

DRAFT
FOR DISCUSSION ONLY

ENTITY HARMONIZATION REVISIONS TO THE UNIFORM PARTNERSHIP ACT (1997)

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For March 12-14, 2010 Drafting Committee Meeting

Strike and Score Version

- *Additions to RUPA are highlighted with underlining, deletions with strike-through. When a revision derives from the HUB, yellow highlighting indicates any passages in the revision that substantially deviate from the HUB.*
- *Footnotes contain a Co-Reporter's explanations as well as some queries.*
- *Some new sections are numbered with a number and a capital letter so as to preserve uniform numbering with states that have already enacted RUPA or will have done so before this drafting project is complete.*
- *RULLCA was presented in statutory order at the December 4-6, 2009 drafting meeting in Chicago. RUPA was broken into parts in an attempt to pair with relevant RULLCA sections. Accordingly, unlike RULLCA, many parts of RUPA were never discussed. This Draft requires careful discussion to determine if more or less change to RUPA should occur.*

1 [ARTICLE] 1

2 GENERAL PROVISIONS

3
4 SECTION 101. DEFINITIONS. In this [Act]:

5 (1) -“Business” includes every trade, occupation, and profession.

6 (1A) “Contribution”, except in the phrase “right of contribution,” means any
7 benefit provided by a person to partnership in order to become a member;1

8 (2) -“Debtor in bankruptcy” means a person who is the subject of:

9 (i) an order for relief under Title 11 of the United States Code or a comparable
10 order under a successor statute of general application; or

11 (ii) a comparable order under federal, state, or foreign law governing insolvency.

12 (2A) “Designated office” means:

13 (i) the office that a limited liability partnership is required to designate and
14 maintain under Section 1001(c)(3); or

15 (ii) the principal office of a foreign limited liability partnership.2

16 (3) “Distribution” means a transfer of money or other property from a partnership
17 to a partner in the partner’s capacity as a partner or to the partner’s transferee another person on
18 account of a transferable interest and includes a redemption or other purchase by a partnership of
19 a transferable interest.3

20 (4) “Foreign limited liability partnership” means a partnership

21 ~~that:~~

1 Conform to ULPA § 102(2) and RULLCA Revision.

2 Further discussion is required to conform the RULLCA and LLP designated and principal office concepts and a HUB principal office.

3 Conform to RULLCA Revision.

1 ~~(i) is formed under the law of a jurisdictions other than the laws of this State and~~
2 ~~(ii) has the status of~~denominated by that law as a limited liability partnership ~~under~~
3 ~~those laws.~~

4 (5) “Limited liability partnership”, except in the phrase “foreign limited liability
5 partnership”, means a partnership whose statement of qualification states that the partnership is a
6 limited liability partnership~~means a partnership that has filed a statement of qualification under~~
7 ~~Section 1001 and does not have a similar statement in effect in any other jurisdiction.~~4

8 (5A) “Partner” means a person that has become a partner of a partnership under
9 Section 202 and has not dissociated under Section 601.5

10 (6) “Partnership” means an association of two or more persons to carry on as co-
11 owners a business for profit formed under Section 202, predecessor law, or comparable law of
12 another jurisdiction.

13 (7) “Partnership agreement” means the agreement, whether ~~written, oral, or~~
14 ~~implied, among the partners concerning the partnership, including amendments to the partnership~~
15 ~~agreement~~or not referred to as a partnership agreement and whether oral, in a record, implied, or
16 in any combination thereof, of all the partners of a partnership concerning the matters described
17 in Section 103(a). The term includes the agreement as amended or restated.6

18 (8) “Partnership at will” means a partnership in which the partners have not agreed
19 to remain partners until the expiration of a definite term or the completion of a particular
20 undertaking.

4 Conform to ULPA § 102(9) LLLP definition.

5 New and conforms to RULLCA § 102(11) and, to a lesser extent, ULPA § 102(12).

6 Conform to RULLCA § 102(13) and ULPA § 102(13).

1 ~~(9) “Partnership interest” or “partner’s interest in the partnership” means all of a~~
2 ~~partner’s interests in the partnership, including the partner’s transferable interest and all~~
3 ~~management and other rights.~~

4 (10) Person” means an individual, corporation, partnership, limited partnership,
5 limited liability company, [general cooperative association,] limited cooperative association,
6 unincorporated nonprofit trust association, statutory trust, business trust, or common-law
7 business trust, estate, trust, association, joint venture, public corporation, government or
8 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity-
9 ~~“Person” means an individual, corporation, business trust, estate, trust, partnership, association,~~
10 ~~joint venture, government, governmental subdivision, agency, or instrumentality, or any other~~
11 ~~legal or commercial entity.~~⁷

12 (10A) “Principal office” means the principal executive office of a foreign limited
13 liability partnership, whether or not the office is located in this state.⁸

14 (11) “Property” means all property, real, personal, or mixed, tangible or intangible,
15 or any interest therein.⁹

16 (11A) “Record”, used as a noun, means information that is inscribed on a tangible
17 medium or that is stored in an electronic or other medium and is retrievable in perceivable
18 form.¹⁰

19 (11B) “Sign” means, with the present intent to authenticate or adopt a record:

20 (i) to execute or adopt a tangible symbol; or

⁷ Conform to HUB § 1-102(30) and RULLCA Revisions.

⁸ Conform to RULLCA § 102(16).

⁹ Already conforms to HUB § 1-102(34).

¹⁰ Conform to RULLCA § 102(a)(17) and HUB § 1-102(38).

1 [\(ii\) to attach or logically associate with the record an electronic symbol, sound, or](#)
2 [process.¹¹](#)

3 (12) “State” means a State of the United States, the
4 District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession
5 subject to the jurisdiction of the United States.

6 (13) “Statement” means a statement of partnership authority under Section 303, a
7 statement of denial under Section 304, a statement of dissociation under Section 704, a statement
8 of dissolution under Section 805, a statement of merger under Section 907, a statement of
9 qualification under Section 1001, a statement of foreign qualification under Section 1102, or an
10 amendment or cancellation of any of the foregoing.

11 (14) “Transfer” includes an assignment, conveyance, lease, mortgage, deed,
12 encumbrance, [gift, and transfer by operation of law.¹²](#)

13 [\(14A\) “Transferable interest” means the right, as initially owned by some person in](#)
14 [the person’s capacity as a partner, to receive distributions from a partnership in accordance with](#)
15 [the partnership agreement. The term applies, whether or not the person remains a partner or](#)
16 [continues to own any part of the right and includes any fraction of the right.¹³](#)

17 [\(14B\) “Transferee” means a person to which all or part of a transferable interest has](#)
18 [been transferred, whether or not the transferor is a partner.¹⁴](#)

19
20 **SECTION 102. KNOWLEDGE; ~~AND~~ NOTICE.¹⁵**

[11 Conform to RULLCA § 102\(18\) and HUB § 1-102\(40\).](#)

[12 Conform to RULLCA § 102\(20\) and HUB § 1-102\(43\), but see RULLCA Revision footnote query regarding why exclude mortgage but not security interests.](#)

[13 Conform to RULLCA § 102\(21\), as revised.](#)

[14 Conform to RULLCA § 102\(22\).](#)

1 (a) A person knows a fact ~~if-when~~ the person: ~~has actual knowledge of it.~~

2 (1) has actual knowledge of it; or

3 (2) is deemed to know it under subsection (d)(1) or law other than this [act].

4 (b) A person has notice of a fact ~~if-when~~ the person:

5 ~~(1) knows of it;~~

6 ~~(2) has received a notification of it; or~~

7 (1) has reason to know ~~it exists~~the fact from all of the facts known to the person at
8 the time in question; or

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

10 (c) A person notifies ~~or gives a notification to~~ another of a fact by taking steps
11 reasonably required to inform the other person in ordinary course, whether or not the other
12 person ~~learns of it~~knows the fact.

13 (d) A person ~~receives a notification when the notification~~that is not a partner is
14 deemed:

15 (1) to know of a limitation on authority to transfer real property as provided in
16 Section 303(e); and

17 ~~(2) is duly delivered at the person's place of business or at any other place held-~~
18 ~~out by the person as a place for receiving communications.~~to have notice of a partnership's:

19 (A) dissolution, 90 days after a statement of dissolution under Section
20 805 becomes effective; and

21 (B) merger, conversion, or domestication, 90 days after articles of
22 merger, conversion, or domestication under [Article] 9 become effective.

15 Conform to RULLCA § 103.

1 (b) The partnership agreement may not:

2 (1) vary the rights and duties under Section 105 except to eliminate the duty to

3 provide copies of statements to all of the partners;

4 (2) unreasonably restrict the right of access to books and records under Section

5 403(b);

6 (3) eliminate the duty of loyalty under Section 404(b) or 603(b)(3), but:

7 (i) the partnership agreement may identify specific types or categories of

8 activities that do not violate the duty of loyalty, if not manifestly unreasonable; or

9 (ii) all of the partners or a number or percentage specified in the partnership

10 agreement may authorize or ratify, after full disclosure of all material facts, a specific act or

11 transaction that otherwise would violate the duty of loyalty;

12 (4) unreasonably reduce the duty of care under Section 404(c) or 603(b)(3);

13 (5) eliminate the obligation of good faith and fair dealing under Section 404(d),

14 but the partnership agreement may prescribe the standards by which the performance of the

15 obligation is to be measured, if the standards are not manifestly unreasonable;

16 (6) vary the power to dissociate as a partner under Section 602(a), except to

17 require the notice under Section 601(1) to be in writing;

18 (7) vary the right of a court to expel a partner in the events specified in Section

19 601(5);

20 (8) vary the requirement to wind up the partnership business in cases specified in

21 Section 801(4), (5), or (6);

22 (9) vary the law applicable to a limited liability partnership under Section 106(b);

23 or

1 (10) restrict rights of third parties under this [Act].

2
3 **SECTION 103B. EFFECT OF PARTNERSHIP AGREEMENT ON PARTNERSHIP**
4 **AND PERSONS WHO BECOME PARTNERS.17**

5
6 (a) A partnership is bound by and may enforce the partnership agreement, whether
7 or not the partnership has itself manifested assent to the partnership agreement.

8 (b) A person who becomes a partner of a partnership is deemed to assent to the
9 partnership agreement.

10 (c) An amendment to the partnership agreement made after a person becomes a
11 transferee or dissociated partner is effective with regard to any debt, obligation, or other liability
12 of the partnership or its partners to the person in the person's capacity as a transferee or
13 dissociated partner.18

14
15 **SECTION 104. SUPPLEMENTAL PRINCIPLES OF LAW.** Unless displaced by
16 particular provisions of this [Act], the principles of law and equity supplement this [Act].19

17 ~~(b) If an obligation to pay interest arises under this [Act] and the rate is not~~
18 ~~specified, the rate is that specified in [applicable statute].~~

19
20 **SECTION 105. EXECUTION, FILING, AND RECORDING OF STATEMENTS.20**

21 (a) A statement permitted by this [act] may be delivered to the [Secretary of State]
22 for filing.

17 CONFORM TO RULLCA § 111.

18 Conforms to Committee decision in December 2009 but requires additional consideration to
contemplate the default right to be bought out upon dissociation in an at-will partnership.

19 Already conforms to HUB § 1-702.

20 Not discussed at first meeting because not in chart. Conformed to RULLCA

1 (b) To be filed by the [Secretary of State] pursuant to this [act], a statement must be
2 received by the office of the [Secretary of State] and must comply with this [act] and satisfy the
3 following requirements:²¹

4 (1) The filing of the statement must be permitted by this [act].

5 (2) When a record is delivered to the office of the [Secretary of State] for filing,
6 any fee required under this [act] and any tax, license fee, or penalty required to be paid under this
7 [act] or law other than this [act] must be paid in a manner permitted by the [Secretary of State] or
8 by that law.

9 (3) The statement must be physically delivered in written form unless the
10 [Secretary of State] adopts rules permitting electronic delivery of statements in other than written
11 form.

12 (4) The words in the statement must be in English, and numbers must be in Arabic
13 or Roman numerals, but the name of the partnership need not be in English if written in English
14 letters or Arabic or Roman numerals.

15 (5) The statement must be signed by an individual authorized to sign the filing
16 under subsection (c).

17 (6) The statement must state the name and capacity, if any, of the individual who
18 signed it but need not contain a seal, attestation, acknowledgment, or verification.

19 (c) A statement delivered to the [Secretary of State] for filing pursuant to this [act]
20 must be signed, under penalty of perjury that the information stated in the statement is accurate:

21 (1) if a partnership statement, by at least two partners, or their agents; and

22 (2) if by a partner, by that partner, or that partner's agent.

²¹ Conforms, where possible, to HUB § 1-201.

1 (d) A statement filing is effective:

2 (1) on the date and at the time of its filing by the [Secretary of State];

3 (2) on the date of filing and at the time specified in the entity filing as its effective
4 time, if later than the time under paragraph (1); or

5 (3) at a specified delayed effective time and date, which may not be more than 90
6 days after the date of filing.

7 ~~(d) A statement may be filed in the office of [the Secretary of State].~~ A certified
8 copy of a statement that is filed in an office in another State may be ~~filed~~ delivered in the office
9 ~~of~~ to the [the Secretary of State] for filing. ~~Either~~ The filing has the effect provided in this [~~a~~Act]
10 with respect to partnership property located in or transactions that occur in this State.

11 ~~(e)~~ A certified copy of a statement that ~~has been~~ filed in the office of by the
12 [Secretary of State] and recorded in the office for recording transfers of real property has the
13 effect provided for recorded statements in this [~~a~~Act]. A recorded statement that is not a certified
14 copy of a statement filed ~~in the office of~~ by the [Secretary of State] does not have the effect
15 provided for recorded statements in this [~~a~~Act].

16 ~~(e) A statement filed by a partnership must be executed by at least two partners.~~
17 ~~Other statements must be executed by a partner or other person authorized by this [Act]. An~~
18 ~~individual who executes a statement as, or on behalf of, a partner or other person named as a~~
19 ~~partner in a statement shall personally declare under penalty of perjury that the contents of the~~
20 ~~statement are accurate.~~

21 ~~(f)~~ A person authorized by this [Act] to ~~file~~ deliver a statement for filing by the
22 [Secretary of State] may amend or cancel the statement by delivering for filing by the [Secretary

1 | [of State](#)] an amendment or cancellation that names the partnership, identifies the statement, and
2 | states the substance of the amendment or cancellation.

3 | (g) A person who ~~files-delivers~~ a statement [for filing by the \[Secretary of State\]](#)
4 | pursuant to this section shall promptly send a copy of the [filed](#) statement to every nonfiling
5 | partner and to any other person named as a partner in the statement. Failure to send a copy of a
6 | statement to a partner or other person does not limit the effectiveness of the statement as to a
7 | person not a partner.

8 | ~~(f) The [Secretary of State] may collect a fee for filing or providing a certified~~
9 | ~~copy of a statement. The [officer responsible for recording transfers of real property] may~~
10 | ~~collect a fee for recording a statement.~~

11 |
12 | **SECTION 105A. POWERS.²²**

13 | A partnership has the powers to do all things necessary or convenient to carry on its
14 | activities, including the power to sue, be sued, and defend in its own name and to maintain an
15 | action against a partner for harm caused to the partnership by a breach of the partnership
16 | agreement or a violation of a duty to the partnership.

17 |
18 | **SECTION 106. GOVERNING LAW.**

19 | ~~(a) Except as otherwise provided in subsection (b), the~~The law of [this state, in the](#)
20 | case of a limited liability partnership, and the [law of the](#) jurisdiction in which a partnership has
21 | its chief executive office, [in the case of a partnership,](#) governs:

22 | (1) the internal affairs of the partnership or limited liability partnership; and

23 | ²² Conformed to ULPA § 105 but not to RULLCA § 105. Discuss coordination with RUPA §
24 | 307.

1 (2) the liability of a partner as a partner for the debts, obligations, or other liabilities
2 of the partnership or limited liability partnership.~~relations among the partners and between the~~
3 ~~partners and the partnership.~~23

4 ~~(b) The law of this State governs relations among the partners and between the~~
5 ~~partners and the partnership and the liability of partners for an obligation of a limited liability~~
6 ~~partnership.~~

7 **SECTION 107. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF**

8 **[ACT].** ~~A partnership governed by this [Act] is subject to any amendment to or repeal of this~~
9 ~~[Act].~~The [legislature of this state] has the power to amend or repeal all or part of this [act] at any
10 time, and all domestic or foreign entities subject to this [act] are governed by the amendment or
11 repeal.24

23 Discussion required regarding chief executive versus principal office but otherwise conforms to HUB § 1-501.

24 Conform to HUB § 1-701.

1 [ARTICLE] 2

2 NATURE OF PARTNERSHIP

3
4 SECTION 201. PARTNERSHIP AS ENTITY.

5 (a) A partnership is an entity distinct from its partners.

6 (b) A ~~limited liability partnership continues to be the same entity that existed before~~
7 ~~the filing of a statement of qualification under Section 1001~~ partnership is the same entity
8 regardless of whether a statement of qualification states that the partnership is a limited liability
9 partnership.²⁵

10
11 SECTION 202. FORMATION OF PARTNERSHIP.

12 (a) Except as otherwise provided in subsection (b), the association of two or more
13 persons to carry on as co-owners a business for profit forms a partnership, whether or not the
14 persons intend to form a partnership.

15 (b) An association formed under a statute other than this [Act], a predecessor
16 statute, or a comparable statute of another jurisdiction is not a partnership under this [Act].

17 (c) In determining whether a partnership is formed, the following rules apply:

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

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

25 Conform to ULPA § 104(a).

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

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

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

6 (iii) of rent;

7 (iv) of an annuity or other retirement or health benefit to a beneficiary,
8 representative, or designee of a deceased or retired partner;

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

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

14
15 **SECTION 203. PARTNERSHIP PROPERTY.** Property acquired by a partnership is
16 property of the partnership and not of the partners individually.

17
18 **SECTION 204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.**

19 (a) Property is partnership property if acquired in the name of:

20 (1) the partnership; or

21 (2) one or more partners with an indication in the instrument transferring title to
22 the property of the person's capacity as a partner or of the existence of a partnership but without
23 an indication of the name of the partnership.

24 (b) Property is acquired in the name of the partnership by a transfer to:

1 (1) the partnership in its name; or

2 (2) one or more partners in their capacity as partners in the partnership, if the
3 name of the partnership is indicated in the instrument transferring title to the property.

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

8 (d) Property acquired in the name of one or more of the partners, without an
9 indication in the instrument transferring title to the property of the person's capacity as a partner
10 or of the existence of a partnership and without use of partnership assets, is presumed to be
11 separate property, even if used for partnership purposes.

12

1 [ARTICLE] 3

2 | **RELATIONS OF PARTNERS TO PERSONS DEALING WITH**
3 **PARTNERSHIP**
4

5 **SECTION 301. PARTNER AGENT OF PARTNERSHIP.** Subject to the effect of a
6 statement of partnership authority under Section 303:

7 (1) Each partner is an agent of the partnership for the purpose of its business. An
8 act of a partner, including the execution of an instrument in the partnership name, for apparently
9 carrying on in the ordinary course the partnership business or business of the kind carried on by
10 the partnership binds the partnership, unless the partner had no authority to act for the
11 partnership in the particular matter and the person with whom the partner was dealing knew or
12 had received a notification that the partner lacked authority.

13 (2) An act of a partner which is not apparently for carrying on in the ordinary
14 course the partnership business or business of the kind carried on by the partnership binds the
15 partnership only if the act was authorized by the other partners.

16
17 **SECTION 302. TRANSFER OF PARTNERSHIP PROPERTY.**

18 (a) Partnership property may be transferred as follows:

19 (1) Subject to the effect of a statement of partnership authority under Section 303,
20 partnership property held in the name of the partnership may be transferred by an instrument of
21 transfer executed by a partner in the partnership name.

22 (2) Partnership property held in the name of one or more partners with an
23 indication in the instrument transferring the property to them of their capacity as partners or of
24 the existence of a partnership, but without an indication of the name of the partnership, may be

1 transferred by an instrument of transfer executed by the persons in whose name the property is
2 held.

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

7 (b) A partnership may recover partnership property from a transferee only if it
8 proves that execution of the instrument of initial transfer did not bind the partnership under
9 Section 301 and:

10 (1) as to a subsequent transferee who gave value for property transferred under
11 subsection (a)(1) and (2), proves that the subsequent transferee knew or had received a
12 notification that the person who executed the instrument of initial transfer lacked authority to
13 bind the partnership; or

14 (2) as to a transferee who gave value for property transferred under subsection
15 (a)(3), proves that the transferee knew or had received a notification that the property was
16 partnership property and that the person who executed the instrument of initial transfer lacked
17 authority to bind the partnership.

18 (c) A partnership may not recover partnership property from a subsequent
19 transferee if the partnership would not have been entitled to recover the property, under
20 subsection (b), from any earlier transferee of the property.

21 (d) If a person holds all of the partners' interests in the partnership, all of the
22 partnership property vests in that person. The person may execute a document in the name of the
23 partnership to evidence vesting of the property in that person and may file or record the

1 document.

2

3 **SECTION 303. STATEMENT OF PARTNERSHIP AUTHORITY.**26

4 (a) A partnership may deliver to the [Secretary of State] for filing file-a statement of
5 partnership authority , whichThe statement:

6 (1) must include :

7 (i)-the name of the partnership and ;

8 (ii)-the street and mailing address of its chief executive office and of one office in
9 this State, if there is one;

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

12 (A) execute an instrument transferring real property held in the name
13 of the partnership; or

14 (B) enter into other transactions on behalf of, or otherwise act for or
15 bind, the partnership; and

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

17 (A) execute an instrument transferring real property held in the name
18 of the company; or

19 (B) enter into other transactions on behalf of, or otherwise act for or
20 bind, the company.

26 Conform to RULLCA § 302.

1 (b) To amend or cancel a statement of authority filed by the [Secretary of State]
2 under Section 105(f), a partnership must deliver to the [Secretary of State] for filing an
3 amendment or cancellation stating:

4 (1) the name of the partnership;

5 (2) the street and mailing address of the partnership's chief executive office and of
6 one office in this State, if there is one;

7 (3) the caption of the statement being amended or canceled and the date the
8 statement being affected became effective; and

9 (4) the contents of the amendment or a declaration that the statement being
10 affected is canceled.

11 (c) A statement of authority affects only the power of a person to bind a
12 partnership to persons that are not partners.

13 (d) Subject to subsection (c) and Section 102(d) and except as otherwise provided
14 in subsections (f), (g), and (h), a limitation on the authority of a person or a position contained in
15 an effective statement of authority is not by itself evidence of knowledge or notice of the
16 limitation by any person.

17 (e) Subject to subsection (c), a grant of authority not pertaining to transfers of real
18 property and contained in an effective statement of authority is conclusive in favor of a person
19 that gives value in reliance on the grant, except to the extent that when the person gives value:

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

21 (2) the statement has been canceled or restrictively amended under subsection (b);

22 or

1 (3) a limitation on the grant is contained in another statement of authority that
2 became effective after the statement containing the grant became effective.

3 (f) Subject to subsection (c), an effective statement of authority that grants
4 authority to transfer real property held in the name of the partnership and that is recorded by
5 certified copy in the office for recording transfers of the real property is conclusive in favor of a
6 person that gives value in reliance on the grant without knowledge to the contrary, except to the
7 extent that when the person gives value:

8 (1) the statement has been canceled or restrictively amended under subsection (b)
9 and a certified copy of the cancellation or restrictive amendment has been recorded in the office
10 for recording transfers of the real property; or

11 (2) a limitation on the grant is contained in another statement of authority that
12 became effective after the statement containing the grant became effective and a certified copy of
13 the later-effective statement is recorded in the office for recording transfers of the real property.

14 (g) Subject to subsection (c), if a certified copy of an effective statement
15 containing a limitation on the authority to transfer real property held in the name of a partnership
16 is recorded in the office for recording transfers of that real property, all persons are deemed to
17 know of the limitation.

18 (h) Subject to subsection (i), an effective statement of dissolution is a cancellation
19 of any filed statement of authority for the purposes of subsection (f) and is a limitation on
20 authority for the purposes of subsection (g).

21 (i) After a statement of dissolution becomes effective, a partnership may deliver to
22 the [Secretary of State] for filing and, if appropriate, may record a statement of authority that is

1 designated as a post-dissolution statement of authority. The statement operates as provided in
2 subsections (f) and (g).

3 (j) Unless earlier canceled, an effective statement of authority is canceled by
4 operation of law five years after the date on which the statement, or its most recent amendment,
5 becomes effective. This cancellation operates without need for any recording under subsection
6 (f) or (g).

7 (k) An effective statement of denial operates as a restrictive amendment under this
8 section and may be recorded by certified copy for the purposes of subsection (f)(1).

9 ~~(iii) the names and mailing addresses of all of the partners or of an agent~~
10 ~~appointed and maintained by the partnership for the purpose of subsection (b); and~~

11 ~~(iv) the names of the partners authorized to execute an instrument transferring~~
12 ~~real property held in the name of the partnership; and~~

13 ~~(2) may state the authority, or limitations on the authority, of some or all of the~~
14 ~~partners to enter into other transactions on behalf of the partnership and any other matter.~~

15 ~~(b) If a statement of partnership authority names an agent, the agent shall maintain~~
16 ~~a list of the names and mailing addresses of all of the partners and make it available to any~~
17 ~~person on request for good cause shown.~~

18 ~~(e) If a filed statement of partnership authority is executed pursuant to Section~~
19 ~~105(e) and states the name of the partnership but does not contain all of the other information~~
20 ~~required by subsection (a), the statement nevertheless operates with respect to a person not a~~
21 ~~partner as provided in subsections (d) and (e).~~

1 ~~(d) Except as otherwise provided in subsection (g), a filed statement of partnership~~
2 ~~authority supplements the authority of a partner to enter into transactions on behalf of the~~
3 ~~partnership as follows:~~

4 ~~(1) Except for transfers of real property, a grant of authority contained in a filed~~
5 ~~statement of partnership authority is conclusive in favor of a person who gives value without~~
6 ~~knowledge to the contrary, so long as and to the extent that a limitation on that authority is not~~
7 ~~then contained in another filed statement. A filed cancellation of a limitation on authority revives~~
8 ~~the previous grant of authority.~~

9 ~~(2) A grant of authority to transfer real property held in the name of the~~
10 ~~partnership contained in a certified copy of a filed statement of partnership authority recorded in~~
11 ~~the office for recording transfers of that real property is conclusive in favor of a person who~~
12 ~~gives value without knowledge to the contrary, so long as and to the extent that a certified copy~~
13 ~~of a filed statement containing a limitation on that authority is not then of record in the office for~~
14 ~~recording transfers of that real property. The recording in the office for recording transfers of~~
15 ~~that real property of a certified copy of a filed cancellation of a limitation on authority revives~~
16 ~~the previous grant of authority.~~

17 ~~(e) A person not a partner is deemed to know of a limitation on the authority of a~~
18 ~~partner to transfer real property held in the name of the partnership if a certified copy of the filed~~
19 ~~statement containing the limitation on authority is of record in the office for recording transfers~~
20 ~~of that real property.~~

21 ~~(f) Except as otherwise provided in subsections (d) and (e) and Sections 704 and~~
22 ~~805, a person not a partner is not deemed to know of a limitation on the authority of a partner~~
23 ~~merely because the limitation is contained in a filed statement.~~

1 ~~(g) Unless earlier canceled, a filed statement of partnership authority is canceled~~
2 ~~by operation of law five years after the date on which the statement, or the most recent~~
3 ~~amendment, was filed with the [Secretary of State].~~

4
5 **SECTION 304. STATEMENT OF DENIAL.** A person named in a filed statement of
6 authority granting that person authority may deliver to the [Secretary of State] for filing a
7 statement of denial that:

8 (1) provides the name of the partnership and the caption of the statement of
9 authority to which the statement of denial pertains; and

10 (2) denies the grant of authority.~~27 A partner or other person named as a partner in~~
11 ~~a filed statement of partnership authority or in a list maintained by an agent pursuant to Section~~
12 ~~303(b) may file a statement of denial stating the name of the partnership and the fact that is being~~
13 ~~denied, which may include denial of a person's authority or status as a partner. A statement of~~
14 ~~denial is a limitation on authority as provided in Section 303(d) and (e).~~

15
16
17
18
19 **SECTION 305. PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE**
20 **CONDUCT.**

21 (a) A partnership is liable for loss or injury caused to a person, or for a penalty
22 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner
23 acting in the ordinary course of business of the partnership or with authority of the partnership.

27 Conforms to RULLCA § 303.

1 (b) If, in the course of the partnership's business or while acting with authority of
2 the partnership, a partner receives or causes the partnership to receive money or property of a
3 person not a partner, and the money or property is misapplied by a partner, the partnership is
4 liable for the loss.

5
6 **SECTION 306. PARTNER'S LIABILITY.**

7 (a) Except as otherwise provided in subsections (b) and (c), all partners are liable
8 jointly and severally for all obligations of the partnership unless otherwise agreed by the
9 claimant or provided by law.

10 (b) A person admitted as a partner into an existing partnership is not personally
11 liable for any partnership obligation incurred before the person's admission as a partner.

12 (c) A debt, obligations, or other liability of a limited liability partnership is solely
13 the debt, obligation, or other liabilities of the limited liability partnership. A partner, manager,
14 agent of the partnership, or agent of a manager is not personally liable, directly or indirectly, by
15 way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability
16 partnership solely by reason of being or acting as a member, manager, agent of the limited
17 liability partnership, or agent of a manager.~~An obligation of a partnership incurred while the~~
18 ~~partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, is~~
19 ~~solely the obligation of the partnership. A partner is not personally liable, directly or indirectly,~~
20 ~~by way of contribution or otherwise, for such an obligation solely by reason of being or so acting~~
21 ~~as a partner.~~ This subsection applies notwithstanding anything inconsistent in the partnership

1 agreement that existed immediately before the vote required to become a limited liability
2 partnership under Section 1001(b).[28](#)

3
4 **SECTION 307. ACTIONS BY AND AGAINST PARTNERSHIP AND**

5 **PARTNERS.**[29](#)

6 ~~(a) A partnership may sue and be sued in the name of the partnership.~~

7 (ab) An action may be brought against the partnership and, to the extent not
8 inconsistent with Section 306, any or all of the partners in the same action or in separate actions.

9 (be) A judgment against a partnership is not by itself a judgment against a partner.
10 A judgment against a partnership may not be satisfied from a partner's assets unless there is also
11 a judgment against the partner.

12 (ce) A judgment creditor of a partner may not levy execution against the assets of
13 the partner to satisfy a judgment based on a claim against the partnership unless the partner is
14 personally liable for the claim under Section 306 and:

15 (1) a judgment based on the same claim has been obtained against the partnership
16 and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

17 (2) the partnership is a debtor in bankruptcy;

18 (3) the partner has agreed that the creditor need not exhaust partnership assets;

19 (4) a court grants permission to the judgment creditor to levy execution against
20 the assets of a partner based on a finding that partnership assets subject to execution are clearly
21 insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively

[28 Conform to Trust Act § 304\(e\) and RULLCA Revision § 304\(a\).](#)
[29 Coordinate with new Section 105A. POWERS.](#)

1 burdensome, or that the grant of permission is an appropriate exercise of the court's equitable
2 powers; or

3 (5) liability is imposed on the partner by law or contract independent of the
4 existence of the partnership.

5 (de) This section applies to any partnership liability or obligation resulting from a
6 representation by a partner or purported partner under Section 308.

7

8 **SECTION 308. -LIABILITY OF PURPORTED PARTNER.**

9 (a) -If a person, by words or conduct, purports to be a partner, or consents to being
10 represented by another as a partner, in a partnership or with one or more persons not partners, the
11 purported partner is liable to a person to whom the representation is made, if that person, relying
12 on the representation, enters into a transaction with the actual or purported partnership. If the
13 representation, either by the purported partner or by a person with the purported partner's
14 consent, is made in a public manner, the purported partner is liable to a person who relies upon
15 the purported partnership even if the purported partner is not aware of being held out as a partner
16 to the claimant. If partnership liability results, the purported partner is liable with respect to that
17 liability as if the purported partner were a partner. If no partnership liability results, the purported
18 partner is liable with respect to that liability jointly and severally with any other person
19 consenting to the representation.

20 (b) If a person is thus represented to be a partner in an existing partnership, or with
21 one or more persons not partners, the purported partner is an agent of persons consenting to the
22 representation to bind them to the same extent and in the same manner as if the purported partner
23 were a partner, with respect to persons who enter into transactions in reliance upon the

1 representation. If all of the partners of the existing partnership consent to the representation, a
2 partnership act or obligation results. If fewer than all of the partners of the existing partnership
3 consent to the representation, the person acting and the partners consenting to the representation
4 are jointly and severally liable.

5 (c) A person is not liable as a partner merely because the person is named by
6 another in a statement of partnership authority.

7 (d) A person does not continue to be liable as a partner merely because of a failure
8 to file a statement of dissociation or to amend a statement of partnership authority to indicate the
9 partner's dissociation from the partnership.

10 (e) Except as otherwise provided in subsections (a) and (b), persons who are not
11 partners as to each other are not liable as partners to other persons.

12

1 [ARTICLE] 4

2 RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

3
4 SECTION 401. PARTNER’S RIGHTS AND DUTIES.30

5 ~~(a) Each partner is deemed to have an account that is:~~

6 ~~(1) credited with an amount equal to the money plus the value of any other~~
7 ~~property, net of the amount of any liabilities, the partner contributes to the partnership and the~~
8 ~~partner’s share of the partnership profits; and~~

9 ~~(2) charged with an amount equal to the money plus the value of any other~~
10 ~~property, net of the amount of any liabilities, distributed by the partnership to the partner and the~~
11 ~~partner’s share of the partnership losses.~~

12 ~~(ab)~~ Each partner is entitled to an equal share of the partnership profits and is
13 chargeable with a share of the partnership losses in proportion to the partner’s share of the
14 profits.

15 ~~(be)~~ A partnership shall reimburse a partner for payments made and indemnify a
16 partner for liabilities incurred by the partner in the ordinary course of the business of the
17 partnership or for the preservation of its business or property.

18 ~~(cd)~~ A partnership shall reimburse a partner for an advance to the partnership
19 beyond the amount of capital the partner agreed to contribute.

20 ~~(de)~~ A payment or advance made by a partner which gives rise to a partnership
21 obligation under subsection ~~(be)~~ or ~~(cd)~~ constitutes a loan to the partnership which accrues
22 interest from the date of the payment or advance.

30 Eliminate the “account” concept to conform to RULLCA.

1 (ef) Each partner has equal rights in the management and conduct of the partnership
2 business.³¹

3 (fg) A partner may use or possess partnership property only on behalf of the
4 partnership.

5 (gh) A partner is not entitled to remuneration for services performed for the
6 partnership, except for reasonable compensation for services rendered in winding up the business
7 of the partnership.

8 (hi) A person may become a partner only with the consent of all of the partners.

9 (ij) A difference arising as to a matter in the ordinary course of business of a
10 partnership may be decided by a majority of the partners. An act outside the ordinary course of
11 business of a partnership and an amendment to the partnership agreement may be undertaken
12 only with the consent of all of the partners.

13 (jk) This section does not affect the obligations of a partnership to other persons
14 under Section 301.

15
16 **SECTION 401A. FORM OF CONTRIBUTION. A contribution may consist of**
17 **tangible or intangible property or other benefit to a limited liability company, including money,**
18 **services performed, promissory notes, other agreements to contribute money or property, and**
19 **contracts for services to be performed.**³²

20
21 **SECTION 401B. LIABILITY FOR CONTRIBUTION AND FOR PROPERTY**
22 **IMPROPERLY PAID OR DISTRIBUTED.**³³

³¹ Committee discussion is required to determine whether to coordinate RUPA “management” with RULLCA § 407 (member-managed).

³² Conform to RULLCA § 402.

³³ Conform to RULLCA § 403 and ULPA § 502.

1 (a) A person's obligation to make a contribution to a limited liability company is
2 not excused by the person's death, disability, or other inability to perform personally. If a person
3 does not make a required contribution, the person or the person's estate is obligated to contribute
4 money equal to the value of the part of the contribution which has not been made, at the option
5 of the partnership.

6 (b) The obligation of a person to make a contribution or return money or other
7 property paid or distributed in violation of this [Act] may be compromised only by consent of all
8 members. A creditor of a partnership that extends credit or otherwise acts in reliance on an
9 obligation described in subsection (a), without notice of any compromise under this subsection,
10 may enforce the original obligation.

11 **SECTION 402. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE**
12 **DISSOLUTION. DISTRIBUTIONS IN KIND.**

13 (a) Any distributions made by a partnership before its dissolution and winding up
14 must be in equal shares among partners and dissociated partners, except to the extent necessary
15 to comply with any transfer effective under Section 503 and any charging order in effect under
16 Section 504.

17 (b) A person has a right to a distribution before the dissolution and winding up of a
18 partnership only if the partnership decides to make an interim distribution.

19 (c) A person does not have a right to demand or receive a distribution from a
20 partnership in any form other than money. Except as otherwise provided in Section 807, a
21 partnership may distribute an asset in kind if each part of the asset is fungible with each other
22 part and each person receives a percentage of the asset equal in value to the person's share of
23 distributions.

1 (d) If a partner or transferee becomes entitled to receive a distribution, the partner or
2 transferee has the status of, and is entitled to all remedies available to, a creditor of the
3 partnership with respect to the distribution. ~~A partner has no right to receive, and may not be~~
4 ~~required to accept, a distribution in kind.~~

5
6 **SECTION 402A. LIMITATIONS ON DISTRIBUTIONS OF A LIMITED**
7 **LIABILITY PARTNERSHIP.**³⁴

8 (a) A limited liability partnership may not make a distribution if after the
9 distribution:

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

12 (2) the limited liability partnership's total assets would be less than the sum of its
13 total liabilities plus the amount that would be needed, if the limited liability partnership were to
14 be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon
15 dissolution and winding up of partners whose preferential rights are superior to those of persons
16 receiving the distribution.³⁵

17 (b) A limited liability partnership may base a determination that a distribution is not
18 prohibited under subsection (a) on financial statements prepared on the basis of accounting
19 practices and principles that are reasonable in the circumstances or on a fair valuation or other
20 method that is reasonable under the circumstances.

³⁴ Section added to main text, like the liability of a partner in an LLP, rather than RUPA § 1001 because of the close relationship tyo contribution and distribution amendments. The phrase “limited liability partnership” is repeated even within a subsection to indicate this section only applies to an LLP and never to a general partnership.

³⁵ Conformed to RULLCA § 405(2) absent the concept of termination that does not exist in RUPA.

1 (c) Except as otherwise provided in subsection (f), the effect of a distribution under
2 subsection (a) is measured:

3 (1) in the case of a distribution by purchase, redemption, or other acquisition of a
4 transferable interest in the limited liability partnership, as of the date money or other property is
5 transferred or debt incurred by the limited liability partnership;

6 (2) in the case of any other distribution of indebtedness, as of the date the
7 indebtedness is distributed; and

8 (3) in all other cases, as of the date:

9 (A) the distribution is authorized, if the payment occurs within 120 days
10 after that date; or

11 (B) the payment is made, if the payment occurs more than 120 days after
12 the distribution is authorized.

13 (d) A limited liability partnership's indebtedness to a partner incurred by reason of a
14 distribution made in accordance with this section is at parity with the limited liability
15 partnership's indebtedness to its general, unsecured creditors except to the extent subordinated
16 by agreement.

17 (e) A limited liability partnerships's indebtedness, including indebtedness issued in
18 connection with or as part of a distribution, is not a liability for purposes of subsection (a) if the
19 terms of the indebtedness provide that payment of principal and interest are made only to the
20 extent that a distribution could be made to partners under this section.

21 (f) If indebtedness is issued as a distribution, each payment of principal or interest
22 on the indebtedness is treated as a distribution, the effect of which is measured on the date the
23 payment is made.

1 (g) In subsection (a), “distribution” does not include amounts constituting
2 reasonable compensation for present or past services or reasonable payments made in the
3 ordinary course of business under a bona fide retirement plan or other benefits program.

4 **SECTION 402B. LIABILITY FOR IMPROPER DISTRIBUTIONS OF A**
5 **LIMITED LIABILITY PARTNERSHIP.³⁶**
6

7 (a) Except as otherwise provided in subsection (b), if a partner of a limited liability
8 partnership consents to a distribution made in violation of Section 402A and in consenting to the
9 distribution fails to comply with Section 404, the partner is personally liable to the limited
10 liability partnership for the amount of the distribution that exceeds the amount that could have
11 been distributed without the violation of Section 402A.

12 (b) To the extent the partnership agreement expressly relieves a partner of the
13 authority and responsibility to consent to distributions and imposes that authority and
14 responsibility on one or more other partners, the liability stated in subsection (a) applies to the
15 other partners and not the partner that the partnership agreement relieves of authority and
16 responsibility.

17 (c) A person that receives a distribution knowing that the distribution to that person
18 was made in violation of Section 402A is personally liable to the limited liability partnership but
19 only to the extent that the distribution received by the person exceeded the amount that could
20 have been properly paid under Section 402A.

21 (d) A person against which an action is commenced because the person is liable
22 under subsection (a) may:

36 Conform to RULLCA § 406.

1 (1) implead any other person that is subject to liability under subsection (a) and
2 seek to compel contribution from the person; and

3 (2) implead any person that received a distribution in violation of subsection (c) and
4 seek to compel contribution from the person in the amount the person received in violation of
5 subsection (c).

6 (e) An action under this section is barred if not commenced within two years after
7 the distribution.

8
9 **SECTION 403. PARTNER’S RIGHTS AND DUTIES WITH RESPECT TO**
10 **INFORMATION.**[37](#)

11 (a) A partnership shall keep its books and records, if any, at its chief executive office.

12 (b) A partnership shall provide partners and their agents and attorneys access to its
13 books and records. It shall provide former partners and their agents and attorneys access to books
14 and records pertaining to the period during which they were partners. The right of access
15 provides the opportunity to inspect and copy books and records during ordinary business hours.
16 A partnership may impose a reasonable charge, covering the costs of labor and material, for
17 copies of documents furnished.

18 (c) Each partner and the partnership shall furnish to a partner, and to the legal
19 representative of a deceased partner or partner under legal disability:

20 (1) without demand, any information concerning the partnership’s business and
21 affairs reasonably required for the proper exercise of the partner’s rights and duties under the
22 partnership agreement or this [Act]; and

1 [37 Committee discussion required to determine whether to conform to RULLCA § 410.](#)

1 (2) on demand, any other information concerning the partnership's business and
2 affairs, except to the extent the demand or the information demanded is unreasonable or
3 otherwise improper under the circumstances.

4
5 **SECTION 404. GENERAL STANDARDS OF PARTNER'S CONDUCT.**

6 ~~.(a) The only fiduciary duties a partner owes to the partnership and the other~~
7 ~~partners are the duty of loyalty and the duty of care set forth in subsections (b) and (c).~~

8 ~~(ab) A partner's~~The duty of loyalty ~~to the partnership and the other partners is~~
9 ~~limited to the following~~of a partner includes the duties:³⁸

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

12 (A) in the conduct ~~and or~~ winding up of the partnership's business;

13 (B) or derived from a use by the partner of the partnership's property;
14 or

15 (C) including from the appropriation of a partnership opportunity;

16 (2) to refrain from dealing with the partnership in the conduct or winding up of
17 the partnership business activities as or on behalf of a party person having an interest adverse to
18 the partnership; and

19 (3) to refrain from competing with the partnership in the conduct of the
20 partnership's business activities before the dissolution of the partnership.

21 (be) A partner's duty of care to the partnership and the other partners in the conduct
22 and winding up of the partnership business is limited to refraining from engaging in grossly
23 negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

38 Conform to RULLCA § 409(a).

1 (ce) A partner shall discharge the duties ~~to the partnership and the other partners~~
2 under this [aAct] or under the partnership agreement and exercise any rights consistently with the
3 contractual obligation of good faith and fair dealing.

4 (de) A partner does not violate a duty or obligation under this [aAct] or under the
5 partnership agreement merely because the partner's conduct furthers the partner's own
6 interest.³⁹

7 (ef) A partner may lend money to and transact other business with the partnership,
8 and as to each loan or transaction the rights and obligations of the partner are the same as those
9 of a person who is not a partner, subject to other applicable law. It is a defense to a claim under
10 subsection (a)(2) and any comparable claim in equity or at common law that the transaction was
11 fair to the partnership.

12 (fg) This section applies to a person winding up the partnership business as the
13 personal or legal representative of the last surviving partner as if the person were a partner.

14
15 **SECTION 405. ACTIONS BY PARTNERSHIP AND DIRECT ACTION BY A**
16 **PARTNERS.**⁴⁰

17 (a) Subject to subsection (b), a partner may maintain a direct action against another
18 partner, a manager, or the partnership to enforce the partner's rights and otherwise protect the
19 partner's interests, including rights and interests under the partnership agreement or this [act] or
20 arising independently of the partnership relationship.~~A partnership may maintain an action~~
21 ~~against a partner for a breach of the partnership agreement, or for the violation of a duty to the~~
22 ~~partnership, causing harm to the partnership.~~

³⁹ Discuss conforming to the RULLCA § 409(d) "fairness" defense.
⁴⁰ CONFORM TO RULLCA § 901.

1 (b) -A partner maintaining a direct action under this section must plead and prove
2 an actual or threatened injury that is not solely the result of an injury suffered or threatened to be
3 suffered by the partnership.~~A partner may maintain an action against the partnership or another~~
4 ~~partner for legal or equitable relief, with or without an accounting as to partnership business, to:~~

5 (1) ~~enforce the partner's rights under the partnership agreement;~~

6 (2) ~~enforce the partner's rights under this [Act], including:~~

7 (i) ~~the partner's rights under Sections 401, 403, or 404;~~

8 (ii) ~~the partner's right on dissociation to have the partner's interest in the~~
9 ~~partnership purchased pursuant to Section 701 or enforce any other right under [Article] 6 or 7;~~

10 ~~or~~

11 (iii) ~~the partner's right to compel a dissolution and winding up of the partnership~~
12 ~~business under Section 801 or enforce any other right under [Article] 8; or~~

13 (3) ~~enforce the rights and otherwise protect the interests of the partner, including~~
14 ~~rights and interests arising independently of the partnership relationship.~~

15 (c) ~~The accrual of, and any time limitation on, a right of action for a remedy under~~
16 ~~this section is governed by other law. A right to an accounting upon a dissolution and winding~~
17 ~~up does not revive a claim barred by law~~

18 **SECTION 405A. DERIVATIVE ACTION BY A PARTNER.** A partner may maintain
19 a derivative action to enforce a right of a partnership if:

20 (1) the partner first makes a demand on the other partners requesting that they
21 cause the partnership to bring an action to enforce the right, and the other partners do not bring
22 the action within a reasonable time; or

23 (2) a demand under paragraph (1) would be futile.
24

1
2 **SECTION 405B. PROPER PLAINTIFF.** A derivative action may be maintained only
3 by a person that is a partner at the time the action is commenced and:

4 (1) that was a partner when the conduct giving rise to the action occurred; or

5 (2) whose status as a partner devolved upon the person by operation of law or
6 pursuant to the terms of the operating agreement from a person that was a partner at the time of
7 the conduct.

8
9 **SECTION 405C. PROPER PLEADING.** In a derivative action under Section 405A, the
10 complaint must state with particularity:

11 (1) the date and content of plaintiff's demand and the response to the demand by
12 the other partners; or

13 (2) why demand should be excused as futile.

14
15 **SECTION 405D. SPECIAL LITIGATION COMMITTEE.**

16 (a) If a partnership is named as or made a party in a derivative proceeding, the
17 partnership may appoint a special litigation committee to investigate the claims asserted in the
18 proceeding and determine whether pursuing the action is in the best interests of the partnership.
19 If the partnership appoints a special litigation committee, on motion by the committee made in
20 the name of the partnership, except for good cause shown, the court shall stay discovery for the
21 time reasonably necessary to permit the committee to make its investigation. This subsection
22 does not prevent the court from enforcing a person's right to information under Section 403 or,
23 for good cause shown, granting extraordinary relief in the form of a temporary restraining order
24 or preliminary injunction.

1 (b) A special litigation committee may be composed of one or more disinterested
2 and independent individuals, who may be partners.

3 (c) A special litigation committee may be appointed by the consent of a majority of
4 the partners not named as defendants or plaintiffs in the proceeding and if all partners are named
5 as defendants or plaintiffs in the proceeding, by a majority of the partners named as defendants.

6 (d) After appropriate investigation, a special litigation committee may determine
7 that it is in the best interests of the partnership that the proceeding:

8 (1) continue under the control of the plaintiff;

9 (2) continue under the control of the committee;

10 (3) be settled on terms approved by the committee; or

11 (4) be dismissed.

12 (e) After making a determination under subsection (d), a special litigation
13 committee shall file with the court a statement of its determination and its report supporting its
14 determination, giving notice to the plaintiff. The court shall determine whether the partners of the
15 committee were disinterested and independent and whether the committee conducted its
16 investigation and made its recommendation in good faith, independently, and with reasonable
17 care, with the committee having the burden of proof. If the court finds that the partners of the
18 committee were disinterested and independent and that the committee acted in good faith,
19 independently, and with reasonable care, the court shall enforce the determination of the
20 committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a)
21 and allow the action to proceed under the direction of the plaintiff.

22 **SECTION 405E. PROCEEDS AND EXPENSES.**

23 (a) Except as otherwise provided in subsection (b):
24

1 (1) any proceeds or other benefits of a derivative action under Section 405A,
2 whether by judgment, compromise, or settlement, belong to the partnership and not to the
3 plaintiff; and

4 (2) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately
5 to the partnership.

6 (b) If a derivative action under Section 405A is successful in whole or in part, the
7 court may award the plaintiff reasonable expenses, including reasonable attorney's fees and
8 costs, from the recovery of the partnership.

9
10 **SECTION 406. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE**
11 **TERM OR PARTICULAR UNDERTAKING.**

12 (a) If a partnership for a definite term or particular undertaking is continued,
13 without an express agreement, after the expiration of the term or completion of the undertaking,
14 the rights and duties of the partners remain the same as they were at the expiration or completion,
15 so far as is consistent with a partnership at will.

16 (b) If the partners, or those of them who habitually acted in the business during the
17 term or undertaking, continue the business without any settlement or liquidation of the
18 partnership, they are presumed to have agreed that the partnership will continue.

19

1 [ARTICLE] 5

2 TRANSFEREES AND CREDITORS OF PARTNER

3
4 SECTION 501. ~~PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY.~~ A

5 partner is not a co-owner of partnership property and has no interest in partnership property
6 ~~which that~~ can be transferred, either voluntarily or involuntarily.

7
8 SECTION 502. ~~PARTNER'S NATURE OF TRANSFERABLE INTEREST IN-~~

9 ~~PARTNERSHIP.~~ The only ~~transferable~~ interest of a partner ~~in the partnership~~ which is
10 transferable is the partner's ~~share of the profits and losses of the partnership and the partner's~~
11 ~~right to receive distribution~~ transferable interest. ~~The A transferable~~ interest is personal
12 property. 41

13
14 SECTION 503. TRANSFER OF ~~PARTNER'S~~ TRANSFERABLE INTEREST.

15 (a) A transfer, in whole or in part, of a ~~partner's~~ transferable interest ~~in the~~
16 ~~partnership:~~

17 (1) is permissible;

18 (2) does not by itself cause ~~the a~~ partner's dissociation or a dissolution and
19 winding up of the partnership ~~business activities;~~ and

20 (3) subject to Section 505 does not; ~~as against the other partners or the~~
21 ~~partnership,~~ entitle the transferee to:

22 (A); during the continuance of the partnership, to participate in the
23 management or conduct of the partnership's activities; or

41 Conform to ULPA § 701.

1 (B) business, to require except as otherwise provided in subsection (c),
2 have access to records or other information concerning the partnership's transactions, or to
3 inspect or copy the partnership books or records activities.

4 (b) -A transferee ~~of a partner's transferable interest in the partnership~~ has a the
5 right:

6 (1) to receive, in accordance with the transfer, distributions to which the transferor
7 would otherwise be entitled; and

8 ~~(2) to receive upon the dissolution and winding up of the partnership business, in~~
9 ~~accordance with the transfer, the net amount otherwise distributable to the transferor; and~~

10 ~~(23)~~ to seek under Section 801(6) a judicial determination that it is equitable to
11 wind up the partnership ~~business activities~~.

12 (c) -In a dissolution and winding up of a partnership, a transferee is entitled to an
13 account of the partnership's transactions only from the date of the latest account agreed to by all
14 of the partners.42

15 (d) Except as otherwise provided in Section 601(4)(B), when a partner transfers a
16 transferable interest, the transferor retains the rights of a member other than the interest in
17 distributions transferred and retains all duties and obligations of a member Upon transfer, the
18 ~~transferor retains the rights and duties of a partner other than the interest in distributions~~
19 ~~transferred.~~

20 (e) A partnership need not give effect to a transferee's rights under this section until
21 ~~it~~ the partnership has notice of the transfer.

42 Discuss whether to date the right to an accounting from the last account or further conform to RULLCA § 502(c) that runs only from the date of dissolution.

1 (f) A transfer of a ~~partner's~~ transferable interest ~~in the partnership~~ in violation of a
2 restriction on transfer contained in the partnership agreement is ineffective as to a person having
3 notice of the restriction at the time of transfer.

4
5 **SECTION 504. ~~PARTNER'S TRANSFERABLE INTEREST SUBJECT TO~~**
6 **CHARGING ORDER.**

7 (a) On application by a judgment creditor of a partner or transferee, a court may
8 enter a charging order against the transferable interest of the judgment debtor for the unsatisfied
9 amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable
10 interest and requires the partnership to pay over to the person to which the charging order was
11 issued any distribution that would otherwise be paid to the judgment debtor. ~~On application by a~~
12 ~~judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge~~
13 ~~the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a~~
14 ~~receiver of the share of the distributions due or to become due to the judgment debtor in respect~~
15 ~~of the partnership and make all other orders, directions, accounts, and inquiries the judgment~~
16 ~~debtor might have made or which the circumstances of the case may require.~~

17 (b) To the extent necessary to effectuate the collection of distributions pursuant to a
18 charging order in effect under subsection (a), the court may: ~~A charging order constitutes a lien~~
19 ~~on the judgment debtor's transferable interest in the partnership. The court may order a~~
20 ~~foreclosure of the interest subject to the charging order at any time. The purchaser at the~~
21 ~~foreclosure sale has the rights of a transferee.~~

22 ~~(c) At any time before foreclosure, an interest charged may be redeemed:~~

23 (1) appoint a receiver of the distributions subject to the charging order, with the
24 power to make all inquiries the judgment debtor might have made; and ~~by the judgment debtor;~~

1 (2) make all other orders necessary to give effect to the charging order ~~with-~~
2 ~~property other than partnership property, by one or more of the other partners; or~~

3 (c3) Upon a showing that distributions under a charging order will not pay the
4 judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the
5 transferable interest. The purchaser at the foreclosure sale only obtains the transferable interest,
6 does not thereby become a member, and is subject to Section 503 ~~with partnership property, by-~~
7 ~~one or more of the other partners with the consent of all of the partners whose interests are not so~~
8 ~~charged.~~

9 (d) -At any time before foreclosure under subsection (c), the partner or transferee
10 whose transferable interest is subject to a charging order under subsection (a) may extinguish the
11 charging order by satisfying the judgment and filing a certified copy of the satisfaction with the
12 court that issued the charging order ~~This [Act] does not deprive a partner of a right under-~~
13 ~~exemption laws with respect to the partner's interest in the partnership.~~

14 (e) -At any time before foreclosure under subsection (c), a partnership or one or
15 more partners whose transferable interests are not subject to the charging order may pay to the
16 judgment creditor the full amount due under the judgment and thereby succeed to the rights of
17 the judgment creditor, including the charging order ~~This section provides the exclusive remedy by~~
18 ~~which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the~~
19 ~~judgment debtor's transferable interest in the partnership.~~

20 (f) This [act] does not deprive any partner or transferee of the benefit of any
21 exemption laws applicable to the partner's or transferee's transferable interest.

1 [ARTICLE] 6

2 PARTNER’S DISSOCIATION

3
4 SECTION 601. EVENTS CAUSING PARTNER’S DISSOCIATION.⁴³ A person

5 ~~partner~~ is dissociated as a partner from a partnership ~~upon the occurrence of any of the following~~
6 ~~events~~when:

7 (1) ~~the partnership’s having has~~ notice of the ~~person~~partner’s express will to
8 withdraw as a partner, but, if the person specified a withdrawal date later than the date the
9 partnership had notice, on that later date~~or on a later date specified by the partner~~;

10 (2) an event ~~agreed to~~stated in the partnership agreement as causing the
11 ~~person~~partner’s dissociation as a partner occurs;

12 (3) the ~~partner~~person is’s expelled as a partner~~ulsion~~ pursuant to the partnership
13 agreement;

14 (4) the ~~partner~~person is expelled as a partner ~~expulsion~~ by the unanimous vote of
15 the other partners if:

16 (A) it is unlawful to carry on the partnership’s business activities
17 with ~~that the person as a~~ partner;

18 (B)
19 (i) there has been a transfer of all or substantially all⁴⁴ of ~~that the~~
20 partner’s transferable interest ~~in the partnership~~, other than:

21 (i) a transfer for security purposes, or

⁴³ Conform to RULLCA § 602.

⁴⁴ Discussion required to determine whether RUPA “substantially all” should be retained when RULLCA § 602(4)(B) only refers to “all.”

1 (ii) a court order charging the partner's interest
2 charging order in effect under Section 504, which has not been foreclosed.;

3 (Cii) the person is a corporation and, within 90 days after the
4 partnership notifies the person that it will be expelled as a member because the person has filed a
5 certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct
6 business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution
7 has not been revoked or its charter or right to conduct business has not been reinstated; or~~within~~
8 ~~90 days after the partnership notifies a corporate partner that it will be expelled because it has~~
9 ~~filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to~~
10 ~~conduct business has been suspended by the jurisdiction of its incorporation, there is no~~
11 ~~revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct~~
12 ~~business; or~~

13 (Dii) the person is a limited liability company or a partnership that is
14 a partner has been dissolved and its whose business is being wound up;

15 (5) on application by the partnership ~~or another partner~~, the person is expelled as a
16 partner's expulsion by judicial determination order because the person.:

17 (Ai) the partner has engaged, or is engaging, in wrongful conduct that
18 has adversely and materially affected, or will affect, the partnership business activities;

19 (B)

20 (ii) the partner has willfully or persistently committed, or is willfully
21 and persistently committing, a material breach of the partnership agreement or ~~of a duty~~ the
22 person's duties or obligations owed to the partnership or the other partners under Section 404; or

1 (C~~ii~~) ~~the partner has~~ engaged, or is engaging, in conduct relating to
2 the partnership's business activities which makes it not reasonably practicable to carry on the
3 business activities with the person as a partner in partnership with the partner;

4 (6) the partner's: 45

5 (i) becoming a debtor in bankruptcy;

6 (ii) executing an assignment for the benefit of creditors;

7 (iii) seeking, consenting to, or acquiescing in the appointment of a trustee,
8 receiver, or liquidator of that partner or of all or substantially all of that partner's property; or

9 (iv) failing, within 90 days after the appointment, to have vacated or stayed the
10 appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the
11 partner's property obtained without the partner's consent or acquiescence, or failing within 90
12 days after the expiration of a stay to have the appointment vacated;

13 (7) in the case of a partner who is an individual: ~~;~~

14 (A~~i~~) the partner's death;

15 (B~~ii~~) ~~the appointment of~~ a guardian or general conservator for the
16 partner is appointed; or

17 (C~~ii~~) there is a judicial determination that the partner has otherwise
18 become incapable of performing the partner's duties under [this act] or the partnership
19 agreement;

20 (8) in the case of a partner that is a trust or is acting as a partner by virtue of being a
21 trustee of a trust, the trust's distribution of the trust's entire transferable interest is distributed in
22 the partnership; ~~, but not merely by reason of the substitution of a successor trustee;~~

45 Retained for discussion purposes but not in RULLCA § 602.

1 (9) in the case of a partner that is an estate or is acting as a partner by virtue of
2 being a personal representative of an estate, ~~distribution of~~ the estate's entire transferable interest
3 in the partnership is distributed; ~~but not merely by reason of the substitution of a successor~~
4 ~~personal representative; or~~

5 (10) ~~termination in the case~~ of a partner who is not an individual, partnership,
6 limited liability company, corporation, trust, or estate, the termination of the partner;

7 (11) the partnership participates in a merger under [Article] 9, if:

8 (A) the partnership is not the surviving entity, or

9 (B) otherwise as a result of the merger, the person ceases to be a
10 partner;

11 (12) the partnership participates in a conversion under [Article] 9; or

12 (13) the partnership participates in a domestication under [Article] 9, if, as a result
13 of the domestication, the person ceases to be a partner.

14
15
16
17 **SECTION 602. PARTNER'S POWER TO DISSOCIATE; WRONGFUL**
18 **DISSOCIATION.**

19 (a) A ~~person partner~~ has the power to dissociate as a partner at any time, rightfully
20 or wrongfully, by ~~express will~~ withdrawing as a partner by express will pursuant to Section
21 601(1).⁴⁶

46 Discussion required. Unlike RULLCA § 110(c) which permits the operating agreement to negate the power to dissociate, the power cannot be eliminated under RUPA § 103(b)(6).

1 (b) A ~~person's partner's~~ dissociation as a partner from a partnership is wrongful
2 only if the dissociation:

3 (1) ~~it~~ is in breach of an express provision of the partnership agreement; or

4 (2) occurs before the expiration of a term, in the case of a partnership for a definite
5 term, or before the completion of an undertaking, in the case of a partnership for a particular
6 undertaking, ~~before the expiration of the term or the completion of the undertaking and~~:

7 (A) the partner-person withdraws as a partner by express will, unless
8 the withdrawal follows within 90 days after another partner's dissociation by death or otherwise
9 under Section 601(6) through (10) or wrongful dissociation under this subsection;

10 (B)

11 ~~(i)~~ the partner-person is expelled as a partner by judicial
12 determination under Section 601(5);

13 (C)

14 ~~(ii)~~ the partner-person is dissociated as a partner by becoming a
15 debtor in bankruptcy; or

16 (D)

17 ~~(iv)~~ in the case of a partner-person who that is not ~~an individual, a~~ trust
18 other than a business trust, ~~or an~~ estate, or an individual, the person partner is expelled as a
19 partner or otherwise dissociated because it willfully dissolved or terminated.

20 (c) A partner ~~who that~~ wrongfully dissociates as a partner is liable to the partnership
21 and to the other partners for damages caused by the dissociation. The liability is in addition to
22 any other debt, obligation, or other liability of the partner to the partnership or ~~to~~ the other
23 partners.

1
2 **SECTION 603. EFFECT OF PARTNER’S DISSOCIATION.**

3 (a) If a personpartner’s dissociation as a partner results in a dissolution and winding
4 up of the partnership businessactivities, [Article] 8 applies; otherwise, [Article] 7 applies.

5 (b) ~~Upon~~ When a person is dissociated as a partner of a partnership’s dissociation:

6 (1) the person’s right to participate in the management and conduct of the
7 partnership activities as a partner terminates, except as otherwise provided in Section 803~~the~~
8 ~~partner’s right to participate in the management and conduct of the partnership business~~
9 ~~terminates, except as otherwise provided in Section 803;~~

10 (2) the person’s duties as a partner under Section 404 terminate; and~~47~~the partner’s
11 duty of loyalty under Section 404(b)(3) terminates; and

12 (3) subject to Section 505 and [Article] 9, any transferable interest owned by the
13 person immediately before dissociation in the person’s capacity as a partner is owned by the
14 person solely as a transferee.~~the partner’s duty of loyalty under Section 404(b)(1) and (2) and~~
15 ~~duty of care under Section 404(c) continue only with regard to matters arising and events~~
16 ~~occurring before the partner’s dissociation, unless the partner participates in winding up the~~
17 ~~partnership’s business pursuant to Section 803.~~

18 (c) A person’s dissociation as a partner of a partnership does not of itself discharge
19 the person from any debt, obligation, or other liability to the partnership or the other partners
20 which the person incurred while a partner.

21

47 RULLCA provision is broader than RUPA.

1 [ARTICLE] 7

2 | PARTNER’S DISSOCIATION WHEN BUSINESS NOT WOUND

3 UP

4
5 SECTION 701. PURCHASE OF DISSOCIATED PARTNER’S INTEREST.

6 (a) If a partner is dissociated from a partnership without resulting in a dissolution
7 and winding up of the partnership business under Section 801, the partnership shall cause the
8 dissociated partner’s interest in the partnership to be purchased for a buyout price determined
9 pursuant to subsection (b).

10 (b) The buyout price of a dissociated partner’s interest is the amount that would
11 have been distributable to the dissociating partner under Section 807(b) if, on the date of
12 dissociation, the assets of the partnership were sold at a price equal to the greater of the
13 liquidation value or the value based on a sale of the entire business as a going concern without
14 the dissociated partner and the partnership were wound up as of that date. Interest must be paid
15 from the date of dissociation to the date of payment.

16 (c) Damages for wrongful dissociation under Section 602(b), and all other amounts
17 owing, whether or not presently due, from the dissociated partner to the partnership, must be
18 | offset against the buyout price. Interest must be paid from the date the amount owed becomes
19 due to the date of payment.

20 (d) A partnership shall indemnify a dissociated partner whose interest is being
21 purchased against all partnership liabilities, whether incurred before or after the dissociation,
22 except liabilities incurred by an act of the dissociated partner under Section 702.

1 (e) If no agreement for the purchase of a dissociated partner's interest is reached
2 within 120 days after a written demand for payment, the partnership shall pay, or cause to be
3 paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout
4 price and accrued interest, reduced by any offsets and accrued interest under subsection (c).

5 (f) If a deferred payment is authorized under subsection (h), the partnership may
6 tender a written offer to pay the amount it estimates to be the buyout price and accrued interest,
7 reduced by any offsets under subsection (c), stating the time of payment, the amount and type of
8 security for payment, and the other terms and conditions of the obligation.

9 (g) The payment or tender required by subsection (e) or (f) must be accompanied
10 by the following:

11 (1) a statement of partnership assets and liabilities as of the date of dissociation;

12 (2) the latest available partnership balance sheet and income statement, if any;

13 (3) an explanation of how the estimated amount of the payment was calculated;

14 and

15 (4) written notice that the payment is in full satisfaction of the obligation to
16 purchase unless, within 120 days after the written notice, the dissociated partner commences an
17 action to determine the buyout price, any offsets under subsection (c), or other terms of the
18 obligation to purchase.

19 (h) A partner who wrongfully dissociates before the expiration of a definite term or
20 the completion of a particular undertaking is not entitled to payment of any portion of the buyout
21 price until the expiration of the term or completion of the undertaking, unless the partner
22 establishes to the satisfaction of the court that earlier payment will not cause undue hardship to
23 the business of the partnership. A deferred payment must be adequately secured and bear interest.

1 (i) A dissociated partner may maintain an action against the partnership, pursuant to
2 Section 405(b)(2)(ii), to determine the buyout price of that partner's interest, any offsets under
3 subsection (c), or other terms of the obligation to purchase. The action must be commenced
4 within 120 days after the partnership has tendered payment or an offer to pay or within one year
5 after written demand for payment if no payment or offer to pay is tendered. The court shall
6 determine the buyout price of the dissociated partner's interest, any offset due under subsection
7 (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred
8 payment is authorized under subsection (h), the court shall also determine the security for
9 payment and other terms of the obligation to purchase. The court may assess reasonable
10 attorney's fees and the fees and expenses of appraisers or other experts for a party to the action,
11 in amounts the court finds equitable, against a party that the court finds acted arbitrarily,
12 vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender
13 payment or an offer to pay or to comply with subsection (g).

14

15 **SECTION 702. DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY**
16 **TO PARTNERSHIP.**

17 (a) For two years after a partner dissociates without resulting in a dissolution and
18 winding up of the partnership business, the partnership, including a surviving partnership under
19 [Article] 9, is bound by an act of the dissociated partner which would have bound the partnership
20 under Section 301 before dissociation only if at the time of entering into the transaction the other
21 party:

22 (1) reasonably believed that the dissociated partner was then a partner;

23 (2) did not have notice of the partner's dissociation; and

1 (3) is not deemed to have had knowledge under Section 303(e) or notice under
2 Section 704(c).

3 (b) A dissociated partner is liable to the partnership for any damage caused to the
4 partnership arising from an obligation incurred by the dissociated partner after dissociation for
5 which the partnership is liable under subsection (a).

6
7 **SECTION 703. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.**

8 (a) A partner's dissociation does not of itself discharge the partner's liability for a
9 partnership obligation incurred before dissociation. A dissociated partner is not liable for a
10 partnership obligation incurred after dissociation, except as otherwise provided in subsection (b).

11 (b) A partner who dissociates without resulting in a dissolution and winding up of
12 the partnership business is liable as a partner to the other party in a transaction entered into by
13 the partnership, or a surviving partnership under [Article] 9, within two years after the partner's
14 dissociation, only if the partner is liable for the obligation under Section 306 and at the time of
15 entering into the transaction the other party:

16 (1) reasonably believed that the dissociated partner was then a partner;

17 (2) did not have notice of the partner's dissociation; and

18 (3) is not deemed to have had knowledge under Section 303(e) or notice under
19 Section 704(c).

20 (c) By agreement with the partnership creditor and the partners continuing the
21 business, a dissociated partner may be released from liability for a partnership obligation.

22 (d) A dissociated partner is released from liability for a partnership obligation if a
23 partnership creditor, with notice of the partner's dissociation but without the partner's consent,
24 agrees to a material alteration in the nature or time of payment of a partnership obligation.

25

1 **SECTION 704. STATEMENT OF DISSOCIATION.**

2 (a) A dissociated partner or the partnership may file a statement of dissociation
3 stating the name of the partnership and that the partner is dissociated from the partnership.

4 (b) A statement of dissociation is a limitation on the authority of a dissociated
5 partner for the purposes of Section 303(d) and (e).

6 (c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a partner is
7 deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

8
9 **SECTION 705. CONTINUED USE OF PARTNERSHIP NAME.** Continued use of a
10 partnership name, or a dissociated partner's name as part thereof, by partners continuing the
11 business does not of itself make the dissociated partner liable for an obligation of the partners or
12 the partnership continuing the business.

13

1 [ARTICLE] 8

2 DISSOLUTION AND WINDING UP48

3
4 SECTION 801. EVENTS CAUSING DISSOLUTION ~~AND WINDING UP OF~~
5 PARTNERSHIP BUSINESS. A partnership is dissolved, and its ~~business activities~~ must be
6 wound up, ~~only upon~~ upon the occurrence of any of the following ~~events~~:

7 (1) in a partnership at will, the partnership has notice of a person’s express will to
8 withdraw as a partner, other than a person who has dissociated under Section 601(2) through
9 (10), but, if the person specified a withdrawal date later than the date the partnership had notice,
10 on that later date;

11 ~~the partnership’s having notice from a partner, other than a partner who is~~
12 ~~dissociated under Section 601(2) through (10), of that partner’s express will to withdraw as a~~
13 ~~partner, or on a later date specified by the partner;~~

14 (2) in a partnership for a definite term or particular undertaking:

15 (i) within 90 days after a ~~person~~ partner's dissociation as a partner by death or
16 otherwise under Section 601(6) through (10) or wrongful dissociation under Section 602(b), the
17 ~~express will~~ consent of at least half of the remaining partners to wind up the partnership business,
18 for which purpose a partner's rightful dissociation pursuant to Section 602(b)(2)(i) constitutes the
19 expression of that partner's will to wind up the partnership business;

20 (ii) the ~~express will~~ consent of all ~~of the partners to wind up the partnership~~
21 business; or

48 Conformed to RULLCA Article 7, when possible. Under RULLCA, dissociation of a member no longer threatens entity dissolution but the concept remains vital to RUPA because of the RUPA Article 7 but out.

- 1 (iii) the expiration of the term or the completion of the undertaking;
- 2 (3) an event or circumstance that agreed to in the partnership agreement resulting in
3 the winding up of the partnership business states causes the dissolution;
- 4 (4) an event that makes it unlawful for all or substantially all of the business of the
5 partnership to be continued, but a cure of illegality within 90 days after notice to the partnership
6 of the event is effective retroactively to the date of the event for purposes of this section;
- 7 (5) on application by a partner, a judicial determination that:49
- 8 (i) the economic purpose of the partnership is likely to be unreasonably frustrated;
- 9 (ii) another partner has engaged in conduct relating to the partnership business
10 which makes it not reasonably practicable to carry on the business in partnership with that
11 partner; or
- 12 (iii) it is not otherwise reasonably practicable to carry on the partnership business
13 in conformity with the partnership agreement;50 or
- 14 (6) on application by a transferee of a partner's transferable interest, a judicial
15 determination that it is equitable to wind up the partnership business:
- 16 (i) after the expiration of the term or completion of the undertaking, if the
17 partnership was for a definite term or particular undertaking at the time of the transfer or entry of
18 the charging order that gave rise to the transfer; or
- 19 (ii) at any time, if the partnership was a partnership at will at the time of the
20 transfer or entry of the charging order that gave rise to the transfer.

21

49 Discussion required whether the RUPA judicial dissolution paradigm should be expanded to embrace RULLCA § 701(a)(5) oppression standard.

50 The only standard applicable to a limited partnership under ULPA § 805.

1 **SECTION 802. ~~PARTNERSHIP CONTINUES AFTER DISSOLUTION~~WINDING**

2 **UP.51**

3 (a) Subject to subsection (b), a partnership continues after dissolution only for the
4 purpose of winding up its business. The partnership is terminated when the winding up of its
5 business is completed.

6 (b) At any time after the dissolution of a partnership and before the winding up of
7 its business is completed, all of the partners, including any dissociating partner other than a
8 wrongfully dissociating partner, may waive the right to have the partnership's business wound up
9 and the partnership terminated. In that event:

10 (1) the partnership resumes carrying on its business as if dissolution had never
11 occurred, and any liability incurred by the partnership or a partner after the dissolution and
12 before the waiver is determined as if dissolution had never occurred; and

13 (2) the rights of a third party accruing under Section 804(1) or arising out of
14 conduct in reliance on the dissolution before the third party knew or received a notification of the
15 waiver may not be adversely affected.

16 **SECTION 803. RIGHT TO WIND UP PARTNERSHIP BUSINESS.**

17 (a) After dissolution, a partner who has not wrongfully dissociated may participate
18 in winding up the partnership's business, but on application of any partner, partner's legal
19 representative, or transferee, the [designate the appropriate court], for good cause shown, may
20 order judicial supervision of the winding up.
21

[51 Discussion required whether to conform to RULLC § 702 since RUPA contemplates a continuance under 802\(b\) which affects the Article 7 purchase.](#)

1 (b) The legal representative of the last surviving partner may wind up a
2 partnership's business.

3 (c) A person winding up a partnership's business may preserve the partnership
4 business or property as a going concern for a reasonable time, prosecute and defend actions and
5 proceedings, whether civil, criminal, or administrative, settle and close the partnership's
6 business, dispose of and transfer the partnership's property, discharge the partnership's liabilities,
7 distribute the assets of the partnership pursuant to Section 807, settle disputes by mediation or
8 arbitration, and perform other necessary acts.

9
10 **SECTION 804. PARTNER'S POWER TO BIND PARTNERSHIP AFTER**

11 **DISSOLUTION.** Subject to Section 805, a partnership is bound by a partner's act after
12 dissolution that:

13 (1) is appropriate for winding up the partnership business; or

14 (2) would have bound the partnership under Section 301 before dissolution, if the
15 other party to the transaction did not have notice of the dissolution.

16
17 **SECTION 805. STATEMENT OF DISSOLUTION.**

18 (a) After dissolution, a partner who has not wrongfully dissociated may file a
19 statement of dissolution stating the name of the partnership and that the partnership has dissolved
20 and is winding up its business.

21 (b) A statement of dissolution cancels a filed statement of partnership authority for
22 the purposes of Section 303(d) and is a limitation on authority for the purposes of Section 303(e).

23 (c) For the purposes of Sections 301 and 804, a person not a partner is deemed to
24 have notice of the dissolution and the limitation on the partners' authority as a result of the
25 statement of dissolution 90 days after it is filed.

1 (d) After filing and, if appropriate, recording a statement of dissolution, a dissolved
2 partnership may file and, if appropriate, record a statement of partnership authority which will
3 operate with respect to a person not a partner as provided in Section 303(d) and (e) in any
4 transaction, whether or not the transaction is appropriate for winding up the partnership business.

5
6 **SECTION 806. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER**
7 **DISSOLUTION.**[52](#)

8 (a) Except as otherwise provided in subsection (b) and Section 306, after
9 dissolution a partner is liable to the other partners for the partner's share of any partnership
10 liability incurred under Section 804.

11 (b) A partner who, with knowledge of the dissolution, incurs a partnership liability
12 under Section 804(2) by an act that is not appropriate for winding up the partnership business is
13 liable to the partnership for any damage caused to the partnership arising from the liability.

14
15 **SECTION 807. SETTLEMENT ~~OF ACCOUNTS~~ AND CONTRIBUTIONS**
16 **AMONG PARTNERS.**[53](#)

17 (a) [In winding up its activities, a partnership shall discharge the partnership's debts,](#)
18 [obligations, or other liabilities, settle and close the partnership's activities, and marshal and](#)
19 [distribute the assets of the partnership.](#)

20 (b) [If partnership assets are not adequate to satisfy partnership debts, obligations or](#)
21 [other liabilities,](#)

[52 Discussion required regarding whether to add RULCA § 703-704 "known claim" and "other claim" provisions given that partners remain personally liable for all obligations later determined applicable to the partnership before it dissolved.](#)

[53 Eliminate the "account" consistent with the same elimination under RUPA § 401\(a\).](#)

1 ~~In winding up a partnership's business, the assets of the partnership, including the~~
2 ~~contributions of the partners required by this section, must be applied to discharge its obligations~~
3 ~~to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus~~
4 ~~must be applied to pay in cash the net amount distributable to partners in accordance with their~~
5 ~~right to distributions under subsection (b).~~

6 ~~(b) Each partner is entitled to a settlement of all partnership accounts upon winding~~
7 ~~up the partnership business. In settling accounts among the partners, profits and losses that result~~
8 ~~from the liquidation of the partnership assets must be credited and charged to the partners'~~
9 ~~accounts. The partnership shall make a distribution to a partner in an amount equal to any excess~~
10 ~~of the credits over the charges in the partner's account. each A partner shall contribute to the~~
11 ~~partnership an equal share of the excess excluding from the calculation charges attributable to an~~
12 ~~obligation for which the partner is not personally liable under Section 306. partner shall~~
13 ~~contribute to the partnership an amount equal to any excess of the charges over the credits in the~~
14 ~~partner's account but excluding from the calculation charges attributable to an obligation for~~
15 ~~which the partner is not personally liable under Section 306.~~

16 (c) If a partner fails to contribute the full amount required under subsection (b), all
17 of the other partners shall contribute, in the proportions in which those partners share partnership
18 losses, the additional amount necessary to satisfy the partnership obligations for which they are
19 personally liable under Section 306. A partner or partner's legal representative may recover from
20 the other partners any contributions the partner makes to the extent the amount contributed
21 exceeds that partner's share of the partnership obligations for which the partner is personally
22 liable under Section 306.

1 ~~(d) After the settlement of accounts, each partner shall contribute, in the proportion~~
2 ~~in which the partner shares partnership losses, the amount necessary to satisfy partnership~~
3 ~~obligations that were not known at the time of the settlement and for which the partner is~~
4 ~~personally liable under Section 306.~~

5 (de) The estate of a deceased partner is liable for the partner's obligation to
6 contribute to the partnership.

7 (ef) An assignee for the benefit of creditors of a partnership or a partner, or a person
8 appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's
9 obligation to contribute to the partnership.

10

1 [ARTICLE] 9

2 CONVERSIONS AND MERGERS
3 MERGER, CONVERSION AND
4 DOMESTICATION

5 **SECTION 901. DEFINITIONS.** In this [article]:

6 (1) “Constituent partnership” means a constituent organization that is a partnership.

7 (2) “Constituent organization” means an organization that is party to a merger.

8 (3) “Converted organization” means the organization into which a converting
9 organization converts pursuant to Sections 906 through 909.

10 (4) “Converting partnership” means a converting organization that is a partnership.

11 (5) “Converting organization” means an organization that converts into another
12 organization pursuant to Section 906.

13 (6) “Domesticated partnership” means the limited liability partnership that exists after a
14 domesticating foreign partnership or limited liability partnership effects a domestication pursuant
15 to Sections 910 through 913.

16 (7) “Domesticating partnership” means the limited liability partnership that effects
17 domestication pursuant to Sections 910 through 913.

18 (8) “Foreign partnership” means a partnership that has its chief executive office in a
19 jurisdiction other than this state or that has specified in its partnership agreement that relations
20 among the partners and between the partners and the partnership will be governed by the law of a
21 jurisdiction other than this state.

22 (9) “Governing statute” means the statute that governs an organization’s internal affairs.

1 (10) “Organization” means a general partnership, including a limited liability partnership,
2 limited partnership, including a limited liability limited partnership, limited liability company,
3 business trust, corporation, or any other person having a governing statute. The term includes a
4 domestic or foreign organization regardless of whether organized for profit.

5 (11) “Organizational documents” means:

6 (A) for a domestic or foreign general partnership, its partnership agreement;

7 (B) for a limited partnership or foreign limited partnership, its certificate of
8 limited partnership and partnership agreement;

9 (C) for a domestic or foreign limited liability company, its certificate or
10 articles of organization and operating agreement, or comparable records as provided in its
11 governing statute;

12 (D) for a business trust, its agreement of trust and declaration of trust;

13 (E) for a domestic or foreign corporation for profit, its articles of
14 incorporation, bylaws, and other agreements among its shareholders which are authorized by its
15 governing statute, or comparable records as provided in its governing statute; and

16 (F) for any other organization, the basic records that create the organization
17 and determine its internal governance and the relations among the persons that own it, have an
18 interest in it, or are members of it.

19 (12) “Personal liability” means liability for a debt, obligation, or other liability of an
20 organization that is imposed on a person that co-owns, has an interest in, or is a member of the
21 organization:

22 (A) by the governing statute solely by reason of the person co-owning,
23 having an interest in, or being a member of the organization; or

1 (B) by the organization’s organizational documents under a provision of the
2 governing statute authorizing those documents to make one or more specified persons liable for
3 all or specified debts, obligations, or other liabilities of the organization solely by reason of the
4 person or persons co-owning, having an interest in, or being a member of the organization.

5 (13) “Surviving organization” means an organization into which one or more other
6 organizations are merged whether the organization preexisted the merger or was created by the
7 merger.

8 ~~(1) “General partner” means a partner in a partnership and a general partner in a limited-~~
9 ~~partnership.~~

10 ~~(2) “Limited partner” means a limited partner in a limited partnership.~~

11 ~~(3) “Limited partnership” means a limited partnership created under the [State Limited~~
12 ~~Partnership Act], predecessor law, or comparable law of another jurisdiction.~~

13 ~~(4) “Partner” includes both a general partner and a limited partner.~~

14
15 **~~SECTION 902. CONVERSION OF PARTNERSHIP TO LIMITED~~**
16 **~~PARTNERSHIP MERGER.~~**

17 (a) A partnership may merge with one or more other constituent organizations pursuant to
18 this section, Sections 903 through 905, and a plan of merger, if:

19 (1) the governing statute of each of the other organizations authorizes the
20 merger;

21 (2) the merger is not prohibited by the law of a jurisdiction that enacted any
22 of the governing statutes; and

23 (3) each of the other organizations complies with its governing statute in
24 effecting the merger.

1 **(b) Unless each constituent organization and the surviving organization are partnerships**
2 **other than limited liability partnerships, a plan of merger must be in a record and must include:**

3 **(1) the name and form of each constituent organization;**

4 **(2) the name and form of the surviving organization and, if the surviving**
5 **organization is to be created by the merger, a statement to that effect;**

6 **(3) the terms and conditions of the merger, including the manner and basis**
7 **for converting the interests in each constituent organization into any combination of money,**
8 **interests in the surviving organization, and other consideration;**

9 **(4) if the surviving organization is to be created by the merger, the surviving**
10 **organization's organizational documents that are proposed to be in a record; and**

11 **(5) if the surviving organization is not to be created by the merger, any**
12 **amendments to be made by the merger to the surviving organization's organizational documents**
13 **that are, or are proposed to be, in a record.**

14 ~~(a) A partnership may be converted to a limited partnership pursuant to this section.~~

15 ~~(b) The terms and conditions of a conversion of a partnership to a limited partnership~~
16 ~~must be approved by all of the partners or by a number or percentage specified for conversion in~~
17 ~~the partnership agreement.~~

18 ~~(c) After the conversion is approved by the partners, the partnership shall file a certificate~~
19 ~~of limited partnership in the jurisdiction in which the limited partnership is to be formed. The~~
20 ~~certificate must include:~~

21 ~~(1) a statement that the partnership was converted to a limited partnership from a~~
22 ~~partnership;~~

23 ~~(2) its former name; and~~

1 ~~(3) a statement of the number of votes cast by the partners for and against the conversion~~
2 ~~and, if the vote is less than unanimous, the number or percentage required to approve the~~
3 ~~conversion under the partnership agreement.~~

4 ~~(d) The conversion takes effect when the certificate of limited partnership is filed or at~~
5 ~~any later date specified in the certificate.~~

6 ~~(e) A general partner who becomes a limited partner as a result of the conversion remains~~
7 ~~liable as a general partner for an obligation incurred by the partnership before the conversion~~
8 ~~takes effect. If the other party to a transaction with the limited partnership reasonably believes~~
9 ~~when entering the transaction that the limited partner is a general partner, the limited partner is~~
10 ~~liable for an obligation incurred by the limited partnership within 90 days after the conversion~~
11 ~~takes effect. The limited partner's liability for all other obligations of the limited partnership~~
12 ~~incurred after the conversion takes effect is that of a limited partner as provided in the [State~~
13 ~~Limited Partnership Act].~~

14
15
16
17 **SECTION 903. ACTION ON PLAN OF MERGER BY CONSTITUENT**

18 **PARTNERSHIP ~~CONVERSION OF LIMITED PARTNERSHIP TO PARTNERSHIP.~~**

19 (a) Subject to Section 914, a plan of merger must be consented to by all the partners of a
20 constituent partnership.

21 (b) Subject to Section 914 and any contractual rights, after a merger is approved, and at
22 any time before articles of merger are delivered to the [Secretary of State] for filing under
23 Section 904, a constituent partnership may amend the plan or abandon the merger:

24 (1) as provided in the plan; or

1 (2) except as otherwise prohibited in the plan, with the same consent as was
2 required to approve the plan.

3 ~~(a) A limited partnership may be converted to a partnership pursuant to this section.~~

4 ~~(b) Notwithstanding a provision to the contrary in a limited partnership agreement, the~~
5 ~~terms and conditions of a conversion of a limited partnership to a partnership must be approved~~
6 ~~by all of the partners.~~

7 ~~(c) After the conversion is approved by the partners, the limited partnership shall cancel~~
8 ~~its certificate of limited partnership.~~

9 ~~(d) The conversion takes effect when the certificate of limited partnership is canceled.~~

10 ~~(e) A limited partner who becomes a general partner as a result of the conversion remains~~
11 ~~liable only as a limited partner for an obligation incurred by the limited partnership before the~~
12 ~~conversion takes effect. Except as otherwise provided in Section 306, the partner is liable as a~~
13 ~~general partner for an obligation of the partnership incurred after the conversion takes effect.~~

14
15 **SECTION 904. FILINGS REQUIRED AND PERMITTED FOR MERGER;**
16 **EFFECTIVE DATE**~~EFFECT OF CONVERSION; ENTITY UNCHANGED.~~

17 (a) After each constituent organization has approved a merger, articles of merger must be
18 signed on behalf of:

19 (1) each constituent partnership, as provided in Section 105, unless the
20 merger is only between or among general partnerships, none of which is a limited liability
21 partnership, and the surviving organization will be a general partnership other than a limited
22 liability partnership; and

23 (2) each other constituent organization, as provided in its governing statute.

1 (b) Articles of merger under this section must include:

2 (1) the name and form of each constituent organization and the jurisdiction of
3 its governing statute;

4 (2) the name and form of the surviving organization, the jurisdiction of its
5 governing statute, and, if the surviving organization is created by the merger, a statement to that
6 effect;

7 (3) the date the merger is effective under the governing statute of the
8 surviving organization;

9 (4) if the surviving organization is to be created by the merger:

10 (A) if it will be a limited liability partnership, the limited liability
11 partnership's statement of qualification; or

12 (B) if it will be an organization other than a limited liability
13 partnership, the organizational document that creates the organization that is in a public record;

14 (5) if the surviving organization preexists the merger, any amendments
15 provided for in the plan of merger for the organizational document that created the organization
16 that are in a public record;

17 (6) a statement as to each constituent organization that the merger was
18 approved as required by the organization's governing statute;

19 (7) if the surviving organization is a foreign organization not authorized to
20 transact business in this state, the street and mailing addresses of an office that the [Secretary of
21 State] may use for the purposes of Section 905(b); and

22 (8) any additional information required by the governing statute of any
23 constituent organization.

1 (c) Each constituent partnership that is a limited liability partnership shall, and each
2 constituent partnership that is not a limited liability partnership may, may deliver the articles of
3 merger for filing in the office of the [Secretary of State].

4 (d) A merger becomes effective under this [article]:

5 (1) if the surviving organization is a partnership, upon the later of:

6 (A) compliance with subsection (c); or

7 (B) as specified in the articles of merger; or

8 (2) if the surviving organization is not a partnership, as provided by the
9 governing statute of the surviving organization.

10 ~~(a) partnership or limited partnership that has been converted pursuant to this [article] is~~
11 ~~for all purposes the same entity that existed before the conversion.~~

12 ~~(b) When a conversion takes effect:~~

13 ~~(1) all property owned by the converting partnership or limited partnership remains~~
14 ~~vested in the converted entity;~~

15 ~~(2) all obligations of the converting partnership or limited partnership continue as~~
16 ~~obligations of the converted entity; and~~

17 ~~(3) an action or proceeding pending against the converting partnership or limited~~
18 ~~partnership may be continued as if the conversion had not occurred.~~

19
20 **SECTION 905. EFFECT OF MERGER~~MERGER OF PARTNERSHIPS.~~**

21 (a) When a merger becomes effective:

22 (1) the surviving organization continues or comes into existence;

23 (2) each constituent organization that merges into the surviving organization
24 ceases to exist as a separate entity;

1 (3) all property owned by each constituent organization that ceases to exist
2 vests in the surviving organization;

3 (4) all debts, obligations, or other liabilities of each constituent organization
4 that ceases to exist continue as debts, obligations, or other liabilities of the surviving
5 organization;

6 (5) an action or proceeding pending by or against any constituent
7 organization that ceases to exist may be continued as if the merger had not occurred;

8 (6) except as prohibited by other law, all of the rights, privileges, immunities,
9 powers, and purposes of each constituent organization that ceases to exist vest in the surviving
10 organization;

11 (7) except as otherwise provided in the plan of merger, the terms and
12 conditions of the plan of merger take effect; and

13 (8) except as otherwise agreed, if a constituent partnership ceases to exist, the
14 merger does not dissolve the partnership for the purposes of [Article] 8;

15 (9) if the surviving organization is created by the merger:

16 (A) if it is a partnership, the partnership is formed upon approval
17 of and on the date specified in the plan of merger;

18 (B) if it is a limited liability partnership, the partnership is
19 formed and the statement of qualification takes effect after filing of the articles of merger by the
20 secretary of state and upon the filing of the statement of qualification pursuant to section 1001 or
21 on the date provided therein, whichever is later; or

22 (C) if it is an organization other than a partnership, the
23 organizational document that creates the organization becomes effective; and

1 (10) if the surviving organization preexisted the merger, any amendments
2 provided for in the articles of merger for the organizational document that created the
3 organization become effective.

4 (b) A surviving organization that is a foreign organization consents to the jurisdiction of
5 the courts of this state to enforce any debt, obligation, or other liability owed by a constituent
6 organization, if before the merger the constituent organization was subject to suit in this state on
7 the debt, obligation, or other liability. A surviving organization that is a foreign organization and
8 not authorized to transact business in this state appoints the [Secretary of State] as its agent for
9 service of process for the purposes of enforcing a debt, obligation, or other liability under this
10 subsection. Service of any process, notice, or demand on the [Secretary of State] as agent for a
11 surviving organization that is a foreign organization may be made by delivering to the Secretary
12 of State duplicate copies of the process, notice, or demand. If a process, notice, or demand is
13 served upon the [Secretary of State], the [Secretary of State] shall forward one of the copies by
14 registered or certified mail, return receipt requested, to the organization at its registered office.
15 Service is effected under this subsection at the earliest of:

16 (1) the date the surviving organization receives the process, notice, or
17 demand;

18 (2) the date shown on the return receipt, if signed on behalf of the
19 organization; or

20 (3) five days after the process, notice, or demand is deposited with the
21 United States Postal Service, if correctly addressed and with sufficient postage.

22 ~~(a) Pursuant to a plan of merger approved as provided in subsection (c), a partnership~~
23 ~~may be merged with one or more partnerships or limited partnerships.~~

1 ~~(b) The plan of merger must set forth:~~

2 ~~(1) the name of each partnership or limited partnership that is a party to the merger;~~

3 ~~(2) the name of the surviving entity into which the other partnerships or limited~~
4 ~~partnerships will merge;~~

5 ~~(3) whether the surviving entity is a partnership or a limited partnership and the status of~~
6 ~~each partner;~~

7 ~~(4) the terms and conditions of the merger;~~

8 ~~(5) the manner and basis of converting the interests of each party to the merger into~~
9 ~~interests or obligations of the surviving entity, or into money or other property in whole or part;~~
10 ~~and~~

11 ~~(6) the street address of the surviving entity's chief executive office.~~

12 ~~(c) The plan of merger must be approved:~~

13 ~~(1) in the case of a partnership that is a party to the merger, by all of the partners, or a~~
14 ~~number or percentage specified for merger in the partnership agreement; and~~

15 ~~(2) in the case of a limited partnership that is a party to the merger, by the vote required~~
16 ~~for approval of a merger by the law of the State or foreign jurisdiction in which the limited~~
17 ~~partnership is organized and, in the absence of such a specifically applicable law, by all of the~~
18 ~~partners, notwithstanding a provision to the contrary in the partnership agreement.~~

19 ~~(d) After a plan of merger is approved and before the merger takes effect, the plan may be~~
20 ~~amended or abandoned as provided in the plan.~~

21 ~~(e) The merger takes effect on the later of:~~

22 ~~(1) the approval of the plan of merger by all parties to the merger, as provided in~~
23 ~~subsection (e);~~

1 ~~(2) the filing of all documents required by law to be filed as a condition to the~~
2 ~~effectiveness of the merger; or~~

3 ~~(3) any effective date specified in the plan of merger.~~

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7
8 **SECTION 906. CONVERSION~~EFFECT OF MERGER.~~**

9 (a) An organization other than a partnership or a foreign partnership may convert to a
10 partnership, and a partnership may convert to an organization other than a foreign partnership
11 pursuant to this section, sections 907 through 909, and a plan of conversion, if:

12 (1) the other organization’s governing statute authorizes the conversion;

13 (2) the conversion is not prohibited by the law of the jurisdiction that enacted
14 the other organization’s governing statute; and

15 (3) the other organization complies with its governing statute in effecting the
16 conversion.

17 (b) A plan of conversion must be in a record and must include:

18 (1) the name and form of the organization before conversion;

19 (2) the name and form of the organization after conversion;

20 (3) the terms and conditions of the conversion, including the manner and
21 basis for converting interests in the converting organization into any combination of money,
22 interests in the converted organization, and other consideration; and

23 (4) the organizational documents of the converted organization that are, or
24 are proposed to be, in a record.

1 ~~(a) When a merger takes effect:~~

2 ~~(1) the separate existence of every partnership or limited partnership that is a party to the~~
3 ~~merger, other than the surviving entity, ceases;~~

4 ~~(2) all property owned by each of the merged partnerships or limited partnerships vests in~~
5 ~~the surviving entity;~~

6 ~~(3) all obligations of every partnership or limited partnership that is a party to the merger~~
7 ~~become the obligations of the surviving entity; and~~

8 ~~(4) an action or proceeding pending against a partnership or limited partnership that is a~~
9 ~~party to the merger may be continued as if the merger had not occurred, or the surviving entity~~
10 ~~may be substituted as a party to the action or proceeding.~~

11 ~~(b) The [Secretary of State] of this State is the agent for service of process in an action or~~
12 ~~proceeding against a surviving foreign partnership or limited partnership to enforce an obligation~~
13 ~~of a domestic partnership or limited partnership that is a party to a merger. The surviving entity~~
14 ~~shall promptly notify the [Secretary of State] of the mailing address of its chief executive office~~
15 ~~and of any change of address. Upon receipt of process, the [Secretary of State] shall mail a copy~~
16 ~~of the process to the surviving foreign partnership or limited partnership.~~

17 ~~(c) A partner of the surviving partnership or limited partnership is liable for:~~

18 ~~(1) all obligations of a party to the merger for which the partner was personally liable~~
19 ~~before the merger;~~

20 ~~(2) all other obligations of the surviving entity incurred before the merger by a party to~~
21 ~~the merger, but those obligations may be satisfied only out of property of the entity; and~~

1 ~~(3) except as otherwise provided in Section 306, all obligations of the surviving entity~~
2 ~~incurred after the merger takes effect, but those obligations may be satisfied only out of property~~
3 ~~of the entity if the partner is a limited partner.~~

4 ~~(d) If the obligations incurred before the merger by a party to the merger are not satisfied~~
5 ~~out of the property of the surviving partnership or limited partnership, the general partners of that~~
6 ~~party immediately before the effective date of the merger shall contribute the amount necessary~~
7 ~~to satisfy that party's obligations to the surviving entity, in the manner provided in Section 807 or~~
8 ~~in the [Limited Partnership Act] of the jurisdiction in which the party was formed, as the case~~
9 ~~may be, as if the merged party were dissolved.~~

10 ~~(e) A partner of a party to a merger who does not become a partner of the surviving~~
11 ~~partnership or limited partnership is dissociated from the entity, of which that partner was a~~
12 ~~partner, as of the date the merger takes effect. The surviving entity shall cause the partner's~~
13 ~~interest in the entity to be purchased under Section 701 or another statute specifically applicable~~
14 ~~to that partner's interest with respect to a merger. The surviving entity is bound under Section~~
15 ~~702 by an act of a general partner dissociated under this subsection, and the partner is liable~~
16 ~~under Section 703 for transactions entered into by the surviving entity after the merger takes~~
17 ~~effect.~~

18
19 **SECTION 907. ACTION ON PLAN OF CONVERSION BY CONVERTING**
20 **PARTNERSHIPSTATEMENT OF MERGER.**

21 (a) Subject to Section 914, a plan of conversion must be consented to by all the partners
22 of a converting partnership.

1 (b) Subject to Section 914 and any contractual rights, after a conversion is approved, and
2 at any time before articles of conversion are delivered to the Secretary of State for filing under
3 Section 908, a converting partnership may amend the plan or abandon the conversion:

4 (1) as provided in the plan; or

5 (2) except as otherwise prohibited in the plan, by the same consent as was
6 required to approve the plan.

7 ~~(a) After a merger, the surviving partnership or limited partnership may file a statement~~
8 ~~that one or more partnerships or limited partnerships have merged into the surviving entity.~~

9 ~~(b) A statement of merger must contain:~~

10 ~~(1) the name of each partnership or limited partnership that is a party to the merger;~~

11 ~~(2) the name of the surviving entity into which the other partnerships or limited~~
12 ~~partnership were merged;~~

13 ~~(3) the street address of the surviving entity's chief executive office and of an office in~~
14 ~~this State, if any; and~~

15 ~~(4) whether the surviving entity is a partnership or a limited partnership.~~

16 ~~(c) Except as otherwise provided in subsection (d), for the purposes of Section 302,~~
17 ~~property of the surviving partnership or limited partnership which before the merger was held in~~
18 ~~the name of another party to the merger is property held in the name of the surviving entity upon~~
19 ~~filing a statement of merger.~~

20 ~~(d) For the purposes of Section 302, real property of the surviving partnership or limited~~
21 ~~partnership which before the merger was held in the name of another party to the merger is~~
22 ~~property held in the name of the surviving entity upon recording a certified copy of the statement~~
23 ~~of merger in the office for recording transfers of that real property.~~

1 ~~(e) A filed and, if appropriate, recorded statement of merger, executed and declared to be~~
2 ~~accurate pursuant to Section 105(c), stating the name of a partnership or limited partnership that~~
3 ~~is a party to the merger in whose name property was held before the merger and the name of the~~
4 ~~surviving entity, but not containing all of the other information required by subsection (b),~~
5 ~~operates with respect to the partnerships or limited partnerships named to the extent provided in~~
6 ~~subsections (c) and (d).~~

7
8 **SECTION 908. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE**
9 **DATENONEXCLUSIVE.**

10 (a) After a plan of conversion is approved:

11 (1) a converting limited liability partnership shall deliver to the Secretary of
12 State for filing articles of conversion, which must be signed as provided in Section 105 and must
13 include;

14 (A) a statement that the limited liability partnership has been
15 converted into another organization;

16 (B) the name and form of the converted organization and the
17 jurisdiction of its governing statute;

18 (C) the date the conversion is effective under the governing
19 statute of the converted organization;

20 (D) a statement that the conversion was approved as required by
21 this act;

22 (E) a statement that the conversion was approved as required by
23 the governing statute of the converted organization; and

1 (F) if the converted organization is a foreign organization not
2 authorized to transact business in this state, the street and mailing addresses of an office which
3 the Secretary of State may use for the purposes of Section 909(c); and

4 (2) if the converting organization is not a converting partnership or limited
5 liability partnership, the converting organization shall deliver to the Secretary of State for filing a
6 statement of conversion, which must include:

7 (A) a statement that the converted organization was converted
8 from another organization, and whether the converted organization is a partnership or a limited
9 liability partnership;

10 (B) the name and form of that converting organization and the
11 jurisdiction of its governing statute; and

12 (C) a statement that the conversion was approved in a manner
13 that complied with the converting organization's governing statute.

14 (b) A conversion becomes effective:

15 (1) if the converted organization is a partnership, as provided in the plan or
16 statement of conversion;

17 (2) if the converted organization is a limited liability partnership, after the
18 filing of the statement of conversion required by subsection (a)(2) and upon the filing of the
19 statement of qualification pursuant to section 1001 with the [Secretary of State], or on the date
20 provided therein, whichever is later; or

21 (3) if the converted organization is not a partnership or limited liability
22 partnership, as provided by the governing statute of the converted organization.

23 **SECTION 909. EFFECT OF CONVERSION.**
24

1 (a) An organization that has been converted pursuant to this [article] is for all purposes
2 the same entity that existed before the conversion.

3 (b) When a conversion takes effect:

4 (1) all property owned by the converting organization remains vested in the
5 converted organization;

6 (2) all debts, obligations, or other liabilities of the converting organization
7 continue as debts, obligations, or other liabilities of the converted organization;

8 (3) an action or proceeding pending by or against the converting organization
9 may be continued as if the conversion had not occurred;

10 (4) except as prohibited by law other than this [act], all of the rights,
11 privileges, immunities, powers, and purposes of the converting organization remain vested in the
12 converted organization;

13 (5) except as otherwise provided in the plan of conversion, the terms and
14 conditions of the plan of conversion take effect; and

15 (6) except as otherwise agreed, the conversion does not dissolve a converting
16 partnership for the purposes of [Article] 8.

17 (c) A converted organization that is a foreign organization consents to the jurisdiction of
18 the courts of this state to enforce any debt, obligation, or other liability for which the converting
19 partnership or limited liability partnership is liable if, before the conversion, the converting
20 partnership or limited liability partnership was subject to suit in this state on the debt, obligation,
21 or other liability. A converted organization that is a foreign organization and not authorized to
22 transact business in this state appoints the [Secretary of State] as its agent for service of process
23 for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on

1 the [Secretary of State] under this subsection of any process, notice, or demand as agent for a
2 converted organization that is a foreign organization may be made by delivering to the [Secretary
3 of State] duplicate copies of the process, notice, or demand. If a process, notice, or demand is
4 served upon the [Secretary of State], the [Secretary of State] shall forward one of the copies by
5 registered or certified mail, return receipt requested, to the organization at its registered office.

6 Service is effected under this subsection at the earliest of:

7 (1) the date the converted organization receives the process, notice, or
8 demand;

9 (2) the date shown on the return receipt, if signed on behalf of the
10 organization; or

11 (3) five days after the process, notice, or demand is deposited with the
12 United States Postal Service, if correctly addressed and with sufficient postage.

13 **SECTION 910. DOMESTICATION.**

14
15 (a) A foreign limited liability partnership may become a limited liability partnership
16 pursuant to this section, Sections 911 through 913, and a plan of domestication, if:

17 (1) the foreign limited liability partnership's governing statute authorizes the
18 domestication;

19 (2) the domestication is not prohibited by the law of the jurisdiction that
20 enacted the governing statute; and

21 (3) the foreign limited liability partnership complies with its governing
22 statute in effecting the domestication.

23 (b) A limited liability partnership may become a foreign limited liability partnership
24 pursuant to this section, Sections 911 through 913, and a plan of domestication, if:

1 (1) the foreign limited liability partnership’s governing statute authorizes the
2 domestication;

3 (2) the domestication is not prohibited by the law of the jurisdiction that
4 enacted the governing statute; and

5 (3) the foreign limited liability partnership complies with its governing
6 statute in effecting the domestication.

7 (c) A plan of domestication must be in a record and must include:

8 (1) the name of the domesticating limited liability partnership before
9 domestication and the jurisdiction of its governing statute;

10 (2) the name of the domesticated limited liability partnership after
11 domestication and the jurisdiction of its governing statute;

12 (3) the terms and conditions of the domestication, including the manner and
13 basis for converting interests in the domesticating limited liability partnership into any
14 combination of money, interests in the domesticated limited liability partnership, and other
15 consideration; and

16 (4) the organizational documents of the domesticated company that are, or
17 are proposed to be, in a record.

18 **SECTION 911. ACTION ON PLAN OF DOMESTICATION BY**
19 **DOMESTICATING PARTNERSHIP.**

20 (a) A plan of domestication must be consented to:

21 (1) by all the partners, subject to Section 914, if the domesticating company
22 is a limited liability partnership; and
23

1 (2) as provided in the domesticating company’s governing statute, if the
2 company is a foreign limited liability partnership.

3 (b) Subject to any contractual rights, after a domestication is approved, and at any time
4 before articles of domestication are delivered to the [Secretary of State] for filing under Section
5 912, a domesticating limited liability partnership may amend the plan or abandon the
6 domestication:

7 (1) as provided in the plan; or

8 (2) except as otherwise prohibited in the plan, by the same consent as was
9 required to approve the plan.

10 **SECTION 912. FILINGS REQUIRED FOR DOMESTICATION; EFFECTIVE**
11 **DATE.**

12 (a) After a plan of domestication is approved, a domesticating limited liability partnership
13 shall deliver to the [Secretary of State] for filing articles of domestication, which must include:

14 (1) a statement, as the case may be, that the limited liability partnership has
15 been domesticated from or into another jurisdiction;

16 (2) the name of the domesticating limited liability partnership and the
17 jurisdiction of its governing statute;

18 (3) the name of the domesticated limited liability partnership and the
19 jurisdiction of its governing statute;

20 (4) the date the domestication is effective under the governing statute of the
21 domesticated limited liability partnership;

22 (5) if the domesticating company was a limited liability partnership, a
23 statement that the domestication was approved as required by this [act];
24

1 (6) if the domesticating limited liability partnership was a foreign limited
2 liability partnership, a statement that the domestication was approved as required by the
3 governing statute of the other jurisdiction; and

4 (7) if the domesticated limited liability partnership is a foreign limited
5 liability partnership not authorized to transact business in this state, the street and mailing
6 addresses of an office that the Secretary of State may use for the purposes of Section 913(b).

7 (b) A domestication becomes effective:

8 (1) upon the filing of the statement of qualification pursuant to section 1001
9 or on the date provided therein, whichever is later, if the domesticated partnership is a limited
10 liability partnership; and

11 (2) according to the governing statute of the domesticated limited liability
12 partnership, if it is a foreign limited liability partnership.

13 **SECTION 913. EFFECT OF DOMESTICATION.**
14

15 (a) When a domestication takes effect:

16 (1) the domesticated limited liability partnership is for all purposes the
17 limited liability partnership that existed before the domestication;

18 (2) all property owned by the domesticating limited liability partnership
19 remains vested in the domesticated limited liability partnership;

20 (3) all debts, obligations, or other liabilities of the domesticating limited
21 liability partnership continue as debts, obligations, or other liabilities of the domesticated limited
22 liability partnership;

23 (4) an action or proceeding pending by or against a domesticating limited
24 liability partnership may be continued as if the domestication had not occurred;

1 (5) except as prohibited by other law, all of the rights, privileges, immunities,
2 powers, and purposes of the domesticating limited liability partnership remain vested in the
3 domesticated limited liability partnership;

4 (6) except as otherwise provided in the plan of domestication, the terms and
5 conditions of the plan of domestication take effect; and

6 (7) except as otherwise agreed, the domestication does not dissolve a
7 domesticating limited liability partnership for the purposes of [Article] 8.

8 (b) A domesticated limited liability partnership that is a foreign limited liability
9 partnership consents to the jurisdiction of the courts of this state to enforce any debt, obligation,
10 or other liability owed by the domesticating limited liability partnership, if, before the
11 domestication, the domesticating limited liability partnership was subject to suit in this state on
12 the debt, obligation, or other liability. A domesticated limited liability partnership that is a
13 foreign limited liability partnership and not authorized to transact business in this state appoints
14 the [Secretary of State] as its agent for service of process for purposes of enforcing a debt,
15 obligation, or other liability under this subsection. Service on the [Secretary of State] under this
16 subsection of any process, notice, or demand as agent for a domesticated limited liability
17 partnership that is a foreign limited liability partnership may be made by delivering to the
18 [Secretary of State] duplicate copies of the process, notice, or demand. If a process, notice, or
19 demand is served upon the [Secretary of State], the [Secretary of State] shall forward one of the
20 copies by registered or certified mail, return receipt requested, to the organization at its registered
21 office. Service is effected under this subsection at the earliest of:

22 (1) the date the domesticated foreign limited liability partnership receives
23 the process, notice, or demand;

1 (2) the date shown on the return receipt, if signed on behalf of the limited
2 liability partnership; or

3 (3) five days after the process, notice, or demand is deposited with the
4 United States Postal Service, if correctly addressed and with sufficient postage.

5 (c) If a limited liability partnership has adopted and approved a plan of domestication
6 under Section 910 providing for the limited liability partnership to be domesticated in a foreign
7 jurisdiction, a statement pursuant to section 1001(d) cancelling the limited liability partnership's
8 statement of qualification must be delivered to the [Secretary of State] for filing setting forth:

9 (1) the name of the limited liability partnership;

10 (2) a statement that the limited liability partnership's statement of
11 qualification is being cancelled in connection with the domestication of the limited liability
12 partnership in a foreign jurisdiction;

13 (3) a statement the domestication was approved as required by this [act]; and

14 (4) the jurisdiction of formation of the domesticated foreign limited liability
15 partnership.

16
17 **SECTION 914. RESTRICTIONS ON APPROVAL OF MERGER, CONVERSION,**
18 **AND DOMESTICATION.**

19 (a) If a partner of a constituent or converting partnership, or domesticating limited
20 liability partnership will have personal liability with respect to a surviving, converted, or
21 domesticated organization, approval or amendment of a plan of merger, conversion, or
22 domestication are ineffective without the consent of the partner, unless:

1 (1) the partnership’s partnership agreement provides for approval of a merger,
2 conversion, or domestication with the consent of fewer than all the partners; and

3 (2) the partner has consented to the provision of the partnership agreement.

4 (b) A partner does not give the consent required by subsection (a) merely by consenting
5 to a provision of the partnership agreement that permits the partnership agreement to be amended
6 with the consent of fewer than all the partners.

7
8 **SECTION 915. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER,**
9 **CONVERSION, DOMESTICATION,⁵⁴**

10 (a) A plan of merger, domestication, or conversation of a partnership may be amended,
11 subject to Section 914:

12 (1) in the same manner as the plan was approved, if the plan does not provide for the
13 manner in which it may be amended; or

14 (2) by the partners of the partnership in the manner provided in the plan, but a member
15 that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to
16 any amendment of the plan that will change:

17 (A) the amount or kind of interests, securities, obligations, rights to acquire
18 interests or securities, cash, or other property, or any combination of the foregoing, to be
19 received by the members of any party to the plan;

20 (B) the organizational documents of the surviving, converted, or domesticated
21 organization that will be in effect immediately after the merger, conversion, or domestication
22 becomes effective, except for changes that, under the governing statute of the organization, do

54 Conform to Entity Transactions Act § 204 and RULLCA § 1014A.

1 not require approval of the persons considered by the governing statute to be owners of the
2 organization; or

3 (C) any other terms or conditions of the plan, if the change would adversely
4 affect the partner in any material respect.

5 (b) After a plan of merger, conversion, or domestication has been approved by a
6 partnership and before a statement of merger, conversion, or domestication becomes effective,
7 the plan may be abandoned:

8 (1) as provided in the plan; or

9 (2) unless prohibited by the plan, in the same manner as the plan was approved.

10 (c) If a plan of merger is abandoned after a statement of merger, conversion, or
11 domestication has been filed with the [Secretary of State] and before the filing becomes
12 effective, a statement of abandonment, signed on behalf of a constituent organization, converting
13 organization, or domesticating organization, must be filed with the [Secretary of State] before the
14 time the statement of merger, conversion, or domestication becomes effective. The statement of
15 abandonment takes effect upon filing, and the merger, conversion, or domestication is abandoned
16 and does not become effective. The statement of abandonment must contain:

17 (1) the name of each constituent organization that is authorized [registered] to do business
18 in this state or whose governing statute is a statute of this statute;

19 (2) the date on which the statement of merger, conversion, or domestication was filed;
20 and

21 (3) a statement that the merger, conversion, or domestication has been abandoned in
22 accordance with this Section.

1 SECTION 916. [ARTICLE] NOT EXCLUSIVE. This [article] does not preclude an
2 entity from being merged, converted, or domesticated under law other than this [act].

3 ~~This [article] is not exclusive. Partnerships or limited partnerships may be converted or~~
4 ~~merged in any other manner provided by law.~~

5

1 [ARTICLE] 10

2 LIMITED LIABILITY PARTNERSHIP

3
4 SECTION 1001. STATEMENT OF QUALIFICATION.

5 (a) A partnership may become a limited liability partnership pursuant to this
6 section.

7 (b) The terms and conditions on which a partnership becomes a limited liability
8 partnership must be approved by the vote necessary to amend the partnership agreement except,
9 in the case of a partnership agreement that expressly considers obligations to contribute to the
10 partnership, the vote necessary to amend those provisions.

11 (c) After the approval required by subsection (b), a partnership may become a
12 limited liability partnership by filing a statement of qualification. The statement must contain:

13 (1) the name of the partnership;

14 (2) the street address of the partnership’s chief executive office and, if different,
15 the street address of an office in this State, if any;

16 (3) if the partnership does not have an office in this State, the name and street
17 address of the partnership’s agent for service of process;[55](#)

18 (4) a statement that the partnership elects to be a limited liability partnership; and

19 (5) a deferred effective date, if any.

20 (d) The agent of a limited liability partnership for service of process must be an
21 individual who is a resident of this State or other person authorized to do business in this

22 State.[56](#)

[55 Discussion needed to determine whether to use RULLCA “designated office” concept and how to coordinate with the HUB.](#)

1 (e) The status of a partnership as a limited liability partnership is effective on the
2 later of the filing of the statement or a date specified in the statement. The status remains
3 effective, regardless of changes in the partnership, until it is canceled pursuant to Section 105(d)
4 or revoked pursuant to Section 1003.

5 (f) The status of a partnership as a limited liability partnership and the liability of
6 its partners is not affected by errors or later changes in the information required to be contained
7 in the statement of qualification under subsection (c).

8 (g) The filing of a statement of qualification establishes that a partnership has
9 satisfied all conditions precedent to the qualification of the partnership as a limited liability
10 partnership.

11 (h) An amendment or cancellation of a statement of qualification is effective when
12 it is filed or on a deferred effective date specified in the amendment or cancellation.

13
14 **SECTION 1001A. CHANGE OF OFFICE OR AGENT FOR SERVICE OF**
15 **PROCESS.⁵⁷**

16 (a) A partnership or foreign partnership may change its office, its agent for service
17 of process, or the address of its agent for service of process by delivering to the [Secretary of
18 State] for filing a statement of change containing:

19 (1) the name of the partnership;

20 (2) the street and mailing addresses of its current office;

21 (3) if the current office is to be changed, the street and mailing addresses of the new
22 office;

56 Conforms to RULLCA § 113(c).

57 Conform to RULLCA § 114.

1 (4) the name and street and mailing addresses of its current agent for service of
2 process; and

3 (5) if the current agent for service of process or an address of the agent is to be
4 changed, the new information.

5 (b) A statement of change is effective when filed by the [Secretary of State].

6
7 **SECTION 1001B. RESIGNATION OF AGENT FOR SERVICE OF**
8 **PROCESS.**⁵⁸

9 (a) To resign as an agent for service of process of a partnership or foreign
10 partnership, the agent must deliver to the [Secretary of State] for filing a statement of resignation
11 containing the partnership name and stating that the agent is resigning.

12 (b) The [Secretary of State] shall file a statement of resignation delivered under
13 subsection (a) and mail or otherwise provide or deliver a copy to the office of the partnership or
14 foreign partnership.

15 (c) An agency for service of process terminates on the earlier of:

16 (1) the 31st day after the [Secretary of State] files the statement of resignation;

17 (2) when a record designating a new agent for service of process is delivered to the
18 [Secretary of State] for filing on behalf of the partnership and becomes effective.

19
20
21 **SECTION 1001C. SERVICE OF PROCESS.**⁵⁹

58 Conform to RULLCA § 115.

59 Conform to RULLCA § 116.

1 (a) An agent for service of process appointed by a partnership or foreign
2 partnership is an agent of the partnership for service of any process, notice, or demand required
3 or permitted by law to be served on the partnership.

4 (b) If a partnership or foreign partnership does not appoint or maintain an agent for
5 service of process in this state or the agent for service of process cannot with reasonable
6 diligence be found at the agent's street address, the [Secretary of State] is an agent of the
7 company upon whom process, notice, or demand may be served.

8 (c) Service of any process, notice, or demand on the [Secretary of State] as agent
9 for a partnership or foreign partnership may be made by delivering to the [Secretary of State]
10 duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on
11 the [Secretary of State], the [Secretary of State] shall forward one of the copies by registered or
12 certified mail, return receipt requested, to the company at its office.

13 (d) Service is effected under subsection (c) at the earliest of:

14 (1) the date the partnership or foreign partnership receives the process, notice, or
15 demand;

16 (2) the date shown on the return receipt, if signed on behalf of the partnership; or

17 (3) five days after the process, notice, or demand is deposited with the United
18 States Postal Service, if correctly addressed and with sufficient postage.

19 (e) The [Secretary of State] shall keep a record of each process, notice, and demand
20 served pursuant to this section and record the time of, and the action taken regarding, the service.

21 (f) This section does not affect the right to serve process, notice, or demand in any
22 other manner provided by law.

1 **SECTION 1002. NAME.** The name of a limited liability partnership must end with
2 “Registered Limited Liability Partnership”, “Limited Liability Partnership”, “R.L.L.P.”, “L.L.P.”,
3 “RLLP,” or “LLP”.

4
5 **SECTION 1003. ANNUAL REPORT.**60

6 (a) A limited liability partnership and a foreign limited liability partnership
7 authorized to transact business in this State shall ~~file an annual report in the office of~~ deliver to
8 the [Secretary of State] for filing and annual report that sets forth:~~which contains:~~

9 (1) the name of the limited liability partnership and the State or other jurisdiction
10 under whose laws the foreign limited liability partnership is formed;

11 (2) the street and mailing address of the partnership’s chief executive office and, if
12 different, the street address of an office of the partnership in this State, if any; and

13 (3) if the partnership does not have an office in this State, the name and street
14 address of the partnership’s current agent for service of process.

15 **(b)** Information in an annual report under this section must be current as of the
16 date the report is signed on behalf of the limited liability partnership or foreign limited liability
17 company authorized to transact business in this State.

18 **(c)** The first annual report must be delivered to the [Secretary of State] after
19 [January 1] and before [April 1] of the year following the calendar year in which a limited
20 liability partnership was formed or a foreign limited liability partnership is authorized to do
21 business in this state. Subsequent annual reports must be delivered to the [Secretary of State]
22 after [January 1] and before [April 1] of each calendar year thereafter.~~An annual report must be~~
23 ~~filed between [January 1 and April 1] of each year following the calendar year in which a~~

60 Conform to RULLCA § 209.

1 | ~~partnership files a statement of qualification or a foreign partnership becomes authorized to~~
2 | ~~transact business in this State.~~

3 | (d) If an annual report under this section does not contain the information required
4 | by subsection (b), the [Secretary of State] shall promptly notify the reporting limited liability
5 | partnership or foreign limited liability partnership in a record and return the report for correction.

6 | (e) If an annual report under this section contains an address of an office or the
7 | name or address of an agent for service of process which differs from the information shown in
8 | the records of the [Secretary of State] immediately before the annual report becomes effective,
9 | the differing information in the annual report is considered a statement of change under Section
10 | 1001A.

11 | (c) The [Secretary of State] may revoke the statement of qualification of a
12 | partnership that fails to file an annual report when due or pay the required filing fee. To do so,
13 | the [Secretary of State] shall provide the partnership at least 60 days' written notice of intent to
14 | revoke the statement. The notice must be mailed to the partnership at its chief executive office
15 | set forth in the last filed statement of qualification or annual report. The notice must specify the
16 | annual report that has not been filed, the fee that has not been paid, and the effective date of the
17 | revocation. The revocation is not effective if the annual report is filed and the fee is paid before
18 | the effective date of the revocation.61

19 | (d) A revocation under subsection (c) only affects a partnership's status as a limited
20 | liability partnership and is not an event of dissolution of the partnership.

61 Discuss conforming to RULLCA § 705 understanding that the partnership is not being dissolved but that its LLP status is being cancelled.

1 (e) A partnership whose statement of qualification has been revoked may apply to
2 the [Secretary of State] for reinstatement within two years after the effective date of the
3 revocation. The application must state:

4 (1) the name of the partnership and the effective date of the revocation; and

5 (2) that the ground for revocation either did not exist or has been corrected.

6 (f) A reinstatement under subsection (e) relates back to and takes effect as of the
7 effective date of the revocation, and the partnership's status as a limited liability partnership
8 continues as if the revocation had never occurred.

9

1 [ARTICLE] 11

2 FOREIGN LIMITED LIABILITY PARTNERSHIP

3
4 SECTION 1101. LAW GOVERNING FOREIGN LIMITED LIABILITY

5 PARTNERSHIP.⁶²

6 (a) The law under which a foreign limited liability partnership is formed governs:

7 (1) the internal affairs of the limited liability partnership; and

8 (2) the liability of a partner as partner for the debts, obligations, or other liabilities of the
9 partnership.⁶³

10 ~~relations among the partners and between the partners and the partnership and the~~
11 ~~liability of partners for obligations of the partnership.~~

12 (b) A foreign limited liability company may not be precluded from registering to do
13 business in this state because of any difference between the law of the limited liability

14 partnership’s jurisdiction of formation and the laws of this state.~~A foreign limited liability~~
15 ~~partnership may not be denied a statement of foreign qualification by reason of any difference~~
16 ~~between the law under which the partnership was formed and the law of this State.~~

17 (c) Registration as a foreign limited liability partnership to do business in this state
18 does not authorize that partnership to engage in any business or exercise any power that a limited

19 liability partnership may not engage in or exercise in this state.~~A statement of foreign~~
20 ~~qualification does not authorize a foreign limited liability partnership to engage in any business~~
21 ~~or exercise any power that a partnership may not engage in or exercise in this State as a limited~~
22 ~~liability partnership.~~

⁶² Conform to HUB § 1-501.

⁶³ Conform also to RUPA § 106, as revised.

1
2 **SECTION 1102. ~~STATEMENT OF FOREIGN~~**

3 **QUALIFICATION REGISTRATION TO DO BUSINESS IN THIS STATE.⁶⁴**

4 (a) A foreign limited liability partnership may not do business in this state until it
5 registers with the [Secretary of State] under this [article].

6 (b) A foreign limited liability partnership doing business in this state may not maintain an
7 action or proceeding in this state unless it has registered to do business in this state.

8 (c) The failure of a foreign limited liability partnership to register to do business in this
9 state does not impair the validity of a contract or act of the foreign limited liability partnership or
10 preclude it from defending an action or proceeding in this state.

11 (d) A partner of a foreign limited liability partnership is not liable for the debts,
12 obligations, or other liabilities of a limited liability partnership solely because the partnership
13 transacted business in this state without registering to do business in this state.

14 (e) Section 1101(a) and (b) apply even if a foreign limited liability partnership fails to
15 register under this [article].

16
17 **SECTION 1103. APPLICATION FOR CERTIFICATE OF AUTHORITY.⁶⁵ To**

18 register to do business in this state, a foreign limited liability partnership must deliver a foreign
19 registration statement to the [Secretary of State] for filing. The application must set forth:

20 (1) the name of the partnership and, if the name does not comply with Section 1002, an
21 alternate name adopted pursuant to Section _____;

22 (2) the name of the jurisdiction under whose law the partnership is formed;

⁶⁴ Conform to HUB § 1-501 and RULLCA § 805, Revised.

⁶⁵ Conform to HUB § 1-503 and RULLCA § 802.

1 (3) the street and mailing addresses of the partnership’s office and, if the law of the
2 jurisdiction under which the partnership is formed requires the partnership to maintain an office
3 in that jurisdiction, the street and mailing addresses of the required office; and

4 (4) the name and street and mailing addresses of the partnership” initial agent for service
5 of process in this state.

6
7 **SECTION 1104. AMENDMENT OF FOREIGN REGISTRATION**

8 **STATEMENT.**⁶⁶

9 (a) A foreign limited liability partnership registered to do business in this state shall
10 deliver to the [Secretary of State] for filing an amendment to its foreign registration statement if
11 there is a change in:

12 (1) the name of the entity;

13 (2) the name the jurisdiction under whose law the limited liability partnership is formed;

14 (3) the address required by Section 1103; and

15 (4) the name and street and mailing addresses of the limited liability partnership’s agent
16 for service of process in this state.

17 (b) The requirements of Section 1103 for an original foreign registration statement apply
18 to an amendment of a foreign registration statement under this section.

19
20 **SECTION 1104. ACTIVITIES NOT CONSTITUTING DOING BUSINESS.**⁶⁷

21 (a) Activities of a foreign limited liability partnership which do not constitute doing
22 business in this state under the meaning of this [article] include:

⁶⁶ Conform to HUB § 1-504 and RULLCA § 802A.

⁶⁷ Conform to RULLCA § 804.

1 (1) maintaining, defending, mediating, arbitrating or settling an action or proceeding;

2 (2) carrying on any activity concerning its internal affairs, including holding meetings of
3 its members or managers;

4 (3) maintaining accounts in financial institutions;

5 (4) maintaining offices or agencies for the transfer, exchange, and registration of the
6 company's membership interests or maintaining trustees or depositories with respect to those
7 membership interests;

8 (5) selling through independent contractors;

9 (6) soliciting or obtaining orders, by any means if the orders require acceptance outside
10 this state before they become contracts;

11 (7) creating or acquiring indebtedness, mortgages, or security interests in property;

12 (8) securing or collecting debts or enforcing mortgages or other security interests in
13 property securing the debts and holding, protecting, or maintaining property;

14 (9) conducting an isolated transaction that is not in the course of similar transactions; and

15 (10) doing business in interstate commerce.

16 (b) This section does not apply in determining the contacts or activities that may subject a
17 foreign limited liability partnership to service of process, taxation, or regulation under law of this
18 state other than this [act].

19 **SECTION 1105. NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY**
20 **PARTNERSHIP.**

21 (a) A foreign limited liability partnership whose name does not comply with Section 1002
22 may not register to do business in this state until it adopts, for the purpose of doing business in
23 this state, an alternate name that complies with Section 1002. A foreign limited liability

1 partnership that registers under an alternate name under this subsection need not comply with
2 [this state's fictitious or assumed name statute]. After registering to do business in this state with
3 an alternate name, a foreign limited liability partnership may do business in this state under:

4 (1) the alternate name;

5 (2) the name in the jurisdiction under whose law the partnership is formed, with that
6 jurisdiction clearly identified; or

7 (3) an assumed or fictitious name the partnership is authorized to use under [this state's
8 fictitious or assumed name statute].

9 (b) If a foreign limited liability partnership registered to transact business in this state
10 changes its name to one that does not comply with Section 1102, it may not do business in this
11 state until it complies with subsection (a) by amending its registration to adopt an alternate name
12 that complies with Section 1102.

13 **SECTION 1106. TERMINATION OF REGISTRATION.**⁶⁸
14

15 (a) The registration of a foreign limited liability partnership to do business in this state
16 may be terminated by the [Secretary of State] in the manner provided in subsections (b) and (c) if
17 the partnership does not:

18 (1) pay, not later than 60 days after the due date, any fee, tax, or penalty required to be
19 paid to the [Secretary of State] under this [act] or law other than this [act];

20 (2) deliver, not later than 60 days after the due date, its annual report required under
21 Section 1003;

22 (3) appoint and maintain an agent for service of process as required by Section 1003; or

⁶⁸ Conform to HUB § 1-511 and RULLCA § 806.

1 (4) deliver for filing a statement of a change under Section 1003 within 30 days after a
2 change has occurred in the name or address of the agent.

3 (b) The [Secretary of State] may terminate the registration of a foreign limited liability
4 partnership by filing a notice of termination or noting the termination in the record of the
5 [Secretary of State] and by by delivering a copy of the notice or the information in the notation to
6 the partnership's agent for service of process in this state, or if the partnership does not appoint
7 and maintain a proper agent in this state, to the partnership's office. The notice must state:

8 (1) the effective date of the termination, which must be at least [60 days] after the date
9 the [Secretary of State] delivers the copy; and

10 (2) the grounds for termination under subsection (a).

11 (c) The authority of a foreign limited liability partnership to do business in this state
12 ceases on the effective date of the notice of termination unless before that date the partnership
13 cures each ground for termination stated in the notice filed under subsection (b). If the
14 partnership cures each ground, the [Secretary of State] shall file a record so stating.

15
16 **SECTION 1107. WITHDRAWAL OF REGISTRATION OF REGISTERED**
17 **FOREIGN ENTITY.**⁶⁹

18 (a) A foreign entity registered to do business in this state may withdraw its registration by
19 delivering a statement of withdrawal to the [Secretary of State] for filing. The statement of
20 withdrawal must set forth:

21 (1) the name of the foreign entity and the name of the jurisdiction under whose
22 law it is formed;

69 Conform to HUB § 1-507 and RULLCA § 807.

1 (2) that the entity is not doing business in this state and that it withdraws its
2 registration to do business in this state;

3 (3) that the entity revokes the authority of its registered agent to accept service on its
4 behalf; and

5 (4) an address to which service of process may be made under subsection (b).

6 (b) After the withdrawal of the registration of an entity, service of process in any
7 proceeding based on a cause of action arising during the time it was registered to do
8 business in this state may be made by registered or certified mail, return receipt requested, or by
9 similar commercial delivery service, addressed to the entity at its principal office in accordance
10 with any applicable judicial rules and procedures and with the envelope conspicuously marked
11 “important legal notice” or with words of similar import. Service is effected under this
12 subsection on the earliest of:

13 (1) the date the entity receives the mail or delivery by a similar commercial delivery
14 service;

15 (2) the date shown on the return receipt, if signed on behalf of the entity; or

16 (3) five days after its deposit with the United States Postal Service, or similar commercial
17 delivery service, if correctly addressed and with sufficient postage or payment.

18 (c) If process, notice, or demand cannot be served on a foreign limited liability
19 partnership pursuant to subsection (b), service may be made by handing a copy to a manager,
20 clerk, or other individual in charge of any regular place of business or activity of the partnership
21 if the individual served is not a plaintiff in the action.

22 ~~(a) Before transacting business in this State, a foreign limited liability partnership must~~
23 ~~file a statement of foreign qualification. The statement must contain:~~

1 ~~(1) the name of the foreign limited liability partnership which satisfies the requirements~~
2 ~~of the State or other jurisdiction under whose law it is formed and ends with “Registered Limited~~
3 ~~Liability Partnership”, “Limited Liability Partnership”, “R.L.L.P.”, “L.L.P.”, “RLLP,” or “LLP”;~~

4 ~~(2) the street address of the partnership’s chief executive office and, if different, the street~~
5 ~~address of an office of the partnership in this State, if any;~~

6 ~~(3) if there is no office of the partnership in this State, the name and street address of the~~
7 ~~partnership’s agent for service of process; and~~

8 ~~(4) a deferred effective date, if any.~~

9 ~~(b) The agent of a foreign limited liability company for service of process must be an~~
10 ~~individual who is a resident of this State or other person authorized to do business in this State.~~

11 ~~(c) The status of a partnership as a foreign limited liability partnership is effective on the~~
12 ~~later of the filing of the statement of foreign qualification or a date specified in the statement.~~
13 ~~The status remains effective, regardless of changes in the partnership, until it is canceled~~
14 ~~pursuant to Section 105(d) or revoked pursuant to Section 1003.~~

15 ~~(d) An amendment or cancellation of a statement of foreign qualification is effective~~
16 ~~when it is filed or on a deferred effective date specified in the amendment or cancellation.~~

17
18 ~~**SECTION 1103. EFFECT OF FAILURE TO QUALIFY.**~~

19 ~~(a) A foreign limited liability partnership transacting business in this State may not~~
20 ~~maintain an action or proceeding in this State unless it has in effect a statement of foreign~~
21 ~~qualification.~~

22 ~~(b) The failure of a foreign limited liability partnership to have in effect a statement~~
23 ~~of foreign qualification does not impair the validity of a contract or act of the foreign limited~~
24 ~~liability partnership or preclude it from defending an action or proceeding in this State.~~

1 ~~(c) A limitation on personal liability of a partner is not waived solely by transacting~~
2 ~~business in this State without a statement of foreign qualification.~~

3 ~~(d) If a foreign limited liability partnership transacts business in this State without a~~
4 ~~statement of foreign qualification, the [Secretary of State] is its agent for service of process with~~
5 ~~respect to a right of action arising out of the transaction of business in this State.~~

6
7 ~~**SECTION 1104. ACTIVITIES NOT CONSTITUTING TRANSACTING**~~
8 ~~**BUSINESS.**~~

9 ~~(a) Activities of a foreign limited liability partnership which do not constitute~~
10 ~~transacting business for the purpose of this [article] include:~~

11 ~~(1) maintaining, defending, or settling an action or proceeding;~~

12 ~~(2) holding meetings of its partners or carrying on any other activity concerning~~
13 ~~its internal affairs;~~

14 ~~(3) maintaining bank accounts;~~

15 ~~(4) maintaining offices or agencies for the transfer, exchange, and registration of~~
16 ~~the partnership's own securities or maintaining trustees or depositories with respect to those~~
17 ~~securities;~~

18 ~~(5) selling through independent contractors;~~

19 ~~(6) soliciting or obtaining orders, whether by mail or through employees or agents~~
20 ~~or otherwise, if the orders require acceptance outside this State before they become contracts;~~

21 ~~(7) creating or acquiring indebtedness, with or without a mortgage, or other~~
22 ~~security interest in property;~~

23 ~~(8) collecting debts or foreclosing mortgages or other security interests in~~
24 ~~property securing the debts, and holding, protecting, and maintaining property so acquired;~~

1 ~~(9) conducting an isolated transaction that is completed within 30 days and is not~~
2 ~~one in the course of similar transactions; and~~

3 ~~(10) transacting business in interstate commerce.~~

4 ~~(b) For purposes of this [article], the ownership in this State of income-producing~~
5 ~~real property or tangible personal property, other than property excluded under subsection (a),~~
6 ~~constitutes transacting business in this State.~~

7 ~~(c) This section does not apply in determining the contacts or activities that may~~
8 ~~subject a foreign limited liability partnership to service of process, taxation, or regulation under~~
9 ~~any other law of this State.~~

10
11 **SECTION 1108. ACTION BY [ATTORNEY GENERAL].** The [Attorney General]
12 may maintain an action to restrain a foreign limited liability partnership from transacting
13 business in this State in violation of this [article].

14

1 [ARTICLE] 12

2 MISCELLANEOUS PROVISIONS

3
4 SECTION 1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
5 applying and construing this uniform act, consideration must be given to the need to promote
6 uniformity of the law with respect to its subject matter among states that enact it. ~~This [Act] shall~~
7 ~~be applied and construed to effectuate its general purpose to make uniform the law with respect~~
8 ~~to the subject of this [Act] among States enacting it.~~

9
10 SECTION 1202. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
11 AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal
12 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but
13 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
14 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
15 U.S.C. Section 7003(b). ~~SECTION 1202. SHORT TITLE. This [Act] may be cited as the~~
16 ~~Uniform Partnership Act (1997).~~

17 SECTION 1203. SEVERABILITY CLAUSE. ~~If any provision of this [Act] or its~~
18 ~~application to any person or circumstance is held invalid, the invalidity does not affect other~~
19 ~~provisions or applications of this [Act] which can be given effect without the invalid provision or~~
20 ~~application, and to this end the provisions of this [Act] are severable.~~

21
22 SECTION 1204. EFFECTIVE DATE. This [Act] takes effect

1 SECTION 1205. REPEALS. Effective January 1, ____, the following acts and parts of
2 acts are repealed: [the State Partnership Act as amended and in effect immediately before the
3 effective date of this [Act]].

4
5 **SECTION 12036. TO EXISTING RELATIONSHIPS APPLICABILITY.**

6 (a) Before [all-inclusive date], this [act] governs only:

7 (1) a partnership formed on or after [the effective date of this act]; and

8 (2) a partnership formed before [the effective date of this act] which elects, in the manner
9 provided in its partnership agreement or by law for amending the partnership agreement, to be
10 subject to this [act].

11 (b) On and after [all-inclusive date] this [act] governs all partnerships.

12 ~~(a) Before January 1, ____, this [Act] governs only a partnership formed:~~

13 ~~(1) after the effective date of this [Act], except a partnership that is continuing the~~
14 ~~business of a dissolved partnership under [Section 41 of the superseded Uniform Partnership~~
15 ~~Act]; and~~

16 ~~(2) before the effective date of this [Act], that elects, as provided by subsection (c), to be~~
17 ~~governed by this [Act].~~

18 ~~(b) On and after January 1, ____, this [Act] governs all partnerships.~~

19 ~~(c) Before January 1, ____, a partnership voluntarily may elect, in the manner provided in~~
20 ~~its partnership agreement or by law for amending the partnership agreement, to be governed by~~
21 ~~this [Act]. The provisions of this [Act] relating to the liability of the partnership's partners to~~
22 ~~third parties apply to limit those partners' liability to a third party who had done business with~~
23 ~~the partnership within one year before the partnership's election to be governed by this [Act].~~

1 ~~only if the third party knows or has received a notification of the partnership's election to be~~
2 ~~governed by this [Act].~~

3
4 **SECTION 12047. SAVINGS CLAUSE.** This [Act] does not affect an action
5 ~~commenced,~~ or proceeding ~~commenced brought,~~ or right accrued before this [Act] takes effect.

6
7 ~~{Sections 1208 through 1211 are necessary only for jurisdictions adopting~~
8 ~~Uniform Limited Liability Partnership Act Amendments after previously adopting~~
9 ~~Uniform Partnership Act (1994)}~~

10
11 **SECTION 12058. EFFECTIVE DATE.** These [Amendments] take effect
12 ~~on.....~~

13
14 **SECTION 12069. REPEALS.** Effective ~~January 1, __, [all-inclusive date],~~ the following
15 acts and parts of acts are repealed: [the ~~Limited Liability Partnership amendments to the~~
16 ~~Statestate pPartnership aAct,~~ as amended, and in effect immediately before the effective date of
17 ~~this actese [Amendments]].~~

18
19 **~~SECTION 1210. APPLICABILITY.~~**

20 (a) ~~Before January 1, __, these [Amendments] govern only a limited liability~~
21 ~~partnership formed:~~

22 (1) ~~on or after the effective date of these [Amendments], unless that partnership is~~
23 ~~continuing the business of a dissolved limited liability partnership; and~~

24 (2) ~~before the effective date of these [Amendments], that elects, as provided by~~
25 ~~subsection (c), to be governed by these [Amendments].~~

26 (b) ~~On and after January 1, __, these [Amendments] govern all partnerships.~~

1 ~~(c) Before January 1, __, a partnership voluntarily may elect, in the manner~~
2 ~~provided in its partnership agreement or by law for amending the partnership agreement, to be~~
3 ~~governed by these [Amendments]. The provisions of these [Amendments] relating to the liability~~
4 ~~of the partnership's partners to third parties apply to limit those partners' liability to a third party~~
5 ~~who had done business with the partnership within one year before the partnership's election to~~
6 ~~be governed by these [Amendments], only if the third party knows or has received a notification~~
7 ~~of the partnership's election to be governed by these [Amendments].~~

8 ~~(d) The existing provisions for execution and filing a statement of qualification of a~~
9 ~~limited liability partnership continue until either the limited liability partnership elects to have~~
10 ~~this [Act] apply or January 1, ____.~~

11 ~~**SECTION 1211. SAVINGS CLAUSE.** These [Amendments] do not affect an action or~~
12 ~~proceeding commenced or right accrued before these [Amendments] take effect.~~