

1983 Wisconsin Act 173

AN ACT *to repeal and recreate* chapter 179 of the statutes, *relating to* revising the uniform limited partnership act.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 179 of the statutes is repealed and recreated to read:

CHAPTER 179
UNIFORM LIMITED PARTNERSHIP ACT
SUBCHAPTER I
GENERAL PROVISIONS

179.01 Definitions. In this chapter:

(1) "Certificate of limited partnership" means the certificate under s. 179.11 as amended under s. 179.12.

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

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner under s. 179.32.

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

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

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

(7) "Limited partnership" and "domestic limited partnership" mean a partnership formed by 2 or more persons under this chapter and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner, and includes a personal representative or trustee to the extent authorized by the governing instrument or court order.

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

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

179.02 Name. The name of a limited partnership:

(1) Shall contain without abbreviation the words "limited partnership".

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

(a) It is also the name of a general partner or the corporate name of a corporate general partner; or

(b) The business of the limited partnership had been carried on under that name before the admission of that limited partner.

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

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

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

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name.

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which intends to adopt that name.

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

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

(2) The reservation shall be made by filing with the secretary of state an application executed by the applicant to reserve a specified name together with a fee of \$10. If the secretary of state finds that the name is available for use by a domestic limited partnership or foreign limited partnership, he or she shall reserve the name for the exclusive use of the applicant for a period of 60 days. Once having so reserved a name, the same applicant may not again reserve the same name until more than 60 days after the expiration of the last 60-day period for which that applicant reserved that name. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state, together with a fee of \$10, a notice of the transfer executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

179.04 Registered office and agent. (1) Each limited partnership shall continuously maintain in this state the following:

(a) An office at which shall be kept the records required under s. 179.05.

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

(2) If a limited partnership fails to maintain an agent for service of process in this state or if the agent cannot with reasonable diligence be found, substituted service may be made on the secretary of state by delivering duplicate copies of the process, together with a fee of \$4. The secretary of state shall forward one copy by registered mail, addressed to the limited partnership at its principal place of business, or if none at its registered office.

179.05 Required records. (1) Each limited partnership shall keep at the office under s. 179.04 (1) (a) all of the following:

(a) A current list of the full name and last-known business address of each partner set forth in alphabetical order.

(b) A copy of the certificate of limited partnership and all certificates of amendment, together with executed copies of any powers of attorney pursuant to which any certificate has been executed.

(c) Copies of the limited partnership's federal, state and local income tax returns and reports for the 3 most recent years.

(d) Copies of any effective written partnership agreements and of any financial statements of the limited partnership for the 3 most recent years.

(2) Records under sub. (1) are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

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

179.07 Business transactions of partner with limited partnership. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and has the same rights and obligations as a person who is not a partner.

179.08 Offer and sale of securities. No limited partnership formed under this chapter and no other limited partnership may offer or sell any of its securities in this state, unless the securities are registered under ch. 551 or the securities or the offer or sale of the securities are exempted from registration under ch. 551.

179.10 Construction and application. This chapter shall be applied and construed to make uniform the law relating to limited partnerships among states enacting substantially identical laws.

SUBCHAPTER II FORMATION

179.11 Certificate of limited partnership. (1) A limited partnership may be formed by at least 2 adults executing and filing in the office of the secretary of state a certificate of limited partnership. The certificate shall be filed together with a fee of \$70 and shall contain all of the following information:

- (a) The name of the limited partnership.
- (b) The general character of its business.
- (c) The address of the office and the name and address of the agent for service of process required to be maintained under s. 179.04.
- (d) The name and business address of each partner, specifying the general partners and limited partners.
- (e) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future.
- (f) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made.
- (g) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his or her partnership interest, and the terms and conditions of the power.
- (h) If agreed upon, the time at which or the events on the happening of which a partner may terminate his or her membership in the limited partnership and the amount of, or the method of determining, the distribution to which he or she may be entitled respecting his or her partnership interest, and the terms and conditions of the termination and distribution.
- (i) Any right of a partner to receive distributions of property from the limited partnership.
- (j) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution.
- (k) Any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.
- (L) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner.
- (m) Any other matters the partners determine to include.

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

179.12 Amendments to certificate. (1) A certificate of limited partnership is amended by filing a certificate of amendment in the office of the secretary of state, together with a fee of \$25. The certificate shall specify all of the following:

- (a) The name of the limited partnership.
- (b) The date of filing the certificate.
- (c) The amendment to the certificate.

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

- (a) A change in the amount or character of the contribution of any partner, or in any partner's obligation to make a contribution.
- (b) A change in the name of the limited partnership, or a change in the address of the registered office or a change in the name or address of the registered agent.
- (c) The withdrawal of a partner.
- (d) The continuation of the business under s. 179.71 after an event of withdrawal of a general partner.

(2m) Within 60 days after the admission of a new partner, an amendment to a certificate of limited partnership reflecting the event shall be filed.

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

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

(5) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event under sub. (2) if the amendment is filed within the 30-day period specified in sub. (2).

(6) Except as otherwise provided in this chapter or in the certificate of amendment, a certificate of amendment is effective on its filing in the office of the secretary of state.

179.13 Cancellation of certificate. A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up of the limited partnership or at any other time that there are no limited partners. A certificate of cancellation shall be filed together with a fee of \$10 in the office of the secretary of state and shall specify all of the following:

- (1) The name of the limited partnership.
- (2) The date of filing of its certificate of limited partnership.
- (3) The reason for filing the certificate of cancellation.
- (4) The date of cancellation if it is not the date of filing.
- (5) Any other information the general partners filing the certificate determine.

179.14 Execution of certificates. (1) Each certificate required by this subchapter to be filed in the office of the secretary of state shall be executed in the following manner:

- (a) An original certificate of limited partnership must be signed by all partners named in the certificate.

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

(c) A certificate of cancellation must be signed by all general partners or, if there is no general partner, by a majority of the limited partners.

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

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

179.15 Amendment or cancellation by court order. If a person required by s. 179.14 to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition the circuit court to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate of amendment or cancellation.

179.16 Filing with the secretary of state. (1) Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation or of any court order of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his or her authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees he or she shall do all of the following:

(a) Endorse on each duplicate original the word "Filed" and the day, month and year of the filing.

(b) File one duplicate original in his or her office.

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

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

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

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

(2) Any general partner who knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any material respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under s. 179.15.

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

179.185 Restated certificate. (1) A limited partnership may integrate into a single instrument the operative provisions of its certificate of limited partnership, as shown by the original certificate and amendments filed under this subchapter, and it may at the same time also further amend its certificate of limited partnership by adopting a restated certificate of limited partnership. The restated certificate shall be filed together with a fee of \$25 in the office of the secretary of state.

(2) If the restated certificate does not further amend the original certificate, as amended under this subchapter, it shall be executed by a general partner. If the restated certificate further amends the original certificate, as amended under this subchapter, it shall be executed by at least one general partner and by each other partner designated in the restated certificate as a new partner or a partner whose contribution has been increased.

(3) A restated certificate of limited partnership shall be specifically designated as such in its heading. It shall state, either in its heading or in an introductory paragraph, the limited partnership's present name and, if it has been changed, the name under which the original certificate was filed and the date of filing. A restated certificate shall also state that it was executed and filed under this section. If it was executed by a general partner alone because it does not further amend the original certificate, as amended under this subchapter, it shall state that fact.

(4) On filing the restated certificate with the secretary of state, the original certificate, as amended under this subchapter, is superseded. After its filing, the restated certificate is the certificate of limited partnership of the limited partnership, but the original effective date of formation shall remain unchanged.

(5) Any amendment effected by the restated certificate is subject to any other provision of this chapter, not inconsistent with this section, which would apply if a certificate of amendment were filed to effect the amendment.

179.19 Delivery of certificates to limited partners. Upon the return by the secretary of state under s. 179.16 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate to each limited partner unless the partnership agreement provides otherwise.

SUBCHAPTER III LIMITED PARTNERS

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

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

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided under s. 179.64, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

(2) In each case under sub. (1), the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.

179.22 Voting. Subject to s. 179.23, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, on a per person or other basis, upon any matter.

179.23 Liability to third parties. (1) Except as provided in sub. (4), a limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of his or her rights and powers as a limited partner,

he or she takes part in the control of the business. If the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he or she is liable only to persons who transact business with the limited partnership with actual knowledge of his or her participation in control.

(2) A limited partner does not participate in the control of the business solely by doing one or more of the following:

(a) Being a contractor for or an agent or employe of the limited partnership or of a general partner.

(b) Consulting with and advising a general partner with respect to the business of the limited partnership.

(c) Acting as surety for the limited partnership.

(d) Approving or disapproving an amendment to the partnership agreement.

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

1. The dissolution and winding up of the limited partnership.

2. The sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business.

3. The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

4. A change in the nature of the business.

5. The removal of a general partner.

(3) The enumeration in sub. (2) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him or her in the business of the limited partnership.

(4) A limited partner who knowingly permits his or her name to be used in the name of the limited partnership, except as permitted under s. 179.02 (2) (a), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

179.24 Same; mistake as to status as limited partner. (1) Except as provided in sub. (2), a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he or she has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, the person:

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

(b) Withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state, together with a \$15 filing fee, a certificate declaring withdrawal under this paragraph.

(2) A person who makes a contribution of the kind described under sub. (1) is liable as a general partner to any 3rd party who transacts business with the enterprise:

(a) Before the person withdraws and an appropriate certificate is filed to show withdrawal; or

(b) Before an appropriate certificate is filed to show his or her status as a limited partner and, in the case of an amendment, after expiration of the 30-day period for filing an amendment relating to the person as a limited partner under s. 179.12, but in either case only if the 3rd party actually believed in good faith that the person was a general partner at the time of the transaction.

179.25 Information. Each limited partner has the right to:

- (1) Inspect and copy any of the partnership records required to be maintained by s. 179.05.
- (2) Obtain from the general partners from time to time upon reasonable demand:
 - (a) True and full information regarding the state of the business and financial condition of the limited partnership.
 - (b) Promptly after becoming available, a copy of the limited partnership's federal, state and local income tax returns for each year.
 - (c) Other information regarding the affairs of the limited partnership as is just and reasonable.

SUBCHAPTER IV
GENERAL PARTNERS

179.31 Admission of additional general partners. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner unless otherwise provided in the certificate of limited partnership, but in no case with less than the specific written consent of a majority of the limited partners.

179.32 Events of withdrawal. Except as approved by the written consent of all partners, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

- (1) The general partner withdraws from the limited partnership under s. 179.52.
- (2) The general partner ceases to be a member of the limited partnership under s. 179.62.
- (3) The general partner is removed as a general partner in accordance with the partnership agreement.
- (4) Unless otherwise provided in the certificate of limited partnership, the general partner:
 - (a) Makes an assignment for the benefit of creditors;
 - (b) Files a voluntary petition in bankruptcy;
 - (c) Is adjudicated as bankrupt or insolvent;
 - (d) Files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief;
 - (e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding under par. (d); or
 - (f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties.
- (5) Unless otherwise provided in the certificate of limited partnership, if:
 - (a) Within 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief, the proceeding has not been dismissed;
 - (b) Within 90 days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties, the appointment is not vacated or stayed; or
 - (c) Within 90 days after the expiration of any stay under par. (b) the appointment is not vacated.
- (6) In the case of a general partner who is a natural person:
 - (a) His or her death; or
 - (b) The entry of a court order adjudicating him or her incompetent to manage his or her person or estate.

(7) In the case of a general partner which is a trust, the termination of the trust.

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

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

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

179.33 General partner powers and liabilities. (1) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(2) (a) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners.

(b) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

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

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

SUBCHAPTER V FINANCE

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

179.42 Liability for contribution. (1) Except as provided in the certificate of limited partnership, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if he or she is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, he or she is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the certificate of limited partnership, of the stated contribution that has not been made.

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

179.43 Sharing of profits and losses. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide,

profits and losses shall be allocated on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

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

SUBCHAPTER VI DISTRIBUTIONS AND WITHDRAWAL

179.51 Interim distributions. Except as provided in this subchapter, a partner is entitled to receive distributions from a limited partnership before his or her withdrawal from the limited partnership and before its dissolution and winding up thereof:

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

(2) If any distribution constitutes a return of any part of his or her contribution under s. 179.58 (2), to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

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

179.53 Withdrawal of limited partner. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the certificate of limited partnership and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than 6 months' prior written notice to each general partner at his or her address on the books of the limited partnership at its office in this state.

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

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

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

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

179.58 Liability on return of contribution. (1) If a partner has received the return of any part of his or her contribution without violation of the partnership agreement or this chapter, he or she is liable to the limited partnership for one year after the return for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the limited partnership.

(2) If a partner has received the return of any part of his or her contribution in violation of the partnership agreement or this chapter, he or she is liable to the limited partnership for a period of 6 years after the return for the amount of the contribution wrongfully returned.

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

SUBCHAPTER VII ASSIGNMENT OF PARTNERSHIP INTERESTS

179.61 Nature of partnership interest. A partnership interest is personal property.

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

179.63 Rights of creditor. On application to the circuit court by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent charged, the judgment creditor has only the rights of an assignee of the partnership interest.

179.64 Right of assignee to become limited partner. (1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that:

(a) The assignor gives the assignee that right in accordance with authority described in the certificate of limited partnership; or

(b) All other partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make and return contributions as provided in subch. VI. The assignee is not obligated for liabilities unknown to the assignee at the time he or she became a limited partner and which could not be ascertained from the certificate of limited partnership.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his or her liability to the limited partnership under ss. 179.17 and 179.42.

179.65 Power of estate of deceased or incompetent partner. If a partner who is an individual dies or is adjudged incompetent to manage his or her person or property, the partner's executor, administrator, guardian, conservator or other legal representative

may exercise all of the partner's rights for the purpose of settling his or her estate or administering his or her property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

SUBCHAPTER VIII DISSOLUTION

179.71 Nonjudicial dissolution. A limited partnership is dissolved and its affairs shall be wound up on the happening of the first of the following:

(1) At the time or on the happening of events specified in the certificate of limited partnership.

(2) On the written consent of all partners.

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

(4) On the entry of an order of judicial dissolution under s. 179.72.

179.72 Judicial dissolution. On application by or for a partner the circuit court may order dissolution of a limited partnership, if it is not practicable to carry on the business under the partnership agreement.

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

179.74 Distribution of assets. On the winding up of a limited partnership, the assets shall be distributed in the following order:

(1) To creditors, including partners who are creditors, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under s. 179.51 or 179.54.

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under s. 179.51 or 179.54.

(3) Except as provided in the partnership agreement, to partners in the following order:

(a) For the return of their contributions in the proportions in which the partners share in distributions.

(b) For their partnership interests in the proportions in which the partners share in distributions.

SUBCHAPTER IX FOREIGN LIMITED PARTNERSHIPS

179.81 Law governing. The laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners.

179.82 Registration. Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. A foreign limited partnership shall submit in duplicate, together with a filing fee of \$75, an application for registration as a

foreign limited partnership, signed and sworn to by a general partner and setting forth all of the following:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.
- (2) The state and date of its formation.
- (3) The general character of the business it proposes to transact in this state.
- (4) The name and address of an agent for service of process on the foreign limited partnership, who must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business and authorized to do business in this state.
- (5) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process under s. 179.88 if the agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence.
- (6) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not required, of the principal office of the foreign limited partnership.
- (7) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and business addresses of the partners, a list of the names and addresses.

179.83 Issuance of registration. (1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, he or she shall:

- (a) Endorse on the application the word "Filed", and the month, day and year of the filing thereof.
- (b) File in his or her office a duplicate original of the application.
- (c) Issue a certificate of registration to transact business in this state.

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

179.84 Name. A foreign limited partnership may register with the secretary of state under any name that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.

179.85 Amendments. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state, together with a filing fee of \$15, a certificate, signed and sworn to by a general partner, correcting the statement.

179.86 Cancellation of registration. (1) A foreign limited partnership may cancel its registration by filing with the secretary of state, together with a filing fee of \$15, a certificate of cancellation signed and sworn to by a general partner.

(2) A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to claims arising out of the transaction of business in this state.

179.87 Transaction of business without registration. (1) A foreign limited partnership transacting business in this state may not initiate any action, suit or proceeding in any court of this state unless it is registered in this state.

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

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

(4) A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process under s. 179.88 with respect to claims arising out of the transaction of business in this state.

179.88 Substituted service. Service of process on the secretary of state under this subchapter shall be made by serving of a copy of the process on the secretary of state, together with a fee of \$4. The secretary of state shall mail notice of the service and a copy of the process within 10 days to the foreign limited partnership at its last-known address. The time within which the foreign limited partnership may answer or move to dismiss under s. 802.06 (2) does not start to run until 10 days after the date of the mailing. The secretary of state shall keep a record of service of process under this section showing the day and hour of service and the date of mailing.

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

SUBCHAPTER X DERIVATIVE ACTIONS

179.91 Right to bring derivative action. Subject s. 179.92, a limited partner may bring an action on behalf of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

179.92 Proper plaintiff. In a derivative action, the plaintiff must be a partner at the time of bringing the action and:

- (1) At the time of the transaction which is the subject of the complaint; or
- (2) The plaintiff's status as a partner derived from operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

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

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

SECTION 2. Nonstatutory provisions; registration of existing limited partnerships. (1) Within 30 days after the effective date of this act each register of deeds shall forward to the secretary of state the name and location of the principal place of business and the name and residence of the general partners of each limited partnership as shown by the most recent documents filed for record in the register of deeds' office.

(2) Within 90 days after the effective date of this act the secretary of state shall send a notice by 1st class mail to each limited partnership and each general partner for which information was received under subsection (1). The notice shall state the requirements of subsection (3), the potential consequences of failure to file the required certificate and the last date on which the filing may timely be made.

(3) Within 90 days after mailing of the notice under subsection (2) the limited partnership to which the notice was mailed shall file with the secretary of state a certificate in the form required by section 179.11 (1) of the statutes, as affected by this act, together with a fee of \$70.

SECTION 3. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

(1) JUSTICE.

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	179.89

(2) SECRETARY OF STATE.

A	B	C
Statute Sections	References Deleted	References Inserted
14.361	none	ch. 179

SECTION 4. Initial applicability. The treatment of sections 179.41, 179.42, 179.58 and 179.64 of the statutes by this act applies to contributions, distributions and assignments made on or after the effective date of this act.

SECTION 5. Effective date. This act takes effect on the first day of the 6th month after its publication.
