

Nebraska Uniform Limited Partnership Act

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67-233 Terms, defined.

For purposes of the Nebraska Uniform Limited Partnership Act:

- (1) Certificate of limited partnership shall mean the certificate referred to in section 67-240 and the certificate as amended or restated;
- (2) Contribution shall mean any cash, property, services rendered, or 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 shall mean an event that causes a person to cease to be a general partner as provided in section 67-255;
- (4) Foreign limited partnership shall mean a partnership formed under the laws of any state other than this state or under the laws of any foreign country and having as partners one or more general partners and one or more limited partners;
- (5) General partner shall mean a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and, if required, named as such in the certificate of limited partnership or similar instrument under which the limited partnership or foreign limited partnership is organized;
- (6) Limited partner shall mean a person who has been admitted to a limited partnership as a limited partner as provided in the Nebraska Uniform Limited Partnership Act or, in the case of a foreign limited partnership, in accordance with the laws under which the limited partnership is formed;
- (7) Limited partnership and domestic limited partnership shall mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners;
- (8) Liquidating trustee shall mean a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership;
- (9) Partner shall mean a limited or general partner;
- (10) Partnership agreement shall mean any valid agreement, written or oral, of the partners as to the affairs of a limited partnership or foreign limited partnership and the conduct of its business;

(11) Partnership interest shall mean a partner's share of the profits and losses of a limited partnership or foreign limited partnership and the right to receive distributions of partnership assets;

(12) Person shall mean a natural person, partnership, whether general or limited and whether domestic or foreign, limited liability company, trust, estate, association, or corporation; and

(13) State shall mean a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Source Laws 1981, LB 272, § 1; Laws 1989, LB 482, § 6; Laws 1993, LB 121, § 400.

67-234 Limited partnership name.

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

(1) Shall contain the words limited partnership or limited or the abbreviations L.P. or Ltd.;

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner, the corporate name of a corporate general partner, or the company name of a limited liability company general partner, (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner, or (iii) the use of the name of a limited partner in the name of the limited partnership is merely coincidental and not intended to mislead the public to believe that such limited partner is a general partner;

(3) Shall not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, a trade name registered in this state pursuant to sections 87-208 to 87-220;

(4) Shall not be the same as or deceptively similar to, upon the records in the office of the Secretary of State, any other business entity name registered or on file with the Secretary of State pursuant to Nebraska law, except that a limited partnership may register under any name which is deceptively similar to, upon the records in the office of the Secretary of State, a business entity name registered or on file with the Secretary of State pursuant to Nebraska law with the consent of the other business entity or with the transfer of such name by the other business entity, which written consent or transfer shall be filed with the Secretary of State; and

(5) May contain the following words or abbreviations of like import: Company; association; club; foundation; fund; institute; society; union; syndicate; or trust.

Source Laws 1981, LB 272, § 2; Laws 1989, LB 482, § 7; Laws 1993, LB 121, § 401; Laws 1997, LB 44, § 10; Laws 2003, LB 464, § 7.

67-235 Reservation of name.

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

- (1) Any person intending to organize a limited partnership under the Nebraska Uniform Limited Partnership Act and to adopt that name;
 - (2) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;
 - (3) Any foreign limited partnership intending to register in this state and currently using or intending to adopt that name; and
 - (4) Any person intending to organize a foreign limited partnership and intending to have it register in this state and adopt that name.
- (b) The reservation shall be made by filing with the Secretary of State an application, executed by the applicant, to reserve a specified name. If the Secretary of State finds that the name is available for use by a domestic or foreign limited partnership, he or she shall reserve the name for the exclusive use of the applicant for a period of one hundred twenty days. Such reservation may be renewed or canceled by filing a notice of such fact on forms prescribed by the Secretary of State. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the Secretary of State a notice of the transfer executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.
- (c) A fee as set forth in section 67-293 shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation, and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

Source Laws 1981, LB 272, § 3; Laws 1989, LB 482, § 8.

67-236 Specified office and agent.

- (a) Each limited partnership shall have and maintain in this state:
- (1) An office which may but need not be a place of its business in this state; and
 - (2) An agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, a foreign corporation authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state.
- (b) The agent for service of process may change his, her, or its street address and post office box number, if any, to another street address and post office box number, if any, in this state by paying a fee as set forth in section 67-293 and filing with the Secretary of State a certificate, executed by the agent, setting forth the names of the limited partnerships represented by the agent, the street address and post office box number, if any, at which the agent has maintained his, her, or its office as agent for each of such limited partnerships, and the new street address and post office box number, if any, to which the office will be changed on a given day, at which new street address and post office box number, if any, the agent will

thereafter maintain his, her, or its office as agent for each of the limited partnerships recited in the certificate. Upon the filing of the certificate, the Secretary of State shall furnish to the agent a copy of the same, and thereafter or until further change of street address or post office box number, if any, as authorized by law, the office in this state of the agent for service of process for each of the limited partnerships recited in the certificate shall be located at the new street address and post office box number, if any. Filing of the certificate shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby, and each such limited partnership shall not be required to take any further action to amend its certificate of limited partnership. Any agent filing a certificate under this section shall promptly, upon the filing, deliver a copy of such certificate to each limited partnership affected thereby.

(c) The agent of one or more limited partnerships may resign and appoint a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State, stating that the agent is resigning and the name and street address and post office box number, if any, of the successor agent. There shall be attached to such certificate a statement executed by each affected limited partnership ratifying and approving such change of agent. Upon such filing, the successor agent shall become the agent of such limited partnerships as have ratified and approved such substitution and the successor agent's address, as stated in such certificate, shall become the address of each such limited partnership's office in this state. The Secretary of State shall furnish to the successor agent a copy of the certificate of resignation. Filing of the certificate of resignation shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby, and each such limited partnership shall not be required to take any further action to amend its certificate of limited partnership.

(d) The agent of one or more limited partnerships may resign without appointing a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State stating that the agent is resigning as agent for the limited partnerships identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to the certificate an affidavit of the agent, if an individual, or of the president, a vice president, or the secretary, if a corporation, or of the manager or a member, if a limited liability company, that, at least thirty days prior to the date of filing of the certificate, notice of the resignation of the agent was sent by certified or registered mail to each limited partnership for which the agent is resigning as agent at the principal office thereof within or outside this state if known to such agent or, if not, to the last-known address of the attorney or other individual at whose request the agent was appointed for such limited partnership. After receipt of the notice of the resignation of its agent, the limited partnership for

which the agent was acting shall obtain and designate a new agent to take the place of the agent so resigning. If the limited partnership fails to obtain and designate a new agent prior to the expiration of the period of one hundred twenty days after the filing of the certificate of resignation, the certificate of such limited partnership shall be deemed to be canceled.

Source Laws 1981, LB 272, § 4; Laws 1989, LB 482, § 9; Laws 1990, LB 1228, § 2; Laws 1993, LB 121, § 402; Laws 2008, LB383, § 1. July 18, 2008

67-237 Repealed. Laws 1989, LB 482, § 65.

67-237.01 Written partnership agreement; admission of limited partner; assignment of interest; signatures.

A written partnership agreement (1) may provide that a person shall be admitted as a limited partner of a limited partnership or become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned and shall become bound by the partnership agreement (i) if such person, or a representative authorized by such person orally, in writing, or by other action such as payment for a partnership interest, executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee or (ii) without such execution, if such person, or a representative authorized by such person orally, in writing, or by other action such as payment for a partnership interest, complies with the condition for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing and requests, orally, in writing, or by other action such as payment for a partnership interest, that the records of the limited partnership reflect such admission or assignment and (2) shall not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in this section or by reason of its having been signed by a representative as provided in this section.

Source Laws 1989, LB 482, § 10.

67-238 Nature of business.

A limited partnership may carry on any business that a partnership without limited partners may carry on, except for the purpose of banking or effecting insurance.

Source Laws 1981, LB 272, § 6.

67-239 Partner; transactions with partnership.

Except as provided in the partnership agreement, a partner may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or

assume one or more specific obligations of, provide collateral for, and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

Source Laws 1981, LB 272, § 7; Laws 1989, LB 482, § 11.

67-239.01 Partnership; indemnification authorized.

Subject to such standards and restrictions, if any, as are set forth in its partnership agreement, a limited partnership may indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever.

Source Laws 1989, LB 482, § 12.

67-240 Certificate of limited partnership; contents; filing.

(a) In order to form a limited partnership, all persons who initially will be the general partners shall execute a certificate of limited partnership. The certificate shall be filed in the office of the Secretary of State and set forth:

- (1) The name of the limited partnership;
- (2) The address of its office and the name and street address and post office box number, if any, of the agent for service of process required to be maintained by section 67-236;
- (3) The name and the business, residence, or mailing address of each general partner; and
- (4) Any other matters the partners determine to include therein.

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

Source Laws 1981, LB 272, § 8; Laws 1989, LB 482, § 13; Laws 2008, LB383, § 2. July 18, 2008

67-241 Amendments to certificate; restated certificate.

(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate of amendment shall be executed by any person who will be a general partner upon the effective date of the certificate of amendment and shall set forth:

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

(b) Within ninety days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed by any person who will be a general partner upon the effective date of the certificate of amendment and by each other general partner designated in the certificate of amendment as a new general partner:

(1) The admission of a new general partner;

(2) A general partner ceases to be a general partner as provided in section 67-255; or

(3) A change in the name of the limited partnership, a change in the address of its registered office, or a change in the name or street address or post office box number, if any, of the registered agent for service of process required to be maintained by section 67-236 which is not reflected in a certificate filed pursuant to section 67-236.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any matter described has changed, making the certificate false in any respect, shall promptly amend the certificate.

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

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

(f) A certificate of amendment shall be effective at the time of its filing with the Secretary of State or at any later time specified in the certificate of amendment if, in either case, there has been substantial compliance with the requirements of this section.

(g) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.

(h) If after the dissolution of a limited partnership but prior to the filing of a certificate of cancellation as provided in section 67-242:

(1) A certificate of limited partnership has been amended to reflect the withdrawal of all general partners of a limited partnership, the certificate of limited partnership shall be amended to set forth the name and the business, residence, or mailing address of each person winding up the limited partnership affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment; or

(2) A person shown on a certificate of limited partnership as a general partner is not winding up the limited partnership's affairs, the certificate of limited partnership shall be amended to add the name and the business, residence, or mailing address of each person winding up the limited partnership's affairs, each of

whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment.

Source Laws 1981, LB 272, § 9; Laws 1989, LB 482, § 14; Laws 2008, LB383, § 3. July 18, 2008

67-242 Cancellation of certificate.

A certificate of limited partnership shall be canceled upon the dissolution and the completion of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation (1) shall be executed by all general partners or, if the general partners are not winding up the limited partnership's affairs, then by all liquidating trustees, except that if the limited partners are winding up the limited partnership's affairs, a certificate of cancellation shall be signed by a majority of the limited partners, (2) shall be filed in the office of the Secretary of State, and (3) shall set forth:

- (i) The name of the limited partnership;
- (ii) The date of filing of its certificate of limited partnership;
- (iii) The reason for filing the certificate of cancellation;
- (iv) The effective date, which shall be a date certain, of cancellation if it is not to be effective upon the filing of the certificate; and
- (v) Any other information the persons filing the certificate determine.

Source Laws 1981, LB 272, § 10; Laws 1989, LB 482, § 15; Laws 1990, LB 1228, § 3.

67-243 Certificates; signature; execution.

(a) Any person may sign any certificate required by sections 67-240 to 67-248 to be filed in the office of the Secretary of State, a partnership agreement, or an amendment thereof by an attorney in fact. Powers of attorney relating to the signing of a certificate, partnership agreement, or amendment thereof by an attorney in fact need not be sworn to, verified, or acknowledged and need not be filed in the office of the Secretary of State but shall be retained by the person or persons exercising such powers of attorney.

(b) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that, to the best of the general partner's knowledge and belief, the facts stated in the certificate are true.

Source Laws 1981, LB 272, § 11; Laws 1982, LB 589, § 2; Laws 1989, LB 482, § 16.

67-244 Certificate or agreement; execution or filing by judicial act.

(a) If a person required by sections 67-240 to 67-243 to execute or file any certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the district court to direct the execution or filing

of the certificate. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute or file the certificate, it shall order the Secretary of State to execute and record an appropriate certificate.

(b) If a person required to execute a partnership agreement or amendment of an agreement fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the district court to direct the execution of the partnership agreement or amendment of the agreement. If the court finds that the partnership agreement or amendment should be executed and that any person so designated has failed or refused to do so, it shall enter an order granting appropriate relief.

Source Laws 1981, LB 272, § 12; Laws 1989, LB 482, § 17.

67-245 Filing in office of Secretary of State; facsimile signature.

(a) Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation, of any restated certificates of limited partnership, or of any judicial decree of amendment or cancellation shall be delivered to the Secretary of State. A person who executes a certificate as an agent, attorney in fact, 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 required by law he or she shall:

(1) Certify that the certificate of limited partnership, the certificate of amendment, the restated certificate of limited partnership, or the certificate of cancellation or any judicial decree of amendment or cancellation has been filed in his or her office by endorsing upon both duplicate originals the word Filed and the date of the filing. This endorsement shall be conclusive of the date of its filing in the absence of proof of actual fraud;

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

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

(b) Upon the later of the filing of a certificate of amendment or judicial decree of amendment in the office of the Secretary of State or the future effective date of a certificate of amendment or judicial decree of amendment, the certificate of limited partnership shall be amended as set forth in such certificate or decree, and upon the later of the filing of a certificate of cancellation or judicial decree of cancellation or upon the future effective date of a certificate of cancellation or a judicial decree of cancellation, the certificate of limited partnership shall be canceled.

(c) A fee as set forth in section 67-293 shall be paid at the time of the filing of a certificate of limited partnership, a certificate of amendment, or a certificate of cancellation.

(d) Any signature on any certificate authorized to be filed with the Secretary of State under any provision of the Nebraska Uniform Limited Partnership Act may be a facsimile.

Source Laws 1981, LB 272, § 13; Laws 1989, LB 482, § 18; Laws 1990, LB 1228, § 4.

67-246 Liability for false statement in certificate; general partner; failure to file; liability.

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

(1) Any general partner who knew or should have known the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows that any arrangement or other fact described in the certificate is false in any material respect or has changed, making the statement false in any material respect, if the general partner had sufficient time to cancel or amend the certificate or to file a petition for its cancellation or amendment under section 67-244 before the statement was reasonably relied upon.

(b) No general partner shall have any liability for failing to cause the amendment or cancellation of a certificate to be filed or for failing to file a petition for its amendment or cancellation pursuant to subsection (a) of this section if the certificate of amendment, certificate of cancellation, or petition is filed within ninety days of the day when such general partner knew or should have known, to the extent provided in subsection (a) of this section, that the statement in the certificate was false in any material respect.

Source Laws 1981, LB 272, § 14; Laws 1989, LB 482, § 19.

67-247 Filing of certificate; effect.

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 is notice of all other facts set forth in the certificate which are required to be set forth in a certificate of limited partnership by section 67-240 and subsection (h) of section 67-241, but it is not notice of any other fact.

Source Laws 1981, LB 272, § 15; Laws 1989, LB 482, § 20.

67-248 Delivery of certificate to limited partner.

Upon the return by the Secretary of State pursuant to section 67-245 of a certificate marked filed, the general partners shall promptly deliver or mail a copy of the certificate to each limited partner if the partnership agreement so requires.

Source Laws 1981, LB 272, § 16; Laws 1989, LB 482, § 21.

67-248.01 Restated certificate.

(a) A limited partnership may, whenever desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect as a result of there having been filed with the Secretary of State one or more certificates or other instruments pursuant to sections 67-236 and 67-240 to 67-248, and it may at the same time further amend its certificate of limited partnership by adopting a restated certificate of limited partnership.

(b) If the restated certificate of limited partnership merely restates and integrates but does not further amend the initial certificate of limited partnership as amended or supplemented pursuant to sections 67-236 and 67-240 to 67-248, it shall be specifically designated in its heading as a Restated Certificate of Limited Partnership together with such other words as the partnership may deem appropriate and shall be executed as provided in section 67-241 and filed with the Secretary of State as provided in section 67-245. If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership as amended or supplemented, it shall be specifically designated in its heading as an Amended and Restated Certificate of Limited Partnership together with such other words as the partnership may deem appropriate and shall be executed by at least one general partner and by each other general partner designated in the amended and restated certificate of limited partnership as a new general partner and filed as provided in section 67-245.

(c) A restated certificate of limited partnership shall state, either in its heading or in an introductory paragraph, the limited partnership's present name, the name under which it was originally filed if it has been changed, the date of filing of its original certificate of limited partnership with the Secretary of State, and the future effective date, which shall be a date certain, of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If it only restates and integrates and does not further amend the certificate of limited partnership as amended or supplemented and if there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(d) Upon the filing of the restated certificate of limited partnership with the Secretary of State or upon the future effective date of a restated certificate of limited partnership as provided for in the certificate, the initial certificate of limited partnership as amended or supplemented shall be superseded. The restated certificate of limited partnership, including any further amendments or changes made thereby, shall be the certificate of limited partnership of the limited partnership, but the original effective date of formation shall remain unchanged.

(e) Any amendment or change effected in connection with the restatement and integration of the certificate of limited partnership shall be subject to any other provision of the Nebraska Uniform Limited Partnership Act which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Source Laws 1989, LB 482, § 22; Laws 1990, LB 1228, § 5.

67-248.02 Merger or consolidation; domestic or foreign partnerships, limited partnerships, limited liability companies, or corporations; procedure.

(a) One or more domestic or foreign partnerships or limited partnerships may merge or consolidate with one or more domestic or foreign partnerships or limited partnerships. Sections 67-446 to 67-453 shall govern the merger or consolidation.

(b) Pursuant to an agreement, one or more domestic or foreign limited partnerships, limited liability companies, or corporations may merge into or consolidate with one or more domestic or foreign limited partnerships, limited liability companies, or corporations. If the resulting entity is a domestic corporation, the Business Corporation Act shall govern the merger or consolidation. If the surviving or resulting entity is a corporation, the merger or consolidation shall be subject to sections 21-20,128 to 21-20,134. If the surviving or resulting entity is not a domestic corporation or a limited liability company, the board of directors of each domestic corporation party to such merger or consolidation shall, by resolution adopted by each such board, approve a plan of merger or plan of consolidation setting forth information substantially similar to that required by sections 21-20,128 to 21-20,134. If the surviving or resulting entity is a limited liability company, the Limited Liability Company Act shall govern the merger or consolidation. Unless otherwise provided in the partnership agreement, a plan of merger or plan of consolidation shall be approved by each domestic limited partnership which is to merge or consolidate (1) by all general partners and (2) by limited partners or, if there is more than one class or group of limited partners, then by limited partners of each class or group of limited partners, in either case, who own more than fifty percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. Notwithstanding prior approval, an agreement or plan of merger or agreement or plan of consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement or plan of merger or agreement or plan of consolidation.

(c) If the surviving or resulting entity of a merger or consolidation pursuant to subsection (b) of this section is not a domestic limited partnership, limited liability company, or corporation following a merger or consolidation of one or more

domestic limited partnerships, limited liability companies, or corporations and one or more foreign limited partnerships, limited liability companies, or corporations, the surviving or resulting entity shall comply with sections 21-20,128 to 21-20,134 and, for each such domestic limited partnership, a certificate shall be executed and filed in the office of the Secretary of State by the surviving or resulting limited partnership, limited liability company, or corporation stating that the surviving or resulting limited partnership, limited liability company, or corporation agrees that it may be served with process within or outside this state in any proceeding in the courts of this state for the enforcement of any obligation of such former domestic limited partnership.

(d) A merger or consolidation pursuant to subsection (b) of this section to which a domestic corporation is a party shall become effective as provided in sections 21-20,128 to 21-20,134. A merger or consolidation to which a domestic limited liability company is a party shall become effective as provided in sections 21-2647 to 21-2653. Any other merger or consolidation provided for in the Nebraska Uniform Limited Partnership Act shall become effective as provided in the agreement or plan of merger or consolidation. When such merger or consolidation has become effective, the terms of sections 21-20,128 to 21-20,134 shall apply if the surviving or resulting entity is a corporation, the terms of section 21-2651 shall apply if the surviving or resulting entity is a limited liability company, and the following provisions shall apply if the surviving or resulting entity is a limited partnership:

(1) The several limited partnerships, limited liability companies, or corporations which are parties to the merger or consolidation agreement shall be a single limited partnership which, in the case of a merger, shall be that limited partnership designated in the merger agreement as the surviving limited partnership and, in the case of a consolidation, shall be the new limited partnership provided for in the consolidation agreement;

(2) The separate existence of all limited partnerships, limited liability companies, and corporations which are parties to the merger or consolidation agreement, except the surviving or new limited partnership, shall cease;

(3) If the surviving or new limited partnership is a domestic limited partnership, it shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a limited partnership organized under the Nebraska Uniform Limited Partnership Act;

(4) The surviving or new limited partnership shall possess all the rights, privileges, immunities, and powers, of a public as well as of a private nature, of each of the merging or consolidating limited partnerships and, subject to the Nebraska Uniform Limited Partnership Act, each of the merging or consolidating corporations. All property, real, personal, and mixed, all debts due on whatever

account, all other things and causes of actions, and all and every other interest belonging to or due to any of the limited partnerships, limited liability companies, and corporations as merged or consolidated shall be taken and deemed to be transferred to and vested in the surviving or new limited partnership without further act and deed and shall thereafter be the property of the surviving or new limited partnership as they were of any of such merging or consolidating entities. The title to any real property or any interest in such property vested in any of such merging or consolidating entities shall not revert or be in any way impaired by reason of such merger or consolidation;

(5) Such surviving or new limited partnership shall be responsible and liable for all the liabilities and obligations of each of the limited partnerships, limited liability companies, or corporations so merged or consolidated. Any claim existing or action or proceeding pending by or against any of such limited partnerships, limited liability companies, or corporations may be prosecuted as if such merger or consolidation had not taken place or such surviving or new limited partnership may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such limited partnerships, limited liability companies, or corporations shall be impaired by such merger or consolidation; and

(6) The equity securities of the corporation or corporations, limited liability company or companies, and limited partnership or limited partnerships party to the merger or consolidation that are, under the terms of the merger or consolidation, to be converted or exchanged shall cease to exist, and the holders of such equity securities shall thereafter be entitled only to the cash, property, or securities into which they shall have been converted in accordance with the terms of the merger or consolidation, subject to any rights under sections 21-20,137 to 21-20,150 or the Limited Liability Company Act.

Source Laws 1989, LB 482, § 23; Laws 1990, LB 1228, § 6; Laws 1994, LB 884, § 84; Laws 1995, LB 109, § 227; Laws 1997, LB 523, § 69.

Cross Reference

Business Corporation Act, see section 21-2001.
Limited Liability Company Act, see section 21-2601.

67-249 Admission of additional limited partners.

(a) In connection with the formation of a limited partnership, a person acquiring a partnership interest as a limited partner is admitted as a limited partner of the limited partnership on the later to occur of:

(1) The date the original certificate of limited partnership is filed; or

(2) The time provided in the partnership agreement or, if no such time is provided in the agreement, when the person's admission is reflected in the records of the limited partnership.

(b) After the formation of a limited partnership, a person may be admitted as an additional limited partner:

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

(2) In the case of an assignee of a partnership interest, as provided in section 67-274.

Source Laws 1981, LB 272, § 17; Laws 1989, LB 482, § 24.

67-250 Partnership agreement; classes or groups of limited partners; voting rights specified.

(a) A partnership agreement may provide for classes or groups of limited partners having such relative rights, powers, and duties as provided in the partnership agreement and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of limited partners having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes or groups of limited partners. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any limited partner or class or group of limited partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

(b) Subject to section 67-251, the partnership agreement may grant to all or a specified class or group of the limited partners the right to vote on a per capita or other basis separately or with all or any class or group of the limited partners or the general partners upon any matter.

(c) A partnership agreement which grants a right to vote to any class or group of limited partners may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any limited partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

Source Laws 1981, LB 272, § 18; Laws 1989, LB 482, § 25.

67-251 Limited partner; liability to third parties.

(a) Except as provided in subsection (d) of this section, 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 participates in the control of the business. However, if the limited partner participates in the control of the business, 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 reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner. An assignee of a partnership interest who is not admitted as an additional limited partner shall not be liable for the obligations of a limited partnership.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section solely by virtue of possessing or exercising one or more of the following powers:

(1) The power to be an independent contractor for or to transact business with the limited partnership, including the power to be a contractor for or an agent or employee of the limited partnership or of a general partner, or to be an officer, director, or equity security holder of a general partner which is a corporation, or to be a contractor for or an agent, employee, or member of a general partner which is a limited liability company, or to be an officer, partner, or equity security holder of a general partner which is a partnership, or to be a fiduciary or beneficiary of an estate or trust which is a general partner, or any combination of these roles, whether solely or jointly with others and irrespective of whether that general partner is the sole general partner of the limited partnership or is a general partner of one or more limited partnerships;

(2) The power to consult with and advise a general partner with respect to any matter concerning the business of the limited partnership;

(3) The power to act as surety, guarantor, or endorser for the limited partnership or a general partner, to guaranty or assume one or more specific obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership;

(4) The power to propose, approve, or disapprove by voting, by number, financial interest, class, or group or as otherwise provided in the partnership agreement, or otherwise vote on one or more of the following matters:

(i) The dissolution and winding up of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) The sale, exchange, lease, mortgage, assignment, pledge, or other transfer of or granting a security interest in any asset or assets of the limited partnership;

(iii) The incurrence, renewal, refinancing, or payment or other discharge of indebtedness by the limited partnership;

(iv) A change in the nature of the business;

(v) The removal, admission, or retention of a general partner;

- (vi) The removal, admission, or retention of a limited partner;
 - (vii) A transaction or other matter involving an actual or potential conflict of interest;
 - (viii) An amendment to the partnership agreement or certificate of limited partnership;
 - (ix) The merger or consolidation of a limited partnership;
 - (x) In respect of a limited partnership which is registered as an investment company under the federal Investment Company Act of 1940, as amended, any matter required by the federal Investment Company Act of 1940, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder, to be approved by the holders of beneficial interests in an investment company, including the electing of directors or trustees of the investment company, the approving or terminating of investment advisory or underwriting contracts, and the approving of auditors;
 - (xi) The indemnification of any partner or other person; or
 - (xii) Such other matters as are stated in the partnership agreement or in any other agreement or writing as being subject to the approval or disapproval of limited partners;
- (5) The power to call, request, attend, or participate at a meeting of the partners or the limited partners;
- (6) The power to wind up a limited partnership pursuant to section 67-278;
- (7) The power to take any action required or permitted by law to bring, pursue, settle, or otherwise terminate a derivative action in the right of the limited partnership;
- (8) The power to serve on a committee of the limited partnership or the limited partners; or
- (9) The power to exercise any right or power granted or permitted to limited partners under the Nebraska Uniform Limited Partnership Act and not specifically enumerated in this subsection.
- (c) The enumeration in subsection (b) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him or her in the control of the business of the limited partnership.
- (d) A limited partner who knowingly permits his or her name to be used in the name of the limited partnership, except under circumstances permitted by subdivision (2) of section 67-234, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.
- (e) This section shall not create any rights or powers of limited partners. Such rights and powers may be created only by a certificate of limited partnership, a

partnership agreement, or any other agreement or writing or by the Nebraska Uniform Limited Partnership Act.

Source Laws 1981, LB 272, § 19; Laws 1982, LB 589, § 3; Laws 1989, LB 482, § 26; Laws 1993, LB 121, § 403; Laws 1994, LB 884, § 85.

67-252 Persons erroneously believing themselves limited partners; liability.

(a) Except as provided in subsection (b) of this section, 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 within a reasonable time, not less than thirty days, after ascertaining the mistake he or she:

- (1) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or
- (2) Takes the necessary action to withdraw from the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) of this section is liable as a general partner to any third party who transacts business with the enterprise prior to the occurrence of either of the events referred to in such subsection if (1) such person knew or should have known either that no certificate has been filed or that the certificate inaccurately refers to him or her as a general partner and (2) the third party actually believed in good faith that such person was a general partner at the time of the transaction, acted in reasonable reliance on such belief, and extended credit to the enterprise in reasonable reliance on the credit of such person.

Source Laws 1981, LB 272, § 20; Laws 1989, LB 482, § 27.

67-253 Limited partner; rights; general partner; rights; records.

(a) Each limited partner has the right, subject to such reasonable conditions, including conditions governing what information and documents are to be furnished, at what time and location, and at whose expense, as may be set forth in the limited partnership agreement or otherwise established by the general partners, to obtain from the general partners from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner (1) true and full information regarding the status of the business and financial condition of the limited partnership, (2) promptly after becoming available, a copy of the limited partnership's federal, state, and local income tax returns for each year, (3) a current list of the full name and last-known business, residence, or mailing address of each partner, (4) a copy of the partnership agreement and certificate of limited partnership and all certificates of amendment thereto and

executed copies of any powers of attorney pursuant to which the partnership agreement and any certificate and all amendments thereto have been executed to the extent such powers of attorney are in the possession of one or more of the general partners, (5) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each partner and which each partner has agreed to contribute in the future and the date on which each became a partner, and (6) other information regarding the affairs of the limited partnership as is just and reasonable.

(b) A general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner in good faith believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

Source Laws 1981, LB 272, § 21; Laws 1982, LB 589, § 4; Laws 1989, LB 482, § 28.

67-254 Admission of additional general partners.

After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in the partnership agreement or, if the partnership agreement does not provide for the admission of additional general partners, with the written consent of all partners.

Source Laws 1981, LB 272, § 22; Laws 1982, LB 589, § 5; Laws 1989, LB 482, § 29.

67-255 General partner; status; termination; when.

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

- (1) The general partner withdraws from the limited partnership as provided in section 67-264;
- (2) The general partner ceases to be a general partner of the limited partnership as provided in section 67-272;
- (3) The general partner is removed as a general partner in accordance with the partnership agreement;

- (4) Unless otherwise provided in the partnership agreement, the general partner: (i) Makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent or has an order for relief in any bankruptcy or insolvency proceeding entered against the general partner; (iv) files a petition or answer seeking for the general partner any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, rule, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the general partner in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties;
- (5) Unless otherwise provided in the partnership agreement, one hundred twenty days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, rule, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties, the appointment is not vacated or stayed or, within ninety days after the expiration of any such stay, the appointment is not vacated;
- (6) In the case of a general partner who is a natural person:
- (i) His or her death; or
 - (ii) The entry of an order by a court of competent jurisdiction adjudicating him or her incompetent to manage his or her person or his or her estate;
- (7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;
- (8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;
- (9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter and the expiration of ninety days after the date of notice to the corporation of revocation without a reinstatement of its charter;
- (10) In the case of a general partner that is a limited liability company, the filing of the articles of dissolution, or its equivalent, for the limited liability company or the forfeiture of its certificate and the expiration of one year after notice of forfeiture without revival and reinstatement; or
- (11) In the case of a general partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Source Laws 1981, LB 272, § 23; Laws 1989, LB 482, § 30; Laws 1993, LB 121, § 404.

67-256 General partners; powers and liabilities.

(a) Except as otherwise provided in the Nebraska Uniform Limited Partnership Act or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(b) Except as otherwise provided in the Nebraska Uniform Limited Partnership Act, 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. Except as otherwise provided in the act 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.

Source Laws 1981, LB 272, § 24; Laws 1989, LB 482, § 31.

67-257 Contributions by a general partner; powers and liabilities.

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

Source Laws 1981, LB 272, § 25; Laws 1989, LB 482, § 32.

67-258 Partnership agreement; classes or groups of general partners; voting rights specified.

(a) A partnership agreement may provide for classes or groups of general partners having such relative rights, powers, and duties as provided in the partnership agreement and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of general partners having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes or groups of general partners. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or class or group of general partners, including

an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

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

(c) A partnership agreement which grants a right to vote to any class or group of general partners may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any general partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

Source Laws 1981, LB 272, § 26; Laws 1989, LB 482, § 33.

67-259 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.

Source Laws 1981, LB 272, § 27.

67-260 Liability for contributions.

(a) Except as provided in the partnership agreement, 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 agreed value, as stated in the records of the limited partnership, of the contribution that has not been made. Such option shall be in addition to and not in lieu of any other rights, including the right to specific performance, that the limited partnership may have against such partner under the partnership agreement or applicable law.

(b) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of the Nebraska Uniform Limited Partnership Act 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 entering into of the partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation to the extent

that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of the act.

(c) A partnership agreement may provide that the interest of any partner who fails to make any contribution that he or she is obligated to make shall be subject to specified penalties for or specified consequences of such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting partner's proportionate interest in the limited partnership, subordinating his or her partnership interest to that of nondefaulting partners, a forced sale of his or her partnership interest, forfeiture of his or her partnership interest, the lending by other partners of the amount necessary to meet his or her commitment, a fixing of the value of his or her partnership interest by appraisal or by formula and redemption or sale of his or her partnership interest at such value, or any other penalty or consequence.

(d) A promise by a limited partner to contribute to the limited partnership is not enforceable unless set out in a writing signed by the limited partner. A conditional obligation of a partner to make a contribution or return money or other property to a limited partnership may not be enforced unless the conditions to the obligation have been satisfied or waived as to or by such partner. Conditional obligations include contributions payable upon a discretionary call of a limited partnership or a general partner prior to the time the call occurs.

Source Laws 1981, LB 272, § 28; Laws 1989, LB 482, § 34.

67-261 Profits and losses; allocation.

The profits and losses of a limited partnership shall be allocated among the partners, and among classes or groups 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 agreed value, as stated in the records of the limited partnership, of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

Source Laws 1981, LB 272, § 29; Laws 1989, LB 482, § 35.

67-262 Distributions of assets.

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes or groups 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 agreed value, as stated in the records of the limited partnership, of the contributions made by each partner to

the extent they have been received by the limited partnership and have not been returned.

Source Laws 1981, LB 272, § 30; Laws 1989, LB 482, § 36.

67-263 Distributions before withdrawal and dissolution.

Except as otherwise provided in sections 67-263 to 67-270, a partner is entitled to receive distributions from a limited partnership before his or her withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.

Source Laws 1981, LB 272, § 31; Laws 1989, LB 482, § 37.

67-264 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, including to the extent stated in the partnership agreement a forfeiture of the withdrawing general partner's partnership interest, and may offset the damages against the amount otherwise distributable to him or her in addition to any remedies available under applicable law.

Source Laws 1981, LB 272, § 32; Laws 1989, LB 482, § 38.

67-265 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 partnership agreement and in accordance with the partnership agreement. A partnership agreement may provide that a limited partner may not withdraw from a limited partnership or assign a partnership interest in a limited partnership prior to the dissolution and winding up of the limited partnership. If the partnership agreement does not specify the time or the events upon the happening of which a limited partner may or may not withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at his or her address as set forth in the certificate of limited partnership filed in the office of the Secretary of State.

Source Laws 1981, LB 272, § 33; Laws 1989, LB 482, § 39.

67-266 Distribution upon withdrawal.

Except as provided in sections 67-263 to 67-270, upon 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.

Source Laws 1981, LB 272, § 34.

67-267 Distribution in kind; limitation.

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

Source Laws 1981, LB 272, § 35; Laws 1989, LB 482, § 40.

67-268 Right to distribution; remedies; record date.

At the time a partner becomes 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. A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited partnership.

Source Laws 1981, LB 272, § 36; Laws 1989, LB 482, § 41.

67-269 Limitations on distributions.

A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specific property of the limited partnership, exceed the fair value of the partnership assets, except that the fair value of property that is subject to a liability for which recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

Source Laws 1981, LB 272, § 37; Laws 1989, LB 482, § 42.

67-270 Unlawful distribution; liability.

(a) A limited partner who receives a distribution in violation of section 67-269 and who knew at the time of the distribution that the distribution violated such section shall be liable to the limited partnership for the amount of the distribution. A limited partner who receives a distribution in violation of such section and who did not know at the time of the distribution that the distribution violated such section shall not be liable for the amount of the distribution. Subject to subsection (b) of this section, this subsection shall not affect any obligation or liability of a limited partner under a partnership agreement or other applicable law for the amount of a distribution.

(b) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership shall have no liability under the Nebraska Uniform Limited Partnership Act or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution.

Source Laws 1981, LB 272, § 38; Laws 1989, LB 482, § 43.

67-271 Partnership interest; personal property; interest in property.

A partnership interest is personal property. A partner has no interest in specific limited partnership property.

Source Laws 1981, LB 272, § 39; Laws 1989, LB 482, § 44.

67-272 Assignment of partnership interest.

(a) Except as provided in the partnership agreement: (1) A partnership interest is assignable in whole or in part; (2) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights or powers of a partner; (3) an assignment entitles the assignee to share in such profits and losses and to receive such distribution or distributions and such allocation of income, gain, loss, deduction, credit, or similar item to which the assignor would be entitled to the extent assigned; and (4) a partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all his or her partnership interest and the admission of the assignee to the partnership in accordance with section 67-274.

(b) The partnership agreement may provide that a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership and may also provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates.

(c) Unless otherwise provided in a partnership agreement and except to the extent assumed by agreement, until an assignee of a partnership interest becomes a partner, the assignee shall have no liability as a partner solely as a result of the assignment.

Source Laws 1981, LB 272, § 40; Laws 1989, LB 482, § 45.

67-273 Rights of judgment creditor of a partner.

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. The Nebraska Uniform Limited Partnership Act does not deprive any partner of the benefit of any exemption laws applicable to his or her partnership interest.

Source Laws 1981, LB 272, § 41; Laws 1989, LB 482, § 46.

67-274 Assignee becoming limited partner; rights and liabilities.

(a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the partnership agreement so provides or (2) all other partners consent. An assignee of a partnership interest becomes a limited partner at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when all other partners consent to such person's admission as a limited partner and such person's admission as a limited partner is reflected in the records of the limited partnership.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and the Nebraska Uniform Limited Partnership Act. An assignee who becomes a limited partner also is liable for the obligations of his or her assignor to make contributions as provided in section 67-260 but is not liable for the obligations of his or her assignor under section 67-270. However, 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 partnership agreement.

(c) Whether or not 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 section 67-260 unless otherwise provided in the partnership agreement.

Source Laws 1981, LB 272, § 42; Laws 1989, LB 482, § 47.

67-275 Partner's executor or legal representative; exercise of powers.

If a partner who is an individual dies or a court of competent jurisdiction adjudges him or her to be incompetent to manage his or her person or his or her property, the partner's executor, administrator, guardian, conservator, personal representative, or other legal representative may exercise all 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, limited liability company, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

Source Laws 1981, LB 272, § 43; Laws 1993, LB 121, § 405.

67-276 Dissolution; when.

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

- (1) At the time or upon the happening of events specified in the partnership agreement;
- (2) Written consent to dissolution 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 partnership agreement 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 (i) all partners have previously consented in the partnership agreement or otherwise to have a specific person designated as a general partner or (ii) within one hundred eighty days after the withdrawal, all partners other than the withdrawn general partner agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or
- (4) Entry of a decree of judicial dissolution under section 67-277.

Source Laws 1981, LB 272, § 44; Laws 1989, LB 482, § 48.

67-277 Judicial dissolution.

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

Source Laws 1981, LB 272, § 45.

67-278 Dissolution; right to wind up partnership affairs; powers.

(a) Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners or a

person approved by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, but in either case, by limited partners who own more than fifty percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group as appropriate, may wind up the limited partnership's affairs; but the district court may wind up the limited partnership's affairs upon application of any partner or his or her legal representative or assignee and in connection with winding up such affairs may appoint a liquidating trustee.

(b) Upon dissolution of a limited partnership and until the filing of a certificate of cancellation as provided in section 67-242, the persons winding up the limited partnership's affairs may, in the name of and for and on behalf of the limited partnership, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited partnership's business, dispose of and convey the limited partnership's property, discharge the limited partnership's liabilities, and distribute to the partners any remaining assets of the limited partnership, all without affecting the liability of the limited partners.

Source Laws 1981, LB 272, § 46; Laws 1989, LB 482, § 49.

67-279 Dissolution; distribution of assets.

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

(1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership, whether by payment or by the making of reasonable provision for payment thereof, other than liabilities for distributions to partners under section 67-263 or 67-266;

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 67-263 or 67-266; and

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

(b) A limited partnership which has dissolved shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims and obligations, known to the limited partnership and all claims and obligations which are known to the limited partnership but for which the identity of the claimant is unknown. If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims and obligations

of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in a partnership agreement, any remaining assets shall be distributed as provided in the Nebraska Uniform Limited Partnership Act. Any liquidating trustee winding up a limited partnership's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited partnership by reason of such person's actions in winding up the limited partnership.

Source Laws 1981, LB 272, § 47; Laws 1989, LB 482, § 50.

67-280 Foreign limited partnership; law governing.

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

Source Laws 1981, LB 272, § 48; Laws 1989, LB 482, § 51.

67-281 Foreign limited partnership; registration; contents.

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

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;
- (2) The state or country and date of its formation;
- (3) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under subdivision (4) of this subsection, if an agent has been appointed but the agent's authority has been revoked, or if an agent has been appointed but cannot be found or served with the exercise of reasonable diligence;
- (4) The name and street address and post office box number, if any, of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint. The agent must be an individual resident of this state, a domestic corporation, a foreign corporation having a place of business in and authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company having a place of business in and authorized to do business in this state;

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

(6) The name and business, residence, or mailing address of each of the general partners.

(b) A foreign limited partnership or a partnership, limited liability company, or corporation formed or organized under the laws of any foreign country or other foreign jurisdiction or the laws of any state other than this state shall not be deemed to be doing business in this state solely by reason of its being a partner in a domestic limited partnership.

Source Laws 1981, LB 272, § 49; Laws 1983, LB 447, § 80; Laws 1989, LB 482, § 52; Laws 1993, LB 121, § 406; Laws 2008, LB383, § 4. July 18, 2008

67-282 Issuance of registration.

(a) 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:

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

(2) File in his or her office a duplicate original of the application; and

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

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

Source Laws 1981, LB 272, § 50.

67-283 Foreign limited partnership; name; agent.

(a) A foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state or country of organization, that includes the words limited partnership or limited or the abbreviations L.P. or Ltd. and that could be registered by a domestic limited partnership. A foreign limited partnership may register under any name which is deceptively similar to, upon the records in the office of the Secretary of State, the name of any domestic or foreign corporation, limited liability company, or limited partnership reserved, registered, or organized under the laws of this state with the consent of the other corporation, limited liability company, or limited partnership or with the transfer of such name by the other corporation, limited liability company, or limited partnership, which written consent or transfer shall be filed with the Secretary of State.

(b) Each foreign limited partnership shall have and maintain in this state an agent for service of process on the limited partnership, which agent may be either an

individual resident of this state, a domestic corporation, a foreign corporation authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state. The appointment of the Secretary of State as agent for service of process pursuant to subdivision (a)(3) of section 67-281 shall not relieve a foreign limited partnership from its obligations pursuant to this section or from the consequences of failure to discharge its obligations under this section.

(c) An agent may change his, her, or its street address and post office box number, if any, for service of process to another street address and post office box number, if any, in this state by paying a fee as set forth in section 67-293 and filing with the Secretary of State a certificate, executed by the agent, setting forth the names of the foreign limited partnerships represented by the agent, the street address and post office box number, if any, at which such agent has maintained his, her, or its office as agent for each of such foreign limited partnerships, and the new street address and post office box number, if any, to which his, her, or its office will be changed on a given day, at which new street address and post office box number, if any, the agent will thereafter maintain his, her, or its office as agent for each of the foreign limited partnerships recited in the certificate. Upon the filing of the certificate, the Secretary of State shall furnish to the agent a copy of the same, and thereafter or until further change of street address or post office box number, if any, as authorized by law, the office of the agent in this state for each of the foreign limited partnerships recited in the certificate shall be located at the new street address and post office box number, if any. Filing of the certificate shall be deemed to be an amendment of the registration of each foreign limited partnership affected thereby, and each such foreign limited partnership shall not be required to take any further action to amend its registration. Any agent filing a certificate under this section shall promptly, upon filing, deliver a copy of such certificate to each foreign limited partnership affected thereby.

(d) The agent of one or more foreign limited partnerships may resign and appoint a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State, stating that the agent is resigning and the name and street address and post office box number, if any, of the successor agent. There shall be attached to such certificate a statement executed by each affected foreign limited partnership ratifying and approving such change of agent. Upon such filing, the successor agent shall become the agent of such foreign limited partnerships as have ratified and approved such substitution. The Secretary of State shall furnish to the successor agent a copy of the certificate of resignation. Filing of the certificate of resignation shall be deemed to be an amendment of the registration of each foreign limited partnership affected thereby, and each such

foreign limited partnership shall not be required to take any further action to amend its registration.

(e) The agent of one or more foreign limited partnerships may resign without appointing a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State stating that the agent is resigning as agent for the foreign limited partnerships identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to such certificate an affidavit of such agent, if an individual, or of the president, a vice president, or the secretary, if a corporation, or of the manager or a member, if a limited liability company, that, at least thirty days prior to the date of filing of the certificate, notice of the resignation of such agent was sent, by certified or registered mail, to each foreign limited partnership for which such agent is resigning as agent, at the principal office thereof within or outside this state if known to such agent or, if not, to the last-known address of the attorney or other individual at whose request such agent was appointed for such foreign limited partnership. After receipt of the notice of the resignation of its agent, the foreign limited partnership for which such agent was acting shall obtain and designate a new agent to take the place of the agent so resigning. If such foreign limited partnership fails to obtain and designate a new agent prior to the expiration of the period of one hundred twenty days after the filing of the certificate of resignation, such foreign limited partnership shall not be permitted to do business in this state and its registration shall be deemed to be canceled.

Source Laws 1981, LB 272, § 51; Laws 1989, LB 482, § 53; Laws 1990, LB 1228, § 7; Laws 1993, LB 121, § 407; Laws 2003, LB 464, § 8; Laws 2008, LB383, § 5. July 18, 2008

67-284 Application for registration; 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 false in any respect, the foreign limited partnership shall promptly file in the office of the Secretary of State a certificate, signed and sworn to by a general partner, correcting such statement.

Source Laws 1981, LB 272, § 52; Laws 1989, LB 482, § 54.

67-285 Cancellation of registration; effect.

A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed and sworn to by a general partner together with a fee as set forth in section 67-293. A cancellation does not terminate the authority of the Secretary of State to accept service of process for the

foreign limited partnership with respect to causes of action arising out of the transaction of business in this state.

Source Laws 1981, LB 272, § 53; Laws 1983, LB 447, § 81; Laws 1989, LB 482, § 55.

67-286 Transaction of business without registration; effect.

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

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

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

(d) Transaction of business in this state without registration by a foreign limited partnership shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the partnership in any action arising out of its activity in this state.

Source Laws 1981, LB 272, § 54; Laws 1983, LB 447, § 82; Laws 1989, LB 482, § 56.

67-286.01 Foreign limited partnerships; sections applicable.

Sections 67-243 and 67-246 shall be applicable to foreign limited partnerships as if they were domestic limited partnerships.

Source Laws 1989, LB 482, § 57.

67-287 Action by Attorney General.

The Attorney General may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of sections 67-280 to 67-286.

Source Laws 1981, LB 272, § 55.

67-288 Limited partner; assignee; right of action.

A limited partner or an assignee of a limited partner may bring an action in the name 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.

Source Laws 1981, LB 272, § 56; Laws 1989, LB 482, § 58.

67-289 Derivative action; proper plaintiff.

In a derivative action, the plaintiff must be a partner or an assignee of a partner at the time of bringing the action and (1) must have been a partner at the time of the transaction of which he or she complains, (2) his or her status as a partner must have devolved upon him or her by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction, or (3) his or her status as an assignee of a partner must have devolved upon him or her pursuant to the terms of the assignment from a person who was a partner or an assignee of a partner at the time of the transaction.

Source Laws 1981, LB 272, § 57; Laws 1989, LB 482, § 59.

67-290 Derivative action; complaint; requirements.

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.

Source Laws 1981, LB 272, § 58.

67-291 Derivative action; expenses; attorney's fees.

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

Source Laws 1981, LB 272, § 59.

67-292 Repealed. Laws 1989, LB 482, § 65.

67-293 Filing fees; disposition.

The filing fee for all filings pursuant to the Nebraska Uniform Limited Partnership Act, including amendments and name reservation, shall be ten dollars plus the recording fees set forth in subdivision (4) of section 33-101, except that the filing fee for filing a certificate of limited partnership pursuant to section 67-240 and for filing an application for registration as a foreign limited partnership pursuant to section 67-281 shall be two hundred dollars plus such recording fees. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act. The fees for filings pursuant to the act shall be paid to the Secretary of State and by him or her remitted to the State Treasurer. The State Treasurer shall

credit fifty percent of such fees to the General Fund and fifty percent of such fees to the Corporation Cash Fund.

Source Laws 1981, LB 272, § 61; Laws 1983, LB 617, § 12; Laws 1989, LB 482, § 60; Laws 1990, LB 1228, § 8; Laws 1994, LB 1004, § 6; Laws 1994, LB 1066, § 59; Laws 2003, LB 357, § 10.

67-294 Uniform Partnership Act of 1998; applicability.

In any case not provided for in the Nebraska Uniform Limited Partnership Act, the Uniform Partnership Act of 1998 shall govern.

Source Laws 1981, LB 272, § 62; Laws 1989, LB 482, § 61; Laws 1997, LB 523, § 70; Laws 2008, LB707, § 1. July 18, 2008

Cross Reference

Uniform Partnership Act of 1998, see section 67-401.

67-295 Act, how construed.

The Nebraska Uniform Limited Partnership Act shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the act among states enacting it.

Source Laws 1981, LB 272, § 63; Laws 1989, LB 482, § 62.

67-296 Act, how cited.

Sections 67-233 to 67-296 shall be known and may be cited as the Nebraska Uniform Limited Partnership Act.