



1995 SENATE BILL 276

August 2, 1995 - Introduced by Senators FARROW, FITZGERALD, PETAK, CHVALA, SCHULTZ, JAUCH, HUELSMAN, WINEKE, COWLES, BURKE and PLEWA, cosponsored by Representatives GREEN, KAUFERT, AINSWORTH, ZIEGELBAUER, URBAN, HOVEN, LADWIG, GARD, HAHN, SCHNEIDERS, ZUKOWSKI, VRAKAS, LA FAVE, ALBERS, GOETSCH, F. LASEE, JENSEN, OLSEN, KREIBICH, DUFF, KELSO, SERATTI, OTT, KLUSMAN, GROTHMAN and BALDUS. Referred to Committee on Business, Economic Development and Urban Affairs.

1 **AN ACT to renumber and amend** 70.21, 178.12, 178.35 (1) and 178.35 (2); **to**
2 **amend** 14.38 (14) (intro.), 178.03 (1), 178.15 (1), 178.31 (4), 178.35 (4), 180.0401
3 (2) (b), 180.0401 (3) (a), 180.1506 (2) (b), 180.1506 (3) (a), 181.06 (3) (intro.),
4 183.0102 (18), 183.0103 (2) (a), 183.0103 (2) (b), 183.0103 (3) and 183.0103 (4)
5 (a); and **to create** 70.21 (2), 178.01 (2) (dm), 178.01 (2) (g), 178.12 (2), (3) and
6 (4), 178.29 (3), 178.40, 178.41, 178.42, 178.43, 178.44, 178.45, 178.46, 178.47,
7 178.48, 178.49, 178.50, 178.51, 178.52, 178.53, 180.0401 (2) (a) 9., 180.1506 (2)
8 (a) 9. and 183.1002 (3) (d) of the statutes; **relating to:** limited liability
9 partnerships.

Analysis by the Legislative Reference Bureau

This bill permits a business entity to be organized as a limited liability partnership (LLP) in this state. An LLP possesses most of the attributes of a partnership, such as flexible organization and the ability to pass income and losses through to the partners for income tax purposes. However, unlike a partner in a general partnership, a partner in an LLP is generally not personally liable for a debt, obligation or liability of the partnership, including any debt, obligation or liability arising from omissions, negligence, wrongful acts, misconduct or malpractice that arises while the partnership is a registered LLP. A partner in a registered LLP remains liable for all of the following: the partner's own omissions, negligence, wrongful acts, misconduct or malpractice; the omissions, negligence, wrongful acts, misconduct or malpractice of any person acting under the partner's actual supervision and control in the specific activity in which the omissions, negligence,

wrongful acts, misconduct or malpractice occurred; and any debts, obligations and liabilities resulting from the partner's acts or conduct incurred other than while as a partner. The bill also permits foreign LLPs to transact business in this state. The internal affairs of these foreign registered LLPs, including the liability of partners for debts, obligations and liabilities of the partnership, are governed by the laws of the jurisdiction in which the foreign registered LLP was formed.

In order for the partners of a domestic LLP to have limited liability and in order for a foreign LLP to transact business in this state, the LLP must file a registration statement with the secretary of state. The registration statement must be accompanied by a \$100 filing fee and must include certain specified information, such as the name of the partnership, the mailing address of the partnership's principal office, the address of the registered office and the name and address of the registered agent for service of process and a statement that the partnership is registering as an LLP. This registration statement may be amended, by filing a statement which includes the name of the partnership, the date on which the original registration statement was filed and the amendment to the registration statement. A \$40 fee is required to amend a registration statement. The registration of the LLP may be terminated by filing a written notice of withdrawal and paying a termination fee of \$40. Foreign registered LLPs must include the name of the state or country under whose law the LLP was originally formed when filing a registration statement or in an amendment of their registration statement and in any written notice of withdrawal. The bill requires the secretary of state to prescribe, and furnish on request, forms for registration statements, amendments to registration statements and notices of withdrawal. The bill sets forth a number of technical requirements for filing these documents.

The bill also requires registered LLPs and foreign registered LLPs to comply with a number of requirements regarding their names, registered offices and agents. The name of a registered LLP must contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "L.L.P" or "LLP" as the last words or letters of its name. Foreign LLPs must meet the same requirement, unless other words or abbreviations are required by the laws of the jurisdiction in which the partnership is formed. The name of the LLP must be distinguishable from certain other names, including the names of other domestic or foreign LLPs, limited partnerships, limited liability companies that are existing, registered or licensed to transact business in this state. If a name is not distinguishable from another name, the LLP may register under a fictitious name that is distinguishable. Registered LLPs and foreign registered LLPs must continuously maintain a registered office and have a registered agent. The bill requires registered agents to be one of the following: 1) a natural person residing in the state whose business office is identical with the registered office, 2) a domestic corporation, nonstock corporation, limited liability company, limited partnership or registered LLP, or 3) a foreign corporation, foreign limited liability company, foreign limited partnership or foreign registered LLP if that entity is authorized to transact business in the state and has a business office that is identical with the registered office. The registered agent is the agent of the registered LLP or foreign registered

LLP for service of process. The bill provides for alternative methods of the service of process on registered LLPs and foreign LLPs if there is no registered agent or if the agent cannot be served with reasonable diligence.

The bill imposes certain filing duties on the secretary of state. Upon receiving a document from an LLP or foreign LLP for filing, the secretary of state is required to endorse the document with the date and time of receipt. The secretary is also required to file the document by endorsing it as "filed", unless the registered LLP or foreign registered LLP is in default with the payment of a fee required under the bill or unless the secretary of state determines that the document does not meet the requirements specified in this bill for that filing. Upon request, the secretary of state is also required to endorse a duplicate document copy as confirmation of the date and time of receipt and of its filing. The bill contains specific provisions on the effect of the secretary of state's refusal to file the document, the procedures that the secretary of state must follow in refusing to file a document, and the procedures for appealing the secretary of state's refusal to file a document.

The registration of the LLP by the secretary of state has a number of effects under the bill. The filing of the registration statement with the secretary of state is conclusive proof that the partnership is registered as a registered LLP, except in a proceeding by the state to revoke the registration, and is notice of all other facts set forth in the registration statement. Filing by the secretary of state of a registration statement by a foreign registered LLP constitutes its certificate of authority to transact business in this state. A partnership that registered as a registered LLP is considered to be the same partnership that existed before that registration. If a registered LLP or foreign LLP dissolves for any reason but continues to transact business, the registration of the registered LLP or foreign LLP continues to apply to the partnership that is transacting business and no new registration statement is required. If the registered LLP or foreign LLP dissolves and winds up its affairs, the registration statement remains in effect during this period and, if the partnership is liquidated or terminated, the registration statement continues to remain in effect with respect to the liability of the partners for liabilities of the partnership that were incurred, assumed or arose before the effective date of the liquidation or termination.

The bill contains specific provisions dealing with the effect of the filing, by the secretary of state, of a registration statement of a foreign registered LLP. If the foreign registered LLP conducts business in this state without filing a registration statement and without obtaining a certificate of authority, the bill provides that the foreign registered LLP may not maintain a proceeding in a court of this state. The failure of a foreign registered LLP to obtain a certificate of authority prior to transacting business in this state does not impair the validity of any contract or act of the LLP and does not affect the right of any other party to a contract to maintain an action in a court in this state or the right of the foreign registered LLP to defend itself in any civil, criminal, administrative or investigatory proceeding in any court in the state. This failure does, however, result in the LLP's liability to the state for the sum of a) all fees that would have been imposed under the bill if the foreign registered LLP had applied for and received a certificate of authority and b) an

additional 50% of the amount of these fees or \$5,000, whichever is less. The secretary of state may not issue a certificate of authority to the foreign registered LLP until this liability to the state has been paid. A partner of a foreign registered LLP is not liable for the debts and obligations of the partnership solely because the partnership transacted business in this state without a certificate of authority.

Under current law, "security" is defined to include, among other things, stock in corporations and limited partnership interests. This bill does not amend the definition of security to specifically include interests in limited liability partnerships.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 14.38 (14) (intro.) of the statutes is amended to read:

2 14.38 (14) NAME OF DRAFTER ON DOCUMENTS. (intro.) No articles of
3 incorporation, articles of organization, articles of amendment, articles of merger,
4 consolidation or share exchange, articles of dissolution, restated articles of
5 incorporation, certificate of abandonment, or statement or articles of revocation of
6 voluntary dissolution, provided for pursuant to ch. 180, 181, 183, 185 or 187; no
7 registration statement, amendment of a registration statement, or written notice of
8 withdrawal under s. 178.40; and no certificate of limited partnership, certificate of
9 amendment, restated certificate of limited partnership or certificate of cancellation,
10 provided for pursuant to ch. 179, shall be filed by the secretary of state unless the
11 name of the individual who, or the governmental agency which, drafted such
12 document is printed, typewritten, stamped or written thereon in a legible manner.
13 A document complies with this subsection if it contains a statement in the following
14 form: "This document was drafted by.... (Name)". This subsection shall not apply to
15 a document executed prior to December 1, 1967, or to:

16 **SECTION 2.** 70.21 of the statutes is renumbered 70.21 (1) and amended to read:

1 70.21 (1) The Except as provided in sub. (2), the personal property of a
2 partnership may be assessed in the names of the persons composing such
3 partnership, so far as known or in the firm name or title under which the partnership
4 business is conducted, and each partner shall be liable for the taxes levied thereon.
5 Undistributed personal property belonging to the estate of a person deceased shall
6 be assessed to the executor or administrator if one shall have been appointed and
7 qualified, on the first day of January in the year in which the assessment is made,
8 otherwise it may be assessed to the estate of such deceased person, and the tax
9 thereon shall be paid by the executor or administrator if one be thereafter appointed,
10 otherwise by the person or persons in possession of such property at the time of the
11 assessment.

12 **SECTION 3.** 70.21 (2) of the statutes is created to read:

13 70.21 (2) The personal property of a limited liability partnership shall be
14 assessed in the name of the partnership, and each partner shall be liable for the taxes
15 levied thereon only to the extent permitted under s. 178.12.

16 **SECTION 4.** 178.01 (2) (dm) of the statutes is created to read:

17 178.01 (2) (dm) “Foreign registered limited liability partnership” means a
18 limited liability partnership formed pursuant to an agreement governed by the laws
19 of another state or country and registered under the laws of that jurisdiction.

20 **SECTION 5.** 178.01 (2) (g) of the statutes is created to read:

21 178.01 (2) (g) “Registered limited liability partnership” means a partnership
22 formed pursuant to an agreement governed by the laws of this state and registered
23 under s. 178.40.

24 **SECTION 6.** 178.03 (1) of the statutes is amended to read:

1 178.03 (1) A partnership is an association of 2 or more persons to carry on as
2 coowners a business for profit. A partnership includes a registered limited liability
3 partnership and a foreign registered limited liability partnership.

4 **SECTION 7.** 178.12 of the statutes is renumbered 178.12 (1) (intro.) and
5 amended to read:

6 178.12 (1) (intro.) ~~All~~ Except as provided in sub. (2), all partners are liable:

7 (a) Jointly and severally for everything chargeable to the partnership under ss.
8 178.10 and 178.11;

9 (b) ~~jointly~~ Jointly for all other debts and obligations of the partnership, but any
10 partner may enter into a separate obligation to perform a partnership contract.

11 **SECTION 8.** 178.12 (2), (3) and (4) of the statutes are created to read:

12 178.12 (2) Except as provided in sub. (3), a partner in a registered limited
13 liability partnership is not personally liable directly or indirectly, or by way of
14 indemnification, contribution, assessment or otherwise, for any debt, obligation or
15 liability of the partnership, whether in tort, contract or otherwise, and including any
16 debt, obligation or liability arising from omissions, negligence, wrongful acts,
17 misconduct or malpractice, arising while the partnership is a registered limited
18 liability partnership.

19 (3) Subsection (2) does not affect the liability of a partner in a registered limited
20 liability partnership for any of the following:

21 (a) The partner's own omissions, negligence, wrongful acts, misconduct or
22 malpractice.

23 (b) The omissions, negligence, wrongful acts, misconduct or malpractice of any
24 person acting under the partner's actual supervision and control in the specific

1 activity in which the omissions, negligence, wrongful acts, misconduct or
2 malpractice occurred.

3 (c) Any other debts, obligations and liabilities resulting from the partner's acts
4 or conduct other than as a partner.

5 (d) Any liability that the partner may have under s. 13.69 (1).

6 **(4)** A partner in a registered limited liability partnership is not a proper
7 defendant in a proceeding to recover damages or to enforce obligations of the type
8 described in sub. (2) unless the partner is alleged in good faith to be personally liable
9 under sub. (3).

10 **SECTION 9.** 178.15 (1) of the statutes is amended to read:

11 178.15 **(1)** Each partner shall be repaid that partner's contributions, whether
12 by way of capital or advances to the partnership property and share equally in the
13 profits and surplus remaining after all liabilities, including those to partners, are
14 satisfied; and, except as provided in s. 178.12 (2), each partner must contribute
15 towards the losses, whether of capital or otherwise, sustained by the partnership
16 according to that partner's share in the profits.

17 **SECTION 10.** 178.29 (3) of the statutes is created to read:

18 178.29 **(3)** The liability is for a debt, obligation or liability for which the partner
19 is not liable as provided in s. 178.12 (2).

20 **SECTION 11.** 178.31 (4) of the statutes is amended to read:

21 178.31 **(4)** The individual property of a deceased partner shall be liable for all
22 those obligations of the partnership incurred while the deceased partner was a
23 partner and for which the deceased partner was liable under s. 178.12 but subject
24 to the prior payment of the deceased partner's separate debts.

1 **SECTION 12.** 178.35 (1) of the statutes is renumbered 178.35 (1) (intro.) and
2 amended to read:

3 178.35 (1) (intro.) The assets of the partnership are all of the following:

4 (a) ~~the partnership~~ Partnership property;

5 (b) ~~the contributions~~ Contributions of the partners specified in sub. (4) that are
6 necessary for the payment of all the liabilities ~~specified in sub. (2)~~.

7 **SECTION 13.** 178.35 (2) of the statutes is renumbered 178.35 (2) (intro.) and
8 amended to read:

9 178.35 (2) (intro.) The liabilities of the partnership shall rank in order of
10 payment, as follows:

11 (a) ~~those~~ Those owing to creditors other than partners;

12 (b) ~~those~~ Those owing to partners other than for capital and profits;

13 (c) ~~those~~ Those owing to partners in respect of capital;

14 (d) ~~those~~ Those owing to partners in respect of profits.

15 **SECTION 14.** 178.35 (4) of the statutes is amended to read:

16 178.35 (4) ~~The~~ Except as provided in s. 178.12 (2), the partners shall contribute,
17 as provided by s. 178.15 (1), the amount necessary to satisfy ~~the~~ liabilities, ~~but~~ and
18 if any, but not all, of the partners are insolvent, or, not being subject to process, refuse
19 to contribute, the other partners shall contribute their share of the liabilities, and,
20 in the relative proportions in which they share the profits, the additional amount
21 necessary to pay the liabilities.

22 **SECTION 15.** 178.40 of the statutes is created to read:

23 **178.40 Registration of limited liability partnerships.** (1) To become a
24 registered limited liability partnership or a foreign registered limited liability

1 partnership, a partnership shall file with the secretary of state the fee specified in
2 s. 178.48 and a registration statement that includes all of the following:

3 (a) A name for the partnership that complies with s. 178.42.

4 (b) If a foreign registered limited liability partnership, the name of the state
5 or country under whose law it is formed.

6 (c) The mailing address of its principal office.

7 (d) The street address of the registered office and the name and address of the
8 registered agent at that office for service of process.

9 (e) A statement that the partnership registers as a registered limited liability
10 partnership or a foreign registered limited liability partnership.

11 (f) Any other information that the partnership determines to include.

12 **(2)** A registered limited liability partnership or a foreign registered limited
13 liability partnership may amend its registration statement at any time by filing with
14 the secretary of state a statement that includes all of the following:

15 (a) The name of the partnership.

16 (b) If a foreign registered limited liability partnership, the name of the state
17 or country under whose law it is formed.

18 (c) The date of the filing of the original registration statement.

19 (d) The amendment to the registration statement.

20 **(3)** A registered limited liability partnership or a foreign registered limited
21 liability partnership may terminate its registration by filing with the secretary of
22 state the fee specified in s. 178.48 and a written notice of withdrawal that includes
23 all of the following:

24 (a) The name of the partnership.

1 (b) If a foreign registered limited liability partnership, the name of the state
2 or country under whose law it is formed.

3 (c) A statement that the partnership withdraws its registration.

4 **SECTION 16.** 178.41 of the statutes is created to read:

5 **178.41 Effect of registration.** (1) A registration of a limited liability
6 partnership is effective when the registration statement takes effect under s. 178.49.

7 (a) The secretary of state's filing of a registration statement is conclusive proof
8 that the partnership is registered as a registered limited liability partnership or a
9 foreign registered limited liability partnership under this chapter, except in a
10 proceeding by the state to revoke the registration, and is notice of all other facts set
11 forth in the registration statement.

12 (b) The secretary of state's filing of a registration statement of a foreign
13 registered limited liability partnership under s. 178.40 constitutes its certificate of
14 authority to transact business in this state and is notice of all other facts set forth
15 in the registration statement.

16 (2) (a) A partnership that registers as a registered limited liability partnership
17 is for all purposes the same partnership that existed before the registration and
18 continues to be a partnership under the laws of this state.

19 (b) If a registered limited liability partnership or a foreign registered limited
20 liability partnership dissolves for any reason and its business continues without
21 winding up the partnership affairs and without liquidating or terminating the
22 partnership, and so long as the partnership continues to comply with s. 178.42, the
23 registration of the registered limited liability partnership or the foreign registered
24 limited liability partnership shall continue to be applicable to the partnership
25 continuing the business, and the partnership shall not be required to file a new

1 registration statement. The partnership continuing the business shall be considered
2 to have filed any documents required or permitted under this chapter which were
3 filed by the dissolved registered limited liability partnership or foreign registered
4 limited liability partnership.

5 (3) If a registered limited liability partnership or a foreign registered limited
6 liability partnership dissolves for any reason and winds up its affairs, liquidates or
7 terminates, the registration statement remains in effect as to the partnership and
8 partners during the period of winding up and remains in effect as to the partners
9 after liquidation or termination with respect to liabilities of the partnership
10 incurred, assumed or arising before the effective date of liquidation or termination.

11 (4) A partnership continues as a registered limited liability partnership or
12 foreign registered limited liability partnership if there is substantial compliance
13 with the requirements of this chapter. The status of a partnership as a registered
14 limited liability partnership or foreign registered limited liability partnership and
15 the liability of a partner of that registered limited liability partnership or foreign
16 registered limited liability partnership shall not be adversely affected by errors or
17 subsequent changes in the information stated in any filing under this chapter.

18 **SECTION 17.** 178.42 of the statutes is created to read:

19 **178.42 Name of registered limited liability partnership.** (1) The name
20 of a registered limited liability partnership shall contain the words "Registered
21 Limited Liability Partnership" or "Limited Liability Partnership" or the
22 abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

23 (2) The name of a foreign registered limited liability partnership transacting
24 business in this state shall contain the words "Registered Limited Liability
25 Partnership" or "Limited Liability Partnership" or the abbreviation "L.L.P." or

1 “LLP”, or other words or abbreviations as may be required or authorized by the laws
2 of the jurisdiction in which the partnership is formed.

3 (3) Except as provided in sub. (4), the name of a registered limited liability
4 partnership shall be distinguishable upon the records of the secretary of state from
5 all of the following names:

6 (a) The name of any other domestic or foreign registered limited liability
7 partnership, limited partnership, or limited liability company existing, registered or
8 licensed to transact business under the laws of this state.

9 (b) Any name reserved or registered under ch. 179 or 183.

10 (4) The name of a registered limited liability partnership is not distinguishable
11 from a name referred to under sub. (3) (a) and (b) if the only difference between it and
12 the other name is the inclusion or absence of a word or words referred to in sub. (1)
13 or (2) or the words “limited partnership”, “limited liability company” or abbreviations
14 of these words.

15 (5) If the name of a domestic or foreign limited liability partnership is not
16 distinguishable from a name referred to under sub. (3) (a) and (b), the domestic or
17 foreign limited liability partnership may register under a fictitious name that is
18 distinguishable from a name referred to under sub. (3) (a) and (b).

19 **SECTION 18.** 178.43 of the statutes is created to read:

20 **178.43 Registered office and registered agent.** A registered limited
21 liability partnership and foreign registered limited liability partnership shall
22 continuously maintain a registered office and registered agent. The registered office
23 may be the same as any of the partnership’s places of business. The registered agent
24 shall be any of the following:

1 (1) A natural person who resides in this state and whose business office is
2 identical with the registered office.

3 (2) A domestic corporation, nonstock corporation, limited liability company,
4 limited partnership or registered limited liability partnership.

5 (3) A foreign corporation, foreign limited liability company, foreign limited
6 partnership or foreign registered limited liability partnership if that entity is
7 authorized to transact business in this state and the entity's business office is
8 identical with the registered office.

9 **SECTION 19.** 178.44 of the statutes is created to read:

10 **178.44 Service on registered limited liability partnership.** (1) A
11 registered limited liability partnership's or foreign registered limited liability
12 partnership's registered agent is the partnership's agent for service of process, notice
13 or demand required or permitted by law to be served on the partnership.

14 (2) Except as provided in sub. (3), if a registered limited liability partnership
15 or a foreign registered limited liability partnership has no registered agent or the
16 agent cannot with reasonable diligence be served, the partnership may be served by
17 registered or certified mail, return receipt requested, addressed to the partnership
18 at its principal office. Service is perfected under this subsection at the earliest of the
19 following:

20 (a) The date on which the partnership receives the mail.

21 (b) The date shown on the return receipt, if signed on behalf of the partnership.

22 (c) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly
23 addressed.

24 (3) If the address of the registered limited liability partnership's or foreign
25 registered limited liability partnership's principal office cannot be determined from

1 the records of the secretary of state, the partnership may be served by publishing a
2 class 3 notice, under ch. 985, in the community in which the partnership's principal
3 office or registered office, as most recently designated in the records of the secretary
4 of state, is located.

5 (4) This section does not limit or affect the right to serve any process, notice or
6 demand required or permitted by law to be served on a registered limited liability
7 partnership or a foreign registered limited liability partnership in any other manner
8 permitted by law.

9 **SECTION 20.** 178.45 of the statutes is created to read:

10 **178.45 Foreign registered limited liability partnerships.** (1) Before
11 transacting business in this state, a foreign registered limited liability partnership
12 shall do all of the following:

13 (a) Comply with any statutory or administrative registration or filing
14 requirements governing the specific type of business in which the partnership is
15 engaged.

16 (b) Obtain a certificate of authority from the secretary of state by filing a
17 registration statement under s. 178.40.

18 (2) A foreign registered limited liability partnership holding a valid certificate
19 of authority under this section is subject to ss. 178.40 to 178.53.

20 (3) The internal affairs of a foreign registered limited liability partnership,
21 including the liability of partners for debts, obligations and liabilities of or
22 chargeable to the partnership, shall be subject to and governed by the laws of the
23 jurisdiction in which the foreign limited liability partnership is formed.

1 (4) The following shall apply to a foreign registered limited liability
2 partnership transacting business in this state without filing a registration
3 statement and obtaining a certificate of authority under s. 178.40:

4 (a) A foreign registered limited liability partnership transacting business in
5 this state without a certificate of authority may not maintain a proceeding in a court
6 of this state until it obtains a certificate of authority.

7 (b) Neither the successor to a foreign registered limited liability partnership
8 that transacted business in this state without a certificate of authority nor the
9 assignee of a cause of action arising out of that business may maintain a proceeding
10 based on that cause of action in a court of this state until the foreign registered
11 limited liability partnership or its successor obtains a certificate of authority.

12 (c) A court may stay a proceeding commenced by a foreign registered limited
13 liability partnership, or its successor or assignee, until the court determines if the
14 foreign limited liability partnership or its successor requires a certificate of
15 authority. If the court determines that a certificate is required, the court may further
16 stay the proceeding until the foreign registered limited liability partnership or its
17 successor obtains the certificate of authority.

18 (d) The failure of a foreign registered limited liability partnership to obtain a
19 certificate of authority does not do any of the following:

20 1. Impair the validity of any contract or act of the foreign registered limited
21 liability partnership or its title to property in this state.

22 2. Affect the right of any other party to a contract to maintain any action on the
23 contract.

1 3. Prevent the foreign registered limited liability partnership from defending
2 any civil, criminal, administrative or investigatory proceeding in any court of this
3 state.

4 (e) A foreign registered limited liability partnership that transacts business in
5 this state without a certificate of authority is liable to this state, for each year or any
6 part of a year during which it transacted business in this state without a certificate
7 of authority, for an amount equal to the sum of the following:

8 1. All fees that would have been imposed under this chapter upon the foreign
9 registered limited liability partnership had it applied for and received a certificate
10 of authority.

11 2. Fifty percent of the amount under subd. 1. or \$5,000, whichever is less.

12 (f) The foreign registered limited liability partnership shall pay the amount
13 owed under par. (e) to the secretary of state. The secretary of state may not issue a
14 certificate of authority to the foreign registered limited liability partnership until the
15 amount owed is paid. The attorney general may enforce a foreign registered limited
16 liability partnership's obligation to pay any amount owed under par. (e).

17 (g) A partner of a foreign registered limited liability partnership is not liable
18 for the debts and obligations of the foreign registered limited liability partnership
19 solely because the foreign registered limited liability partnership transacted
20 business in this state without a certificate of authority.

21 **SECTION 21.** 178.46 of the statutes is created to read:

22 **178.46 Filing requirements.** (1) Except as provided in sub. (4), a document
23 required or permitted to be filed under s. 178.40 in the office of the secretary of state
24 shall satisfy all of the following requirements:

1 (a) Contain the information required by this chapter, although it may also
2 contain other information.

3 (b) Be in the English language, except that a partnership name need not be in
4 English if it is written in English letters or Arabic or Roman numerals.

5 (c) Contain the name of the drafter, if required by s. 14.38 (14).

6 (d) Be executed in accordance with sub. (3).

7 (e) Be on the form prescribed by the secretary of state if the document is
8 described in s. 178.47.

9 (f) Be delivered to the office of the secretary of state for filing and be
10 accompanied by one exact or conformed copy and the filing fee required by s. 178.48.

11 **(2)** The secretary of state shall file photocopies or other reproduced copies of
12 typewritten or printed documents if the copies satisfy sub. (1) and are originally
13 executed to satisfy sub. (3).

14 **(3)** (a) The documents described in s. 178.40 shall be executed by one or more
15 partners authorized by the partnership or as otherwise provided in the partnership
16 agreement.

17 (b) The person executing a document shall sign it and, beneath or opposite the
18 signature, type or legibly print his or her name.

19 **(4)** The secretary of state may waive any of the requirements of subs. (1) to (3)
20 if it appears from the face of the document that the document's failure to satisfy the
21 requirement is immaterial.

22 **SECTION 22.** 178.47 of the statutes is created to read:

23 **178.47 Forms.** (1) (a) The secretary of state shall prescribe and furnish on
24 request forms for all of the following documents:

25 1. A registration statement under s. 178.40 (1).

1 2. An amended registration statement under s. 178.40 (2).

2 3. A notice of withdrawal under s. 178.40 (3).

3 (b) The forms prescribed by the secretary of state under par. (a) 1., 2. and 3.
4 shall require disclosure of only the information required under s. 178.40 (1), (2) and
5 (3), respectively.

6 (c) The use of a form prescribed under par. (a) is mandatory.

7 **(2)** The secretary of state may prescribe and furnish on request forms for other
8 documents required or permitted to be filed with the secretary's office under this
9 chapter, but use of these forms is not mandatory.

10 **SECTION 23.** 178.48 of the statutes is created to read:

11 **178.48 Filing and service fees.** **(1)** The secretary of state shall collect the
12 following fees when the documents described under this subsection are delivered to
13 the secretary of state for filing.

14 (a) Registration statement, \$100.

15 (b) Amendment of registration statement, \$40.

16 (c) Termination of registration, \$40.

17 (d) Articles of correction, \$40.

18 **(2)** The secretary of state shall collect a \$10 fee each time process is served on
19 the secretary of state under this chapter.

20 **(3)** In addition to the fees required under sub. (1), the secretary of state shall
21 collect \$25 for processing in an expeditious manner a document required or
22 permitted to be filed with the secretary of state under this chapter.

23 **SECTION 24.** 178.49 of the statutes is created to read:

24 **178.49 Effective date and time of document.** **(1)** (a) Except as provided
25 in sub. (2), a document filed under this chapter is effective on the date that it is

1 received by the office of the secretary of state for filing and at any of the following
2 times on that date:

- 3 1. The time of day specified in the document as its effective time.
- 4 2. If no effective time is specified, at the close of business.

5 (b) The date that a document is received by the office of the secretary of state
6 is determined by the secretary of state's endorsement on the original document.

7 **(2)** A document may specify a delayed effective date and time, except that the
8 effective date may not be more than 90 days after the date that it is received for filing.
9 If a document specifies a delayed effective date and time in accordance with this
10 subsection, the document is effective at the date and time specified. If a delayed
11 effective date but no time is specified, the document is effective at the close of
12 business on that date.

13 **SECTION 25.** 178.50 of the statutes is created to read:

14 **178.50 Correcting filed document.** (1) A registered limited liability
15 partnership or foreign registered limited liability partnership holding a certificate
16 of authority under s. 178.40 may correct a document that was filed with the secretary
17 of state if the document contains a statement that was incorrect at the time of filing
18 or was defectively executed, including defects in any attestation, seal, verification or
19 acknowledgment.

20 **(2)** To correct a document under sub. (1), a registered limited liability
21 partnership or a foreign registered limited liability partnership holding a certificate
22 of authority under s. 178.40 shall file with the secretary of state articles of correction
23 that include all of the following:

24 (a) A description of the document, including its filing date, or a copy of the
25 document.

1 (b) An identification of the incorrect statement and the reason that it is
2 incorrect, or the manner in which the execution was defective, whichever applies.

3 (c) The corrected statement or execution.

4 **(3)** (a) Except as provided in par. (b), articles of correction are effective on the
5 effective date of the document that they correct.

6 (b) With respect to a person relying on the uncorrected document and adversely
7 affected by the correction, the articles of correction are effective when filed.

8 **SECTION 26.** 178.51 of the statutes is created to read:

9 **178.51 Filing duty of the secretary of state. (1)** Upon receipt of a document
10 by the office of the secretary of state for filing, the secretary of state shall stamp or
11 otherwise endorse the date and time of receipt on the original document copy and,
12 upon request, any additional document copy received. The secretary of state shall
13 return any additional document copy to the person delivering it, as confirmation of
14 the date and time of receipt.

15 **(2)** (a) Except as provided in par. (b), if a document satisfies s. 178.46, the
16 secretary of state shall file the document by stamping or otherwise endorsing "Filed",
17 together with the secretary's title, on both the original and the document copy. After
18 filing a document, the secretary of state shall deliver the document copy to the
19 registered limited liability partnership or to the foreign registered limited liability
20 partnership or to its representative.

21 (b) If a registered limited liability partnership or foreign registered limited
22 liability partnership is in default in the payment of any fee required under s. 178.48,
23 the secretary of state shall refuse to file any document relating to the partnership
24 until all delinquent fees are paid.

1 **(3)** (a) If the secretary of state refuses to file a document, the secretary of state
2 shall return it to the partnership, or to its representative, within 5 business days
3 after the document is received by the office of the secretary of state for filing, together
4 with a brief written explanation of the reason for the secretary of state's refusal.

5 (b) The secretary of state's failure to either file or return a document within 5
6 business days after it was received constitutes a refusal to file.

7 (c) If a document that has been refused for filing by the secretary of state is
8 resubmitted for filing by the secretary of state, the effective date of the document
9 under s. 178.49 is the date that the resubmitted document is received by the
10 secretary of state for filing or a delayed effective date specified in the resubmitted
11 document in accordance with s. 178.49 (2). The effective time of the resubmitted
12 document shall be determined under s. 178.49 (1) or (2), whichever is applicable.

13 **(4)** Except as provided in s. 178.41 (1), the secretary of state's filing of a
14 document or refusal to file a document does not do any of the following:

15 (a) Affect the validity or invalidity of the document in whole or part.

16 (b) Relate to the correctness or incorrectness of information contained in the
17 document.

18 (c) Create a presumption that the document is valid or invalid or that
19 information contained in the document is correct or incorrect.

20 **SECTION 27.** 178.52 of the statutes is created to read:

21 **178.52 Appeal from secretary of state's refusal to file document.** (1) If
22 the secretary of state refuses to file a document received for filing, the partnership
23 may appeal the refusal by filing a petition in circuit court to compel the secretary of
24 state to file the document. The partnership shall file the petition in the circuit court
25 for the county where the partnership's principal office or, if none in this state, its

1 registered office is located. The partnership shall attach to the petition the document
2 and any explanation by the secretary of state of the reasons for the refusal to file.

3 (2) The partnership shall file the petition under sub. (1) within 30 days after
4 the secretary of state returns the document under s. 178.51 (3) (a). If the secretary
5 of state does not return the document within the period specified in s. 178.51 (3) (b),
6 the partnership shall file the petition within 30 days after the period specified in s.
7 178.51 (3) (b) expires.

8 (3) The court may summarily order the secretary of state to file the document
9 or take other action that the court considers appropriate. The court's final decision
10 may be appealed as in other civil proceedings.

11 (4) If the court orders the secretary of state to file the document under sub. (3),
12 the effective date of the document shall be the date on which it was received by the
13 secretary of state or a delayed effective date, if specified under s. 178.49 (2).

14 **SECTION 28.** 178.53 of the statutes is created to read:

15 **178.53 Applicability to foreign and interstate commerce.** A partnership,
16 including a registered limited liability partnership, formed pursuant to an
17 agreement governed by this chapter, may conduct its business, carry on its
18 operations and govern its internal affairs in accordance with this chapter, and may
19 exercise the powers and enjoy the limitations on partner liability granted under this
20 chapter, in any state, territory, district or possession of the United States or in any
21 foreign country.

22 **SECTION 29.** 180.0401 (2) (a) 9. of the statutes is created to read:

23 180.0401 (2) (a) 9. The name of a limited liability partnership formed under the
24 laws of, or registered in, this state.

25 **SECTION 30.** 180.0401 (2) (b) of the statutes is amended to read:

1 180.0401 (2) (b) The corporate name of a corporation is not distinguishable
2 from a name referred to in par. (a) 1. to ~~8.~~ 9. if the only difference between it and the
3 other name is the inclusion or absence of a word or words referred to in sub. (1) (a)
4 1. or of the words “limited partnership”, “limited liability partnership”, “cooperative”
5 or “limited liability company” or an abbreviation of these words.

6 **SECTION 31.** 180.0401 (3) (a) of the statutes is amended to read:

7 180.0401 (3) (a) The other corporation or the foreign corporation, limited
8 liability company, nonstock corporation, limited partnership, limited liability
9 partnership or cooperative association consents to the use in writing and submits an
10 undertaking in a form satisfactory to the secretary of state to change its name to a
11 name that is distinguishable upon the records of the secretary of state from the name
12 of the applicant.

13 **SECTION 32.** 180.1506 (2) (a) 9. of the statutes is created to read:

14 180.1506 (2) (a) 9. The name of a limited liability partnership formed under the
15 laws of, or registered in, this state.

16 **SECTION 33.** 180.1506 (2) (b) of the statutes is amended to read:

17 180.1506 (2) (b) The corporate name of a foreign corporation is not
18 distinguishable from a name referred to in par. (a) 1. to ~~8.~~ 9. if the only difference
19 between it and the other name is the inclusion or absence of a word or words referred
20 to in s. 180.0401 (1) (a) 1. or of the words “limited partnership”, “limited liability
21 partnership”, “cooperative” or “limited liability company” or an abbreviation of these
22 words.

23 **SECTION 34.** 180.1506 (3) (a) of the statutes is amended to read:

24 180.1506 (3) (a) The other foreign corporation or the domestic corporation,
25 limited liability company, nonstock corporation, limited partnership, limited

1 liability partnership or cooperative association consents to the use in writing and
2 submits an undertaking in a form satisfactory to the secretary of state to change its
3 name to a name that is distinguishable upon the records of the secretary of state from
4 the name of the applicant.

5 **SECTION 35.** 181.06 (3) (intro.) of the statutes is amended to read:

6 181.06 (3) (intro.) Shall not be the same as or deceptively similar to the name
7 of any corporation, limited liability company, limited liability partnership or limited
8 partnership existing under any law of this state, or any foreign corporation, foreign
9 limited liability company, foreign limited liability partnership or foreign limited
10 partnership authorized to transact business or conduct affairs in this state, or a
11 name the exclusive right to which is at the time reserved in the manner provided in
12 this chapter or reserved or registered in the manner provided in ch. 180, except that
13 this subsection shall not apply if the applicant files with the secretary of state either
14 of the following:

15 **SECTION 36.** 183.0102 (18) of the statutes is amended to read:

16 183.0102 (18) "Person" includes an individual, a ~~general partnership~~, a limited
17 partnership, a domestic or foreign limited liability company, a trust, an estate, an
18 association, a corporation or any other legal or commercial entity.

19 **SECTION 37.** 183.0103 (2) (a) of the statutes is amended to read:

20 183.0103 (2) (a) The name of any other limited liability company, a corporation,
21 a nonstock corporation, a limited partnership, a limited liability partnership or a
22 cooperative association existing under the laws of this state.

23 **SECTION 38.** 183.0103 (2) (b) of the statutes is amended to read:

24 183.0103 (2) (b) The name of any foreign limited liability company, foreign
25 corporation, foreign nonstock corporation, foreign limited partnership, foreign

1 limited liability partnership or foreign cooperative association, or the designated,
2 registered or fictitious name under which any such entity is licensed to transact
3 business in this state.

4 **SECTION 39.** 183.0103 (3) of the statutes is amended to read:

5 183.0103 (3) The name of a limited liability company is not distinguishable
6 from a name referred to in sub. (2) (a) to (c) if the only difference between it and the
7 other name is the inclusion or absence of a word or words referred to in sub. (1) or
8 of the words “corporation”, “incorporated”, “limited”, “company”, “limited
9 partnership”, “limited liability partnership” or “cooperative” or an abbreviation of
10 these words.

11 **SECTION 40.** 183.0103 (4) (a) of the statutes is amended to read:

12 183.0103 (4) (a) The other limited liability company, corporation, nonstock
13 corporation, limited partnership, limited liability partnership or cooperative
14 association consents to the use in writing and submits an undertaking in a form
15 satisfactory to the secretary of state to change its name to a name that is
16 distinguishable upon the records of the secretary of state from the name of the
17 applicant.

18 **SECTION 41.** 183.1002 (3) (d) of the statutes is created to read:

19 183.1002 (3) (d) The foreign limited liability partnership is a limited partner
20 of a limited partnership that is transacting business in this state.

21 (END)