and conditions.

This bill, as amended by the Assembly Judiciary Committee, reflects various modifications to the proposed act which were suggested by the New Jersey Bar Association, the Secretary of State's Office and the New Jersey Builders Association. The Secretary of State's Office, during a presentation to the committee, indicated that start up costs to implement the provisions of these bills would require a \$350,000.00 expense and proposed that an appropriation of this amount be included in the bills. The committee, in considering this proposal, resolved to amend the effective date of the bill and delay implementation until January 1, 1985 in order to allow the Secretary of State to seek, through the appropriation process, the funds needed for implementation of the bill. Statistics provided to the committee by the Secretary of State project that the enactment of this legislation will result in 50,000 limited partnerships being filed in the State, generating revenue of \$650,000.00 and \$400,000.00 respectively in the first two years.

*Summary of Senate Bill No. 1456 and Assembly Bill No. 1091  
as amended by the Committee*

*Article 1*

Article 1 contains general provisions applicable to all limited partnerships. It also provides the definitions used throughout the act:

Article 1 provides:

1. A procedure by which existing limited partnerships may become a limited partnership under provisions of this bill.
2. A requirement that for the purpose of accepting service of process on the partnership that a limited partnership maintain a registered office with a registered agent in charge.

3. A requirement that a partnership keep at its registered office for inspection all partners a current list of either the last known home or business address of each partner, a copy of the limited partnership agreement and all amendments thereto and income tax returns.

4. That, except as provided in the partnership agreement, partners may lend money to and transact business with the partnership with the same rights and obligations as a third person.

5. That a partnership interest is personal property.

6. Within 90 days of the effective date of the act county clerks are required to forward copies of all limited partnership documents filed in their offices to the Secretary of State.

Additionally, Article 1 sets forth the requirement for the name of a limited partnership (i.e., the word, "limited partnership must appear in the name") and the procedure for reserving a name with the Secretary of State. The provisions in this area are intended to give limited partnership the same protections and clear procedure with respect to their names, now available for domestic and foreign corporations in New Jersey.

#### *Article 2*

Article 2 relates to the formation of a limited partnership and partnership agreement.

#### Section 13

Section 13 sets forth the information which must be contained in a certificate of limited partnership. That information includes: the name of the limited partnership; the general character of its business; the name and address of its partners and of its registered agent; a description of each partner's contribution either cash, other property or services; any power of assignment; conditions which result in the termination of the partnership; the rights of partners and how partnership assets are to be distributed.

#### Section 14

Section 14 provides that a limited partnership is formed at the later time of filing of the certificate of partnership or the date specified in the certificate of limited partnership. Any date specified in the partnership agreement must, however, be within 30 days of the date of filing. This is intended to prevent long term intentional or inadvertent "reservations" of names for entities which may never be formed and to prevent manipulative use of the limited partnership form.

#### Section 15

Section 15 requires that an amendment to a limited partnership agreement contain the name of the limited partnership, the date of the filing of the original certificate and the amendment. An amendment to a limited partnership agreement is to be effective either on filing or

within 30 days thereafter. This is intended to insure certainty as to the effectiveness of amendments.

#### Section 16

Section 16 states the circumstances under which an amendment to a certificate of limited partnership must be filed. Those include: change of name; change in the amount or type of a partner's contribution; change in the character of the business; withdrawal of a general partner; time of dissolution of the partnership and in case of an erroneous statement in the original certificate. Failure to file a certificate of amendment as required by section 16 may result in liability to third persons and damages as provided in section 21.

There is also a paragraph in section 16 which indicates that an amendment to a certificate must be filed whenever the general partners amend the partnership agreement. However, no amendment to a certificate may be used to expand the implied powers of the general partners.

#### Section 17

Section 17 requires that the certificate of cancellation of a limited partnership contain the following information: the name of the partnership, the date of filing of its certificate; the reason for filing the certificate of cancellation and the effective date of cancellation.

#### Section 18

Section 18 deals with the execution of certificates relating to limited partnerships. The original certificate must be signed by all general partners and a certificate of amendment by at least one general partner and by each partner designated in the certificate of amendment as a new partner or whose contribution is increased. Certificates of cancellation must be signed by all general partners. A notable change in the law as provided in section 18 is the authorization that certificates may be signed by an attorney-in-fact.

#### Section 19

Section 19 provides that if a person fails or refuses to execute a certificate of an amendment or cancellation, a copy of a court order or judgment shall serve as the required certificate.

#### Section 20

Presently, certificates relating to limited partnerships are filed in offices of the county clerk. In order to create a centralized registration system for limited partnerships essentially equal to that already existing for corporations, section 20 requires that all certificates relating to limited partnerships be filed with the Secretary of State.

To effectuate the purpose of section 20, within 90 days of the effective date of the bill, copies of all limited partnership agreement-related certificates are to be transmitted by the county clerks to the Secretary of State.

### Section 21

Section 21 provides that any person who suffers a loss because of reliance on a false statement contained in any limited partnership certificate may recover from any person who knew the statement as false or from any general partner who knew or should have known the statement to be false.

### Section 22

Section 22 states the filing of a certificate of limited partnership is notice that the partnership is a limited partnership and that the persons designated therein are limited partners but it is not notice of any fact not set forth in the certificate.

### Section 23

Section 23 requires general partners after the filing of a certificate of a limited partnership to mail copies of the certificate to each limited partner unless the partnership agreement provides otherwise.

### *Article 3*

Article 3 deals with limited partners, their powers and potential liabilities.

### Section 24

Section 24 covers the admission of additional limited partners. Unless the partnership agreement provides otherwise, a new limited partner can only be admitted to the limited partnership with the consent of all partners. In the case of the assignment of a limited partnership interest, the assignee may become a limited partner under the conditions set forth in the assignment.

### Section 25

Section 25 states that subject to section 26 the partnership agreement may grant to all or a specified group of limited partners the right to vote on a per capita or other basis, upon those matters set forth in the partnership agreement.

### Section 26

The general principal set forth in section 26 is that a limited partner is not liable to third persons unless he participates in the control of partnership affairs to the same extent as a general partner, in which case, he becomes liable to third persons who had actual knowledge of his participation. Additionally, if a limited partner permits his name to be used in the name of partnership, he, except as permitted under section 6, is liable to creditors of the partnership without actual knowledge that he is not a general partner.

Among the activities listed in section 26 which do not constitute participation in the control of the partnership by a limited partner are: being a contractor, agent, employee of the partnership; advising on management of the partnership; acting as a surety; approving changes

in the partnership agreement and voting on any of the following: the dissolution of the partnership; the sale of partnership assets; the incurrance of indebtedness other than in the ordinary course of business and the removal of a general partner.

With regard to the powers of a limited partner to vote on the removal of a general partner, it should be noted that the Internal Revenue Service has asserted that this power come close to a system of representative, centralized management which the I. R. S. views as a primary attribute of the corporate form. Therefore, a limited partnership agreement including such a provision may cause the I. R. S. to treat the entity as a corporation for tax purposes.

#### Section 27

Section 27 creates a procedure whereby a person, who erroneously but in good faith makes a contribution to a partnership believing that he has become a limited partner, can correct the mistake and relieve himself of liability to third persons.

#### Section 28

Section 28 gives limited partners the right to copy and inspect partnership's records; to obtain an account of the partnership's business and financial condition and copies of the partnership's tax returns.

#### Article 4

Article 4 deals with general partners, their powers and liabilities.

#### Section 29

Section 29 provides that after the filing of the original limited partnership certificate, additional general partners may be added only with the specific consent of each partner.

#### Section 30

Section 30 prescribes those events upon which a general partner ceases to be a general partner. Among those events are: withdrawal from the partnership; assignment of the general partner's interest; the filing of bankruptcy or similar proceedings by a general partner; the general partner's death or incompetence; if the general partner is a trust, the termination of the trust; if the general partner is a separate partnership or corporation, the dissolution of the partnership or corporation.

#### Section 31

At the suggestion of the Bar Association, section 31 was amended to clarify that a general partner in a limited partnership is subject to the restriction and liabilities of a partner in a partnership without limited partners.

This section also states that a general partner of a limited partnership has the rights and powers of a partner in a partnership without limited partners subject to the provisions of this act and of the partnership agreement.

While this section does not contain a list of prohibited actions by a general partner, the fiduciary obligations of the general partner to limited partners under existing case law remains the same. A limited partnership agreement may not purport to relieve a general partner from those fiduciary responsibilities, or reduce the standard of care or duty of loyalty to which the general partner may otherwise be held.

#### Section 32

Section 32 permits a general partner to participate in a limited partnership both as a general partner and as a limited partner.

#### Section 33

Section 33 states that voting rights of a general partner may be prescribed by the partnership agreement.

#### *Article 5*

Article 5 is concerned with the financial structuring of a limited partnership.

#### Section 34

Section 34 states that the form of a partner's contribution to a limited partnership may include cash, property, service or a promise to make a future payment of cash, property or the performance of services.

#### Section 35

Section 35 provides that death, disability or any other reason does not relieve a partner from his obligation to make good his contributions. If the contribution is in the form of property or services, he is obligated to contribute the cash equal to the value of the property or services as stated in the partnership agreement or the proportionate value thereof which has not been made.

#### Sections 36 and 37

Sections 36 and 37 provide that profit and losses and distributions of the partnerships are to be shared in the manner provided in the partnership agreement. If the agreement is silent as to the manner in which profits and losses and distributions are to be shared, then they are allocated on the basis of contributions made by the partners.

#### *Article 6*

Article 6 deals with interim distributions and withdrawals of partners.

#### Section 38

Section 38 states that the partnership agreement may provide that a partner shall be entitled to receive distributions from the partnership prior to its dissolution.

#### Section 39

Section 39 states that a general partner may withdraw from the partnership at any time upon written notice to the other partners, but, if the withdrawal violates the partnership agreement, the withdrawing partner may be liable to the partnership for damages for breach of the agreement.

#### Section 40

Section 40 provides that a limited partner may withdraw from the partnership at the time or upon the happening of the events specified in the partnership agreement. If the agreement is silent as to the withdrawal of a limited partner, the limited partner may withdraw upon not less than 6 months notice to each general partner.

#### Section 41

Section 41 provides that, except as otherwise provided in the partnership agreement, a withdrawing partner is entitled to receive the fair value of his interest in the partnership as of the date of his withdrawal based upon the right to share in distributions.

#### Section 42

Section 42 states that, generally, distribution shall be made in cash. However, the partnership agreement may provide that distributions be made in kind.

#### Section 43

Section 43 provides when a partner becomes entitled to a distribution, to the extent of the distribution, he becomes a creditor of the partnership and is entitled to all remedies available to a creditor.

#### Section 44

Section 44 provides that a partner may not receive a distribution from a limited partnership if giving effect to the distribution would mean that the partnership's liabilities, other than those to other partners, exceeds the fair value of the partnership assets.

#### Section 45

Section 45 establishes a statute of limitations that allows a partnership to recover all or part of the return of a partner's contribution if the contribution is necessary to discharge the partnership's liability to its creditors. If the return did not violate the partnership agreement or the provisions of this act, a limited partner is liable for the returned contribution for a period of one year thereafter. If the return did violate the agreement or the act, a limited partner is liable for six years. If the return did not violate the partnership agreement or the act, a general partner is liable for the returned contribution until the termination of the applicable statute of limitations. If the return did violate the partnership agreement or act, the general partner is liable for the returned contribution until the termination of the applicable statute of limitations.

#### *Article 7*

Article 7 deals with the assignability of partnership interests.

#### Section 46

Section 46 provides that, except as otherwise provided in the partnership agreement, a partnership interest is assignable in whole or in

part. As assignment of a partnership interest, of itself, does not dissolve the partnership nor does it make the assignee automatically a partner. The assignment does entitle the assignee to receive any distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all of his partnership interest.

#### Section 47

Section 47 provides that a judgment against a partner may be satisfied by that partner's partnership interests. A judgment creditor, under those circumstances, obtains the rights of an assignee.

#### Section 48

Section 48 provides that an assignee may become a limited partner to the extent he is given that right in the partnership agreement or if all other partners consent. An assignee who becomes a limited partner has all the rights and powers and is subject to the restrictions and liabilities of a limited partner under the partnership agreement and the act. The Superior Court may wind up the limited partnership's affairs upon application of any partner, his legal representative or assignee.

#### Section 49

Section 49 provides that if a partner dies or becomes incompetent, that person's personal representative or guardian may exercise the partner's rights for the purpose of settling his estate or administering his estate. If a partner is a corporation or other entity and is dissolved or terminated, its partnership powers may be exercised by its legal representative or successor.

### *Article 8*

Article 8 provides for the dissolution of a limited partnership.

#### Section 50

Section 50 provides for the dissolution of a limited partnership upon the happening of any of the following:

- a. At the time fixed in or the happening of events specified in the certificate of partnership;
- b. Written consent of all partners;
- c. Withdrawal of a general partner unless the remaining partners agree in writing to continue the partnership;
- d. Entry of judgment of dissolution under section 51.

#### Section 51

Section 51 authorizes the Superior Court to order dissolution of a limited partnership.

#### Section 52

Section 52 provides generally that except as provided in the partnership agreement the general partners who have wrongfully dissolved a partnership may wind up its affairs.

### Section 53

Section 53 provides for the manner in which assets of the partnership shall be distributed upon winding up of its affairs. The assets are distributed as follows: first to creditors including partners who are creditors; second to partners and former partners in satisfaction of liabilities for past distributions, and, lastly to partners first for the return of their contributions and secondly respecting their partnership interests.

### Article 9

Article 9 introduces an entirely new concept in limited partnership law. It is concerned with the authority of a foreign limited partnership to do business in New Jersey. The provisions of Article 9 are similar to those found in the General Corporation Law (Title 14A) which require a foreign corporation to obtain authority to transact business in New Jersey.

### Section 54

Section 54 provides that laws of the state under which a foreign limited partnership is organized shall govern its operation and that no foreign limited partnership may be denied a certificate to transact business in New Jersey on the basis of a difference between its home state's laws and New Jersey's.

### Section 55

Section 55 provides that a foreign limited partnership may not apply for a certificate to transact business under a name that does not include the words "limited partnership" or the name used by any profit or non-profit corporation or used or reserved by a domestic or foreign limited partnership.

### Section 56

Section 56 states that a foreign limited partnership is to apply and receive from the Secretary of State a certificate of authority in order to transact business in New Jersey. Section 56 also sets forth the information which must be included in the application. That information includes: the name of the partnership and, if different, the name it purposes to do business under in New Jersey; the state and date of its formation; the general character of its business; the name and address of its agent in New Jersey; the address of its principal office; and if not included in its partnership certificate, a list of the names and addresses of the partners.

### Section 57

Section 57 requires that if any statement in an application of a foreign limited partnership is inaccurate, the partnership is to promptly file a corrected statement.

#### Section 58

Section 58 states that a foreign limited partnership may cancel its certificate of authority to transact business in New Jersey by filing a certificate of cancellation with the Secretary of State. A cancellation, however, does not terminate the authority of the Secretary of State to accept service of process on the partnership with respect to claims arising out of business transactions in New Jersey.

#### Section 59

Section 59 provides that a foreign limited partnership transacting business in this State without authority:

- a. May not maintain an action in any court until it has obtained authority to transact business;
- b. Does not impair the validity of any contract of the foreign limited partnership or its right to defend an action in any court;
- c. Does not impose liability upon a limited partner;
- d. Appoints the Secretary of State its agent for service of process with respect to claims arising out of transactions in this State; and
- e. Authorizes the Attorney General to bring an action against the foreign limited partnership to impose a penalty of not less than \$200.00 nor more than \$1,000.00 per year with a limit of five years for each year in which it transacted business in this State.

#### Section 60

Section 60 authorizes the Attorney General to bring an action to restrain a foreign limited partnership from transacting business in this State if:

- a. It does not have a certificate of authority;
- b. Its business is not of a character set forth in its certificate of authority;
- c. Its certificate of authority has been surrendered; or
- d. It has been dissolved or terminated in the jurisdiction of organization.

#### *Article 10*

Article 10 authorizes a limited partner to bring a derivative action in behalf of the corporation.

#### Section 61

Section 61 states that a limited partner may bring an action on behalf of the limited partnership if the general partners have refused to do so or if an effort to cause the general partners to bring an action is not likely to succeed.

#### Section 62

Section 62 states that a person is a proper plaintiff in a derivative action if he is a limited partner at the time of the action and he was a limited partner at the time of the transaction which is the basis of

action. The person is also a proper plaintiff if his status as a limited partner resulted from the operation of law or pursuant to the partnership agreement from a person who was a partner at the time of the transaction which is the basis of the action.

#### Section 63

Section 63 requires that in a complaint for a derivative action, the plaintiff is to set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reason for not making that effort.

#### Section 63.1

Section 63.1 empowers a limited partnership involved in a derivative action brought by a plaintiff or plaintiffs holding a relatively small interest, to require the plaintiff to post security for expenses, including attorney's fee incurred by the limited partnership in the litigation. This provision is intended to parallel section 3-6(3) of the N. J. Business Corporation Act, from which it is derived with the expectation that judicial decisions interpreting section 3-6(3) would be relevant for section 63.1 and vice versa.

#### Section 64

Section 64 states that if a derivative action is successful, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of the proceeds.

#### Section 64.1

Section 64.1 permits a limited partnership to indemnify any general partner of the limited partnership for litigation expenses where the general partner acted in good faith and in a manner which the general partner reasonably believed to be in or not opposed to the best interests of the limited partnership. No indemnification shall be provided where the general partner shall have been adjudged liable for negligence or misconduct, unless determined by a court.

This section also excludes from indemnification amounts paid in settling or otherwise disposing of an action with or without court approval or expenses incurred in defending an action which is settled or otherwise disposed of without court approval.

#### *Article 11*

#### Section 65

This section prescribes the fees to be charged by the Secretary of State for the filing of limited partnership instruments.

#### Sections 66 and 67

Sections 66 and 67 require a foreign limited partnership to file an annual report on the date designated in section 66.

These sections provide that if a foreign limited partnership fails to file an annual report for two consecutive years its certificate of authority to transact business may be revoked.

These sections also permit reinstatement of a foreign limited partnership's certificate of authority if it pays prerequisite fees to the Secretary of State within two years of revocation.

These sections require the Secretary of State to furnish annual report forms, and keep all reports and prepare an index.

#### Section 68

Section 68 authorizes the Secretary of State to promulgate rules and regulations.

#### Section 69

Section 69 exempts domestic and foreign limited partnerships from the filing requirements of R. S. 56:1-1 et seq.

#### Section 70

This section provides that generally the bill is to take effect on January 1, 1985; section 12.1, however, is to take effect immediately upon enactment.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1456

**STATE OF NEW JERSEY**

DATED: JUNE 21, 1982

Limited partnerships have been employed in a variety of enterprises where the tax consequences to the limited partners and certain other advantages make the limited partnership more attractive than the corporate form. Perhaps the largest number of limited partnerships are found as investment vehicles in the areas of real estate development, oil and gas dealings, filming operations, theatre, film and television productions, cable television investments, equipment leasing and other sophisticated financial transactions.

The original Uniform Limited Partnership Act was approved by the Conference of Commissioners on Uniform State Laws in 1916 and enacted in New Jersey on April 15, 1919 as Chapter 211 of the Laws of 1919. Thereafter, the Uniform Limited Partnership Act was incorporated as Chapter 2 of Title 42 of the Revised Statutes. Since its original enactment, the Uniform Limited Partnership Act has remained virtually unchanged.

The National Conference of Commissioners on Uniform State Laws recognized that the existing law required changes in order to bring it into harmony with modern conceptions and conditions. At its annual meeting held in Atlanta, Georgia, July 31-August 6, 1976 the conference approved and recommended to all the states the Uniform Limited Partnership Act (1976) for enactment.

Senate Bill No. 1456 reflects the changes and recommendations proposed by the Uniform Limited Partnership Act (1976).

It should also be noted that at the beginning of the 1980-81 session, the Senate Judiciary Committee requested that the Bar Association review the provisions of the Uniform Limited Partnership Act. As a result of this request, the Bar Association formed an ad hoc committee consisting of representatives of the Taxation and Corporate and Business Law Sections. The ad hoc committee reviewed the provisions of the proposed act and in a letter to the Trustees of the Bar Association endorsed its enactment with some modifications. Senate Bill No. 1456 reflects those suggested modifications.

*Article 1*

Article 1 contains general provisions applicable to all limited partnerships. It also provides the definitions used throughout the act:

Article 1 provides:

1. A procedure by which existing limited partnerships may become a limited partnership under (limited partnerships not doing so would continue to be governed by the provisions of the statute under which it was formed).

2. A requirement that for the purpose of accepting service of process on the partnership that a limited partnership maintain a registered office with a registered agent in charge.

3. A requirement that a partnership keep at its registered office for inspection of all partners a current list of either the last known home or business address of each partner, a copy of the limited partnership agreement and all amendments thereto and income tax returns.

4. That, except as provided in the partnership agreement, partners may lend money to and transact business with the partnership with the same rights and obligations as a third person.

5. That a partnership interest is personal property.

Additionally, Article 1 sets forth the requirement for the name of a limited partnership (i.e., the words, "limited partnership must appear in the name") and the procedure for reserving a name with the Secretary of State. The provisions in this area are intended to give limited partnership the same protections and clear procedure with respect to their names, now available for domestic and foreign corporations in New Jersey.

*Article 2*

Article 2 relates to the formation of a limited partnership and partnership agreement.

## Section 13

Section 13 sets forth the information which must be contained in a certificate of limited partnership. That information includes: the name of the limited partnership; the general character of its business; the name and address of its partners and of its registered agent; a description of each partner's contribution either cash, other property or services; any power of assignment; conditions which result in the termination of the partnership; the rights of partners and how partnership assets are to be distributed.

## Section 14

Section 14 provides that a limited partnership is formed at the later time of filing of the certificate of partnership or the date specified in the certificate of limited partnership. Any date specified in the partnership agreement must, however, be within 30 days of the date of filing.

This is intended to prevent long term intentional or inadvertent "reservations" of names for entities which may never be formed and to prevent manipulative use of the limited partnership form.

#### Section 15

Section 15 requires that an amendment to a limited partnership agreement contain the name of the limited partnership, the date of the filing of the original certificate and the amendment. An amendment to a limited partnership agreement must be effective either on filing or within 30 days thereafter. This is intended to insure certainty as to the effectiveness of amendments.

#### Section 16

Section 16 states the circumstances under which an amendment to a certificate of limited partnership must be filed. Those include: change of name; change in the amount or type of a partner's contribution; change in the character of the business; withdrawal of a general partner; time of dissolution of the partnership and in case of an erroneous statement in the original certificate. Failure to file a certificate of amendment as required by section 16 may result in liability to third persons and damages as provided in section 21.

There is also a paragraph in section 16 which indicates that an amendment to a certificate must be filed whenever the general partners amend the partnership agreement. However, no amendment to a certificate may be used to expand the implied powers of the general partners.

#### Section 17

Section 17 requires that the certificate of cancellation of a limited partnership contain the following information: the name of the partnership, the date of filing of its certificate; the reason for filing the certificate of cancellation and the effective date of cancellation.

#### Section 18

Section 18 deals with the execution of certificates relating to limited partnerships. The original certificate must be signed by all general partners and a certificate of amendment by at least one general partner and by each partner designated in the certificate of amendment as a new partner or whose contribution is increased. Certificates of cancellation must be signed by all general partners. A notable change in the law as provided in section 16 is the authorization that certificates may be signed by an attorney-in-fact.

#### Section 19

Section 19 states that if a person required to execute a certificate of amendment or cancellation fails or refuses to do so, any partner may file a complaint in the Superior Court for an order directing the amendment or cancellation.

#### Section 20

Presently, certificates relating to limited partnerships are filed in offices of the county clerk. In order to create a centralized registration system for limited partnerships essentially equal to that already existing for corporations, section 20 requires that all certificates relating to limited partnerships be filed with the Secretary of State.

To effectuate the purpose of section 20, within 90 days of the effective date of the bill, copies of all limited partnership agreement-related certificates are to be transmitted by the county clerks to the Secretary of State.

#### Section 21

Section 21 provides that any person who suffers a loss because of reliance on a false statement contained in any limited partnership certificate may recover from any person who knew the statement as false or from any general partner who knew or should have known the statement to be false.

#### Section 22

Section 22 states the filing of a certificate of limited partnership is notice that the partnership is a limited partnership and that the persons designated therein are limited partners but it is not notice of any fact not set forth in the certificate.

#### Section 23

Section 23 requires general partners after the filing of a certificate of a limited partnership to mail copies of the certificate to each limited partner.

#### *Article 3*

Article 3 deals with limited partners, their powers and potential liabilities.

#### Section 24

Section 24 covers the admission of additional limited partners. Unless the partnership agreement provides otherwise, a new limited partner can only be admitted to the limited partnership with the consent of all partners. In the case of the assignment of a limited partnership interest, the assignee may become a limited partner under the conditions set forth in the assignment.

#### Section 25

Section 25 states that the partnership agreement may grant to all or a specified group of limited partners the right to vote on a per capita or other basis, upon any matter.

#### Section 26

The general principal set forth in section 26 is that a limited partner is not liable to third persons unless he participates in the control of

partnership affairs to the same extent as a general partner, in which case, he becomes liable to third persons who had actual knowledge of his participation. Additionally, if a limited partner permits his name to be used in the name of partnership, he, except as permitted under section 6, is liable to creditors of the partnership without actual knowledge that he is not a general partner.

Among the activities listed in section 26 which do not constitute participation in the control of the partnership by a limited partner are: being a contractor, agent, employee of the partnership; advising on management of the partnership; acting as a surety; approving changes in the partnership agreement and voting on any of the following: the dissolution of the partnership; the sale of partnership assets; the incurrance of indebtedness other than in the ordinary course of business and the removal of a general partner.

With regard to the powers of a limited partner to vote on the removal of a general partner, it should be noted that the Internal Revenue Service has asserted that this power come close to a system of representative, centralized management which the I. R. S. views as a primary attribute of the corporate form. Therefore, a limited partnership agreement including such a provision may cause the I. R. S. to treat the entity as a corporation for tax purposes.

#### Section 27

Section 27 creates a procedure whereby a person, who erroneously but in good faith makes a contribution to a partnership believing that he has become a limited partner, can correct the mistake and relieve himself of liability to third persons.

#### Section 28

Section 28 gives limited partners the right to copy and inspect partnership's records; to obtain an account of the partnership's business and financial condition and copies of the partnership's tax returns.

#### *Article 4*

Article 4 deals with general partners, their powers and liabilities.

#### Section 29

Section 29 provides that after the filing of the original limited partnership certificate, additional general partners may be added only with the specific consent of each partner.

#### Section 30

Section 30 prescribes those events upon which a general partner ceases to be a general partner. Among those events are: withdrawal from the partnership; assignment of the general partner's interest; the filing of bankruptcy or similar proceedings by a general partner;

the general partner's death or incompetence; if the general partner is a trust, the termination of the trust; if the general partner is a separate partnership or corporation, the dissolution of the partnership or corporation.

#### Section 31

At the suggestion of the Bar Association, section 31 was amended to clarify that a general partner in a limited partnership is subject to the restriction and liabilities of a partner in a partnership without limited partners.

Section 31 states a general partner of a limited partnership has the rights and powers of a partner in a partnership without limited partners subject to the provisions of this act and of the partnership agreement.

While this section does not contain a list of prohibited actions by a general partner, the fiduciary obligations of the general partner to limited partners under existing case law remains the same. A limited partnership agreement may not purport to relieve a general partner from those fiduciary responsibilities, or reduce the standard of care or duty of loyalty to which the general partner may otherwise be held.

#### Section 32

Section 32 permits a general partner to participate in a limited partnership both as a general partner and as a limited partner.

#### Section 33

Section 33 states that voting rights of a general partner may be prescribed by the partnership agreement.

#### *Article 5*

Article 5 is concerned with the financial structuring of a limited partnership.

#### Section 34

Section 34 states that the form of a partner's contribution to a limited partnership may include cash, property, service or a promise to make a future payment of cash, property or the performance of services.

#### Section 35

Section 35 provides that death, disability or any other reason does not relieve a partner from his obligation to make good his contributions. If the contribution is in the form of property or services, he is obligated to contribute the cash equal to the value of the property or services as stated in the partnership agreement or the proportionate value thereof which has not been made.

**Sections 36 and 37**

Sections 36 and 37 provides that profit and losses and distributions of the partnerships are to be shared in the manner provided in the partnership agreement. If the agreement is silent as to the manner in which profits and losses and distributions are to be shared, then they are allocated on the basis of contributions made by the partners.

**Article 6**

Article 6 deals with interim distributions and withdrawals of partners.

**Section 38**

Section 38 states that the partnership agreement may provide that a partner shall be entitled to receive distributions from the partnership prior to its dissolution.

**Section 39**

Section 39 states that a general partner may withdraw from the partnership at any time upon written notice to the other partners, but, if the withdrawal violates the partnership agreement, the withdrawing partner may be liable to the partnership for damages for breach of the agreement.

**Section 40**

Section 40 provides that a limited partner may withdraw from the partnership at the time or upon the happening of the events specified in the partnership agreement. If the agreement is silent as to the withdrawal of a limited partner, the limited partner may withdraw upon not less than 6 months notice to each general partner.

**Section 41**

Section 41 provides that, except as otherwise provided in the partnership agreement, a withdrawing partner is entitled to receive the fair value of his interest in the partnership as of the date of his withdrawal based upon the right to share in distributions.

**Section 42**

Section 42 states that, generally, distribution shall be made in cash. However, the partnership agreement may provide that distributions be made in kind.

**Section 43**

Section 43 provides when a partner becomes entitled to a distribution, to the extent of the distribution, he becomes a creditor of the partnership and is entitled to all remedies available to a creditor.

**Section 44**

Section 44 provides that a partner may not receive a distribution from a limited partnership if giving effect is the distribution would

mean that the partnership's liabilities, other than those to other partners, exceeds the fair value of the partnership assets.

#### Section 45

Section 45 establishes a statute of limitations that allows a partnership to recover all or part of the return of a partner's contribution if the contribution is necessary to discharge the partnership's liability to its creditors. If the return did not violate the partnership agreement or the provisions of this act, a partner is liable to retain the contribution for a period of 1 year. If the return did violate the agreement or the act, a partner is liable for 6 years.

#### *Article 7*

Article 7 deals with the assignability of partnership interests.

#### Section 46

Section 46 provides that, except as otherwise provided in the partnership agreement, a partnership interest is assignable in whole or in part. As assignment of a partnership interest, of itself, does not dissolve the partnership nor does it make the assignee automatically a limited partner. The assignment does entitle the assignee to receive any distribution to which the assignor would be entitled.

#### Section 47

Section 47 provides that a judgment against a partner may be satisfied by that partner's partnership interests. A judgment creditor, under those circumstances, obtains the rights of an assignee.

#### Section 48

Section 48 provides that an assignee may become a limited partner to the extent he is given that right in the partnership agreement or if all other partners consent. An assignee who becomes a limited partner has all the rights and powers and is subject to the restrictions and liabilities of a limited partner under the partnership agreement and the act. The Superior Court may wind up the limited partnership's affairs upon application of any partner, his legal representative or assignee.

#### Section 53

Section 53 provides for the manner in which assets of the partnership shall be distributed upon winding up of its affairs. The assets are distributed as follows: first to creditors including partners who are creditors; second to partners and former partners in satisfaction of liabilities for past distributions, and, lastly to partners first for the return of their contributions and secondly respecting their partnership interests.

*Article 9*

Article 9 introduces an entirely new concept in limited partnership law. It is concerned with the authority of a foreign limited partnership to do business in New Jersey. The provisions of Article 9 are similar to those found in the General Corporation Law (Title 14A) which require a foreign corporation to obtain authority to transact business in New Jersey.

## Section 54

Section 54 provides that laws of the state under which a foreign limited partnership is organized shall govern its operation and that no foreign limited partnership may be denied a certificate to transact business in New Jersey on the basis of a difference between its home state's laws and New Jersey's.

## Section 55

Section 55 provides that a foreign limited partnership may not apply for a certificate to transact business under a name used or reserved by a domestic limited partnership.

## Section 56

Section 56 states that a foreign limited partnership must apply and receive from the Secretary of State a certificate of authority in order to transact business in New Jersey. Section 56 also sets forth the information which must be included in such an application. That information includes: the name of the partnership and, if different, the name it purposes to do business under in New Jersey; the state and date of its formation; the general character of its business; the name and address of its agent in New Jersey; the address of its principal office; and is not included in its partnership certificate, a list of the names and addresses of the partners.

## Section 57

Section 57 requires that if any statement in an application of a foreign limited partnership is inaccurate, the partnership must promptly file a corrected statement.

## Section 58

Section 58 states that a foreign limited partnership may cancel its certificate of authority to transact business in New Jersey by filing a certificate of cancellation with the Secretary of State. A cancellation, however, does not terminate the authority of the Secretary of State to accept service of process on the partnership with respect to claims arising out of business transactions in New Jersey.

## Section 59

Section 59 allows the Attorney General to assess on a foreign limited partnership doing business in New Jersey without a certificate of

authority a penalty of not less than \$200.00 nor more than \$1,000.00 per year for each calendar year in which it transacted business in New Jersey without a certificate.

Section 60

Section 60 permits the Attorney General to bring an action for injunctive relief restraining a foreign limited partnership from doing business in New Jersey if, for example, the partnership has failed to obtain a certificate of authority.

*Article 10*

Article 10 authorizes a limited partner to bring a derivative action in behalf of the corporation.

Section 61

Section 61 states that a limited partner may bring an action on behalf of the limited partnership if the general partners have refused to do so or if an effort to cause the general partners to bring an action is not likely to succeed.

Section 62

Section 62 states that a person is a proper plaintiff in a derivative action if he is a limited partner at the time of the action and he was a limited partner at the time of the transaction which is the basis of action. The person is also a proper plaintiff if his status as a limited partner resulted from the operation of law or pursuant to the partnership agreement from a person who was a partner at the time of the transaction which is the basis of the action.

Section 63

Section 63 requires that in a complaint for a derivative action, the plaintiff set forth the effort of the plaintiff to secure initiation of the action by a general partner or the reason for not making that effort.

Section 63.1

Section 63.1 empowers a limited partnership involved in a derivative action brought by a limited partner holding a relatively small interest, i.e., \$25,000.00, to require the plaintiff to post security for expenses, including attorney's fee incurred by the limited partnership in the litigation. This provision is intended to parallel section 3-6(3) of the N. J. Business Corporation Act, from which it is derived with the expectation that judicial decisions interpreting section 3-6(3) would be relevant for section 63.1 and vice versa.

Section 64

Section 64 states that if a derivative action is successful, the court may award the plaintiff reasonable expenses, including reasonable at-

torney's fees, and shall direct him to remit to the limited partnership the remainder of the proceeds.

#### Section 64.1

Section 64.1 permits a limited partnership to indemnify any general partner of the limited partnership for litigation expenses where the general partner acted in good faith and in a manner which the general partner reasonably believed to be in or not opposed to the best interests of the limited partnership. No indemnification shall be provided where the general partner shall have been adjudged liable for negligence or misconduct, unless determined by a court. This is intended to parallel section 3-5(2)(a) of the N. J. Business Corporation from which it is derived with the expectation that decisions interpreting that section would be relevant to this section and vice versa. It is felt that the provisions of this section are important because general partners often control the drafting of the general partnership agreement including those terms of the agreement governing indemnification.

#### *Article 11*

Article 11 prescribes the fees to be charged by the Secretary of State for the filing of limited partnership instruments.

#### OTHER PROVISIONS:

Section 66 makes the bill effective 270 days after enactment.

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S-1791 SIGNED, ET AL.

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JANUARY 17, 1984

S-1456, sponsored by State Senator Edward T. O'Connor, Jr., D-Hudson, known as the "Uniform Limited Partnership Act," this bill revises and supplements the Uniform Limited Partnership Act of 1919.

S-1742, sponsored by State Senator Walter Rand, D-Camden, which allows drivers with hearing impairments to apply for a special driver's license. To qualify, the applicants hearing loss must be verified by an otorhinolaryngologist or by a certified audiologist.

S-1893, also sponsored by Senator Rand, which adds freeholders to the list of individuals who can administer oaths and take affidavits.

S-1843, sponsored by State Senator Leonard T. Connors, Jr., /A-1871, sponsored by Assemblyman John T. Hendrickson, Jr., both R-Ocean, which expands the provisions of the child pornography laws to include making it a crime to reproduce the image of any prohibited sexual act, to have any intention to reproduce or reconstruct such an act or to sell, receive or in any way knowingly deal with any such reproduction or reconstruction.

S-1544, sponsored by State Senator Carmen A. Orechio, D-Essex, which provides for members of the Public Employees Retirement System to receive credit for any period of service with a local public employer.

S-1480, sponsored by State Senator John F. Russo, D-Ocean, which prohibits a New Jersey commercial corporation from organizing under a corporate name which is the same or similar to that of an existing New Jersey nonprofit corporation.

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