Chapter 67

2003 EDITION

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GENERAL PROVISIONS

67.005 Definitions. As used in this chapter:

(1) "Business" includes every trade, occupation, profession and commercial activity.

(2) "Debtor in bankruptcy" means a person who is the subject of:

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

(b) A comparable order under federal, state or foreign law governing insolvency.

(3) "Dissociated partner" means a partner with respect to whom an event specified in ORS 67.220 has occurred.

(4) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(5) "Foreign limited liability partnership" means a partnership that:

(a) Is formed under laws other than the law of this state; and

(b) Has the status of a limited liability partnership under those laws.

(6) "Limited liability partnership" means a partnership that has registered under ORS 67.590, and has not registered or qualified in any other jurisdiction other than as a foreign limited liability partnership.

(7) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit created under ORS 67.055, predecessor law, or comparable law of another jurisdiction. A partnership includes a limited liability partnership.

(8) "Partnership agreement" means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(9) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(10) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality or any other legal or commercial entity.

(12) "Professional" means:

(a) Accountants licensed under ORS 673.010 to 673.457 or the laws of another state;

(b) Architects licensed under ORS 671.010 to 671.220 or the laws of another state;

(c) Attorneys licensed under ORS 9.005 to 9.755 or the laws of another state;

(d) Chiropractors licensed under ORS chapter 684 or the laws of another state;

(e) Dentists licensed under ORS chapter 679 or the laws of another state;

(f) Landscape architects licensed under ORS 671.310 to 671.459 or the laws of another state;

(g) Naturopaths licensed under ORS chapter 685 or the laws of another state;

(h) Nurse practitioners licensed under ORS 678.010 to 678.410 or the laws of another state;

(i) Psychologists licensed under ORS 675.010 to 675.150 or the laws of another state;

(j) Physicians licensed under ORS chapter 677 or the laws of another state;

(k) Podiatrists licensed under ORS chapter 677 or the laws of another state;

(L) Radiologic technologists licensed under ORS 688.405 to 688.605 or the laws of another state;

(m) Real estate appraisers licensed under ORS chapter 674 or the laws of another state; and

(n) Other persons providing to the public types of personal service or services substantially similar to those listed in paragraphs (a) to (m) of this subsection that may be lawfully rendered only pursuant to a license.

(13) "Professional service" means the service rendered by a professional.

(14) "Property" means all property, real, personal or mixed, tangible or intangible, or any interest therein.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, encumbrance, creation of a security interest and any other disposition.

(17) "Transferable interest of a partner in the partnership" means the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. [1997 c.775 §1; 2003 c.14 §25]

PARTNERSHIPS

67.010 Knowledge and notice. (1) A person knows a fact if the person has actual knowledge of it.

(2) A person has notice of a fact if the person:

(a) Knows of it;

(b) Has received a notification of it; or

(c) Has reason to know it exists from all the facts known to the person at the time in question.

(3) A person notifies or gives notification to another by taking steps reasonably required to inform the other person in the ordinary course, whether or not the other person learns of it.

(4) A person receives a notification when the notification:

(a) Comes to the person's attention; or

(b) Is addressed to the person and is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(5) Except as provided in subsection (6) of this section, a person other than an individual knows, has notice or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence.

(6) A partner's knowledge, notice or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner. [1997 c.775 §2]

67.015 Effect of partnership agreement; nonwaivable provisions. (1) Except as otherwise provided in subsection (2) of this section, relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(2) The partnership agreement may not:

(a) Unreasonably restrict the right of access to books and records under ORS 67.150 (2);

(b) Eliminate the duty of loyalty under ORS 67.155 (2) or 67.230 (2)(c), but:

(A) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not unconscionable; or

(B) All the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(c) Unreasonably reduce the duty of care under ORS 67.155 (3) or 67.230 (2)(c);

(d) Eliminate the obligation of good faith and fair dealing under ORS 67.155 (4), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not unconscionable;

(e) Vary the power to dissociate as a partner under ORS 67.225 (1), except to require the notice under ORS 67.220 (1) of this Act to be in writing;

(f) Vary the right of a court to expel a partner in the events specified in ORS 67.220 (5);

(g) Vary the requirement to wind up the partnership business in cases specified in ORS 67.290 (4), (5), (6) or (7);

(h) Choose a governing law not permitted under ORS 67.025 (1) or vary the application of this state's law with respect to a limited liability partnership or a foreign limited liability partnership pursuant to ORS 67.025 (2) or (3); or

(i) Restrict rights of third parties under this chapter. [1997 c.775 §3]

67.020 Supplemental principles of law. (1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(2) If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in ORS 82.010. [1997 c.775 §4]

67.025 Governing law. (1) Except as otherwise provided in subsections (2) and (3) of this section, the relations among the partners and between the partners and the partnership and the liability of the partners for obligations of the partnership are governed by:

(a) The law of the state chosen by the partners to govern if that state bears a reasonable relation to the partners or to the partnership business and affairs; or

(b) If the partners do not choose a governing law under paragraph (a) of this subsection, the law of the state in which the partnership has its principal office from which the partnership conducts its business.

(2) With respect to a limited liability partnership, the law of this state governs the relations among the partners and between the partners and the partnership, and the liability of the partners for obligations of the limited liability partnership.

(3) With respect to a foreign limited liability partnership:

(a) The laws of the state or other jurisdiction under which a foreign limited liability partnership is formed governs the internal affairs of the partnership and the relations among the partners and between the partners and the partnership;

(b) Except as provided in paragraph (c) of this subsection, the liability of a partner of a foreign limited liability partnership for the obligations of the foreign limited liability partnership arising in this state shall be the same as the liability of a partner of a limited liability partnership under ORS 67.105 for the obligations of the limited liability partnership; and

(c) The partners of a foreign limited liability partnership who are professionals who hold licenses to render professional service in this state and who practice more than incidentally in this state shall be personally liable in their capacity as partners to the same extent and in the same manner as provided for shareholders of a foreign professional corporation under ORS 58.185 and 58.187 and as otherwise provided in this chapter. [1997 c.775 §5]

(Nature of Partnership)

67.050 Partnership as entity. (1) A partnership is an entity distinct from its partners.

(2) A limited liability partnership continues to be the same entity that existed before the filing of a registration under ORS 67.590 and remains the same entity if its registration ceases. [1997 c.775 §6]

67.055 Creation of partnership. (1) Except as otherwise provided in subsection (3) of this section, the association of two or more persons to carry on as co-owners a business for profit creates a partnership, whether or not the persons intend to create a partnership.

(2) A partnership may be created under this chapter, a predecessor statute or a comparable law of another jurisdiction.

(3) An association or entity created under a law other than the laws described in subsection (2) of this section is not a partnership.

(4) In determining whether a partnership is created, the following rules apply:

(a) Factors indicating that persons have created a partnership include:

(A) Their receipt of or right to receive a share of profits of the business;

(B) Their expression of an intent to be partners in the business;

(C) Their participation or right to participate in control of the business;

(D) Their sharing or agreeing to share losses of the business or liability for claims by third parties against the business; and

(E) Their contributing or agreeing to contribute money or property to the business.

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

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

(d) It is a rebuttable presumption that a person who receives a share of the profits of a business is a partner in the business, unless the profits were received in payment of:

(A) A debt by installments or otherwise;

(B) Wages or other compensation to an employee or independent contractor;

(C) Rent;

(D) Amounts owing to a former partner, a beneficiary, representative or designee of a deceased or disabled partner, or a transferee of a partnership interest;

(E) Interest or other charge on a loan, whether or not the amount of payment varies with the profits of the business, and whether or not the loan agreement or instrument includes a direct or indirect present or future ownership interest in collateral or rights to income, proceeds or increase in value derived from collateral; or

(F) Consideration for the sale of a business, including goodwill, or other property by installments or otherwise.

(e) An agreement to share losses by the owners of a business is not necessary to create a partnership. [1997 c.775 §7]

67.060 Partnership property. Property acquired by a partnership is property of the partnership and not of the partners individually. [1997 c.775 §8]

67.065 When property is partnership property. (1) Property is partnership property if acquired in the name of:

(a) The partnership; or

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

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

(a) The partnership in its name; or

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

(3) It is a rebuttable presumption that property is partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(4) It is a rebuttable presumption that property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is separate property, even if used for partnership purposes. [1997 c.775 §9]

67.070 General powers of a partnership. Unless restricted by applicable law, a partnership has the same powers as an individual to do all things necessary or convenient to carry on its business and affairs. [1997 c.775 §10]

(Relations of Partners to Persons Dealing With Partnership)

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

(2) An act of a partner that is not for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership, binds the partnership only if the act was authorized by the other partners. [1997 c.775 §11]

67.095 Transfer of partnership property. (1) Partnership property may be transferred as follows:

(a) Partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the name of the partnership.

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

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

(2) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under ORS 67.090 and:

(a) As to a subsequent transferee who gave value for property transferred under subsection (1)(a) and (b) of this section, proves that prior to the transfer to the subsequent transferee, the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(b) As to a transferee who gave value for property transferred under subsection (1)(c) of this section, proves that prior to the transfer to the transferee, the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(3) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection (2) of this section, from any earlier transferee of the property.

(4) If a person holds all the partners' interests in the partnership, all the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document. [1997 c.775 §12]

67.100 Partnership liable for partner's actionable conduct. (1) A partnership is liable for loss or injury caused to a person, including a partner, or for a penalty incurred as a result of a wrongful act or omission or other actionable conduct of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(2) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable to such person for the loss. [1997 c.775 §13]

67.105 Partner's liability. (1) Except as otherwise provided in this section, all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

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

(3)(a) An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of indemnification, contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner.

(b) Notwithstanding paragraph (a) of this subsection, a partner of a limited liability partnership shall continue to be liable for any obligation of the partnership for which the partner was liable before the partnership became a limited liability partnership.

(c) Nothing in this subsection shall in any way affect or impair the ability of a partner to be released from any such obligation. This subsection applies to a partner's liability notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under ORS 67.500 (3).

(4) Notwithstanding subsection (3) of this section, the partners of a limited liability partnership who are professionals shall be personally liable in their capacity as partners to the same extent and in the same manner as provided for shareholders of a domestic professional corporation under ORS 58.185 and 58.187 and as otherwise provided in this chapter. [1997 c.775 §14]

67.110 Actions by and against partnership and partners. (1) A partnership may sue and be sued in the name of the partnership.

(2) An action may be brought against the partnership and, to the extent not inconsistent with ORS 67.105, any or all of the partners in the same action or in separate actions.

(3) A judgment against a partnership is not by itself a judgment against a partner.

(4) Except as provided by subsection (5) of this section, a creditor may proceed against one or more partners or their property to satisfy a judgment based on a claim that could have been successfully asserted against the partnership only if:

(a) The partner is personally liable for the claim under ORS 67.105;

(b) A judgment is also obtained against the partner; and

(c) A judgment based on the same claim is obtained against the partnership that:

(A) Has not been reversed or vacated; and

(B) Remains unsatisfied for 90 days after:

(i) The date of entry of the judgment; or

(ii) The date of expiration or termination of the stay, if the judgment is contested by appropriate proceedings and execution on the judgment has been stayed.

(5) Subsection (4) of this section does not prohibit a creditor from proceeding directly against one or more partners who are personally liable for the claim under ORS 67.105 or against their property without first seeking satisfaction from partnership property if:

(a) The partnership is a debtor in bankruptcy;

(b) The creditor and the partnership agreed that the creditor is not required to comply with subsection (4) of this section;

(c) A court orders otherwise, based on a finding that partnership property subject to execution within the state is clearly insufficient to satisfy the judgment or that compliance with subsection (4) of this section is excessively burdensome; or

(d) Liability is imposed on the partner by law or contract independently of the person's status as a partner. [1997 c.775 §15]

67.115 Liability of purported partner. (1) If a person, by words or conduct, purports to be a partner or consents to being represented by another as a partner in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made if that person relying on the false represen-

tation enters into a transaction with the actual or purported partnership. If the false representation is made in a public manner, the purported partner is liable to a person who relies upon it even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

(2) A person falsely represented to be a partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(3) Except as otherwise provided in subsections (1) and (2) of this section, persons who are not partners to each other are not liable as partners to other persons. [1997 c.775 §16]

(Relations of Partners to Each Other and to Partnership)

67.140 Partner's rights and duties. (1) Each partner is deemed to have an account that is:

(a) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(b) Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(2) Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

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

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

(5) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (3) or (4) of this section constitutes a loan to the partnership that accrues interest from the date of the payment or advance.

(6) Except as otherwise provided in subsection (5) of this section, a partner shall not receive interest on the amount of capital contributed to the partnership.

(7) Each partner has equal rights in the management and conduct of the partnership business.

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

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

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

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

(12) A written partnership agreement may establish classes or groups of one or more partners having certain relative rights, powers and duties, including voting rights, and may provide for the future creation of additional classes or groups of one or more partners having certain relative rights, powers and duties, including voting rights. The rights, powers or duties of a class or group of partners may be senior to those of one or more existing classes or groups of partners.

(13) This section does not affect the obligations of a partnership to other persons under ORS 67.090. [1997 c.775 §17]

67.145 Distributions in kind. A partner has no right to receive, and may not be required to accept, a distribution in kind. [1997 c.775 §18]

67.150 Partner's rights and duties with respect to information. (1) A partnership shall keep its books and records, if any, at its principal office from which the partnership conducts its business.

(2) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former

partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge covering the costs of labor and material for copies of documents furnished.

(3) Each partner, to the extent of the partner's knowledge or possession of information, and the partnership shall furnish to a partner and to the legal representative of a deceased partner or partner under legal disability:

(a) Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or under this chapter; and

(b) On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances. [1997 c.775 §19]

67.155 General standards of partner's conduct. (1) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (2) and (3) of this section.

(2) A partner's duty of loyalty to the partnership and the other partners includes the following:

(a) To account to the partnership and hold for it any property, profit or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(b) Except as provided in subsections (5) and (6) of this section, to refrain from dealing with the partnership in a manner adverse to the partnership and to refrain from representing a person with an interest adverse to the partnership, in the conduct or winding up of the partnership business; and

(c) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

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

(4) A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistent with the obligation of good faith and fair dealing.

(5) A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(6) A partner may lend money to or transact other business with the partnership, provided that any loan or transaction between a partner and the partnership must be:

(a) Fair to the partnership;

(b) Authorized by the partnership agreement; or

(c) Authorized or ratified by a majority of the disinterested partners or by a number or percentage of partners specified in the partnership agreement, after full disclosure of all material facts.

(7) Loans and other transactions between the partnership and a partner are binding on the parties in the same manner as transactions between the partnership and persons who are not partners, subject to other applicable law.

(8) This section also applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner. [1997 c.775 §20]

67.160 Actions by partnership and partners. (1) A partner is liable to a partnership and the other partners for a breach of the partnership agreement or for a violation of a duty to the partnership or the other partners under this chapter.

(2) A partnership may maintain an action against a partner for a breach of the partnership agreement or for the violation of a duty to the partnership.

(3) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

(a) Enforce the partner's rights under the partnership agreement;

(b) Enforce the partner's rights under this chapter, including:

(A) The partner's rights under ORS 67.140, 67.150 or 67.155;

(B) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to ORS 67.250 or enforce any other right under ORS 67.220 to 67.265; or

(C) The partner's right to compel a dissolution and winding up of the partnership business under ORS 67.290 or enforce any other right under ORS 67.290 to 67.315; or

(c) Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(4) The accrual of and any time limitation on a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law. [1997 c.775 §21]

67.165 Continuation of partnership beyond definite term or particular undertaking. (1) If a partnership for a definite term or particular undertaking is continued without an express agreement after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion so far as is consistent with a partnership at will.

(2) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership and all partners have notice of such continuation, there is a rebuttable presumption that the partners have agreed that the partnership will continue. [1997 c.775 §22]

(Transferees and Creditors of Partner)

67.190 Partner not co-owner of partnership property. A partner is not a co-owner of partnership property and has no interest in partnership property that can be transferred either voluntarily or involuntarily. [1997 c.775 §23]

67.195 Partner's transferable interest in partnership. The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property. [1997 c.775 §24]

67.200 Transfer of whole or part of partner's transferable interest. (1) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

(a) Is permissible;

(b) Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and

(c) Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions or to inspect or copy the partnership books or records.

(2) A transferee of a partner's transferable interest in the partnership has a right:

(a) To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

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

(c) To seek under ORS 67.290 (6) a judicial determination that it is equitable to wind up the partnership business.

(3) In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all the partners.

(4) Upon transfer, the transferor retains the rights and duties of a partner other than the transferred interest in profits and losses of the partnership and the right to receive distributions.

(5) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer. Upon request, a transferee must furnish to the partnership reasonable proof of the transfer.

(6) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer. [1997 c.775 §25]

67.205 Partner's transferable interest subject to charging order. (1) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or that the circumstances of the case may require.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than partnership property, by one or more of the other partners; or

(c) With partnership property, by one or more of the other partners with the consent of all the partners whose interests are not so charged.

(4) This chapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership. [1997 c.775 §26]

(Partner's Dissociation)

67.220 Events causing partner's dissociation. A partner is dissociated from a partnership upon the occurrence of any of the following events:

(1) The partnership's having notice of the partner's express will to withdraw as a partner or on a later date specified by the partner;

(2) An event agreed to in the partnership agreement as causing the partner's dissociation;

(3) The partner's expulsion pursuant to the partnership agreement;

(4) The partner's expulsion by the unanimous vote of the other partners if:

(a) It is unlawful to carry on the partnership business with that partner;

(b) There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes that has not been foreclosed or a court order charging the partner's interest that has not been foreclosed;

(c) Within 90 days after the partnership notifies a corporation that is a partner that it will be expelled because it has filed articles of dissolution or the equivalent, has been administratively dissolved or has had its right to conduct business suspended by the jurisdiction of its incorporation, there is no revocation of the articles of dissolution or the administrative dissolution or no reinstatement of its right to conduct business;

(d) Within 90 days after the partnership notifies a limited liability company that is a partner that it will be expelled because it has filed articles of dissolution or the equivalent, has been administratively dissolved or has had its right to conduct business suspended by the jurisdiction of its organization, there is no revocation of the articles of dissolution or the administrative dissolution or no reinstatement of its right to conduct business;

(e) Within 90 days after the partnership notifies a limited partnership that is a partner that it will be expelled because it has filed a certificate of cancellation or the equivalent, has been administratively inactivated or has had its right to conduct business suspended by the jurisdiction of its organization, there is no revocation of the certificate of cancellation or the administrative inactivation or no reinstatement of its right to conduct business; or

(f) A partnership that is a partner has been dissolved and its business is being wound up;

(5) On application by the partnership or another partner, the partner's expulsion by judicial determination because:

(a) The partner engaged in wrongful conduct that adversely and materially affected the partnership business;

(b) The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under ORS 67.155; or

(c) The partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) The partner is:

(a) Becoming a debtor in bankruptcy;

(b) Executing an assignment for the benefit of creditors;

(c) Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of that partner or of all or substantially all of that partner's property; or

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

(7) In the case of a partner who is an individual:

(a) The partner's death;

(b) The appointment of a guardian or general conservator for the partner; or

(c) A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being

a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;

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

(10) Termination of the existence of a partner who is not an individual, partnership, limited partnership, limited liability company, corporation, trust or estate. [1997 c.775 §27]

67.225 Partner's power to dissociate; wrongful dissociation. (1) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to ORS 67.220 (1).

(2) A partner's dissociation is wrongful only if:

(a) The dissociation is in breach of an express provision of the partnership agreement; or

(b) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(A) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation under ORS 67.220 (3) to (10) or wrongful dissociation under this subsection;

(B) The partner is expelled by judicial determination under ORS 67.220 (5);

(C) The partner is dissociated by becoming a debtor in bankruptcy; or

(D) In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(3) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners. [1997 c.775 §28]

67.230 Effect of partner's dissociation. (1) If a partner's dissociation results in a dissolution and winding up of the partnership business, ORS 67.290 to 67.315 apply. If a partner's dissociation does not result in dissolution and winding up of the partnership business, ORS 67.250 to 67.265 apply.

(2) Upon a partner's dissociation:

(a) The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in ORS 67.300;

(b) The partner's duty of loyalty under ORS 67.155 (2)(c) terminates; and

(c) The partner's duty of loyalty under ORS 67.155 (2)(a) and (b) and duty of care under ORS 67.155 (3) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to ORS 67.300. [1997 c.775 §29]

(Partner's Dissociation When Business Not Wound Up)

67.250 Purchase of dissociated partner's interest. (1) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under ORS 67.290, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (2) of this section.

(2) The buyout price of a dissociated partner's interest is an amount equal to the fair value of the dissociated partner's interest in the partnership on the date of the dissociation. If the dissociated partner has a minority interest in the partnership, the buyout price of the dissociated partner's interest shall not be discounted as a result of such minority interest. Interest must be paid from the date of dissociation to the date of payment.

(3) Damages for wrongful dissociation under ORS 67.225 (2) and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(4) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under ORS 67.255. On application by the partnership or a partner made within 120 days after the date of dissociation, a court may determine that indemnification of the dissociated partner against all partnership liabilities incurred before the dissociation is not equitable based on either:

(a) The financial condition of the partnership on the date of dissociation; or

(b) The dissolution of the partnership within 60 days after the date of dissociation.

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

(6) If a deferred payment is authorized under subsection (8) of this section, the partnership shall tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (3) of this section, stating the time of payment and the other terms and conditions of the obligation.

(7) The payment or tender required by subsection (5) or (6) of this section must be accompanied by the following:

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

(b) The latest available partnership balance sheet and income statement, if any;

(c) An explanation of how the estimated amount of the payment was calculated; and

(d) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (3) of this section or other terms of the obligation to purchase.

(8) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment bears interest but need not be secured unless the dissociated partner demonstrates to the satisfaction of the court that security for the deferred payment is appropriate.

(9) A dissociated partner may maintain an action against the partnership, pursuant to ORS 67.160 (3)(b)(B), to determine the buyout price of that partner's interest, any offsets under subsection (3) of this section or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay, or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest and any offset due under subsection (3) of this section and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (8) of this section, the court shall also determine whether security for deferred payment is appropriate and the other terms of the obligation to purchase. The court may assess reasonable attorney fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (7) of this section. [1997 c.775 §30]

67.255 Dissociated partner's power to bind and liability to partnership. (1) If a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a converted or surviving business entity under ORS 67.340 to 67.365, is bound by an act of the dissociated partner only if:

(a) The act occurs within six months after the date of dissociation;

(b) The act would have bound the partnership under ORS 67.090 before dissociation;

(c) At the time of entering into the transaction, the other party reasonably believed that the dissociated partner was then a partner and did not have notice of the partner's dissociation; and

(d) At the time of entering into the transaction, the dissociation had not been advertised in a newspaper of general circulation in the place, or in each place if more than one, at which the partnership business is regularly carried on.

(2) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (1) of this section. [1997 c.775 §31; 1999 c.362 §51]

67.260 Dissociated partner's liability to other persons. (1) A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (2) of this section.

(2) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a converted or surviving business entity under ORS 67.340 to 67.365, within six months after the partner's dissociation only if the partner is personally

liable for the obligation under ORS 67.105 and, at the time of entering into the transaction:

(a) The other party reasonably believed that the dissociated partner was then a partner;

(b) The other party did not have notice of the partner's dissociation; and

(c) The dissociation had not been advertised in a newspaper of general circulation in the place, or in each place if more than one, at which the partnership business is regularly carried on.

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

(4) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation. [1997 c.775 §32; 1999 c.362 §52]

67.265 Continued use of partnership name. Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business. [1997 c.775 §33]

(Winding Up Partnership Business)

67.290 Events causing dissolution and winding up of partnership business. A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the express will of a majority of the partners, excluding any dissociated partner;

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

(a) The express will of all the partners, excluding any dissociated partner, to wind up the partnership business; or

(b) The expiration of the term or the completion of the undertaking;

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership business;

(4) An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within 90 days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section;

(5) On application by a partner, a judicial determination that:

(a) The economic purpose of the partnership is likely to be unreasonably frustrated;

(b) Another partner has engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with that partner;

(c) It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or

(d) Other circumstances render a dissolution of the partnership and a winding up of its business equitable;

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

(a) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(7) There are no longer two or more partners carrying on as co-owners the business of the partnership for profit. [1997 c.775 §34]

67.295 Partnership continues after dissolution. (1) Subject to subsection (2) of this section, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(2) At any time after the dissolution of a partnership and before the winding up of its business is completed, all the partners, excluding any dissociated partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

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

(b) The rights of a third party accruing under ORS 67.305 (1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected. [1997 c.775 §35]

67.300 Right to wind up partnership business. (1) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative or transferee, the circuit court, for good cause shown, may order judicial supervision of the winding up.

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

(3) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to ORS 67.315, settle disputes by mediation, arbitration or otherwise, and perform other necessary acts. [1997 c.775 §36]

67.305 Partner's power to bind partnership after dissolution. A partnership is bound by a partner's act after dissolution that:

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

(2) Would have bound the partnership under ORS 67.090 before dissolution, if:

(a) The other party to the transaction did not have notice of the dissolution; and

(b) The dissolution had not been advertised in a newspaper of general circulation in the place, or in each place if more than one, at which the partnership business is regularly carried on. [1997 c.775 §37]

67.310 Partner's liability to other partners after dissolution. (1) Except as otherwise provided in subsection (2) of this section and ORS 67.105, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under ORS 67.305.

(2) A partner who, with knowledge of the dissolution, incurs a partnership liability under ORS 67.305 (2) by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability. [1997 c.775 §38]

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

(2) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account, but excluding from the calculation of such excess, charges attributable to an obligation for which the partner is not personally liable under ORS 67.105.

(3) If a partner fails to contribute the full amount the partner is personally obligated to contribute under subsection (2) of this section, all the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under ORS 67.105. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under ORS 67.105.

(4) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement for which the partner is personally liable under ORS 67.105.

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

(6) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership. [1997 c.775 §39]

(Conversions and Mergers)

67.340 Definitions for ORS 67.340 to 67.365. As used in ORS 67.340 to 67.365:

(1) "Business entity" means:

(a) Any of the following for-profit entities:

(A) A professional corporation organized under ORS chapter 58, predecessor law or comparable law of another jurisdiction;

(B) A corporation organized under ORS chapter 60, predecessor law or comparable law of another jurisdiction;

(C) A limited liability company organized under ORS chapter 63 or comparable law of another jurisdiction;

(D) A partnership organized in Oregon after January 1, 1998, or that is registered as a limited liability partnership, or that has elected to be governed by this chapter, and a partnership governed by law of another jurisdiction that expressly provides for conversions and mergers; and

(E) A limited partnership organized under ORS chapter 70, predecessor law or comparable law of another jurisdiction; and

(b) A cooperative organized under ORS chapter 62, predecessor law or comparable law of another jurisdiction.

(2) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(3) "Limited partner" means a limited partner in a limited partnership.

(4) "Limited partnership" means a limited partnership created under ORS chapter 70, predecessor law or comparable law of another jurisdiction.

(5) "Organizational document" means the following for an Oregon business entity or, for a foreign business entity, a document equivalent to the following:

(a) In the case of a corporation, professional corporation or cooperative, articles of incorporation;

(b) In the case of a limited liability company, articles of organization;

(c) In the case of a partnership, a partnership agreement and, for a limited liability partnership, its registration; and

(d) In the case of a limited partnership, a certificate of limited partnership.

(6) "Owner" means a:

(a) Shareholder of a corporation or of a professional corporation;

(b) Member or shareholder of a cooperative;

(c) Member of a limited liability company;

(d) Partner of a partnership; and

(e) Partner of a limited partnership.

(7) "Partner" includes both a general partner and a limited partner. [1997 c.775 §40; 1999 c.362 §40; 2003 c.80 §28]

67.342 Conversion. (1) A business entity other than a partnership may be converted to a partnership organized under this chapter, and a partnership organized under this chapter may be converted to another business entity organized under the laws of this state, if conversion is permitted by the statutes governing the other business entity, by approving a plan of conversion and filing articles of conversion. A partnership organized under this chapter may be converted to a business entity organized under the laws of another jurisdiction if:

(a) The conversion is permitted by the laws of that jurisdiction;

(b) A plan of conversion is approved by the converting partnership;

(c) Articles of conversion are filed in this state;

(d) The converted business entity submits an application to transact business as a foreign business entity of that type to the Secretary of State for filing and meets all other requirements prescribed under the laws of this state for authorization to transact business as a foreign business entity of that type; and

(e) The partnership complies with any requirements imposed under the laws of the other jurisdiction with respect to the conversion.

(2) The plan of conversion shall set forth:

(a) The name and type of the business entity prior to conversion;

(b) The name and type of the business entity after conversion;

(c) A summary of the material terms and conditions of the conversion;

(d) The manner and basis of converting the ownership interests of each owner into ownership interests or obligations of the converted business entity or any other business entity, or into cash or other property in whole or in part; and

(e) If the business entity after conversion is not a partnership, any additional information required in the organizational document of the converted business entity by the statutes governing that type of business entity.

(3) The plan of conversion may set forth other provisions relating to the conversion. [1999 c.362 §42; 2001 c.315 §18; 2003 c.80 §22]

67.344 Action on plan of conversion. (1) A plan of conversion shall be approved by each business entity that is a party to the conversion, as follows:

(a) In the case of a partnership, by all of the partners, unless a lesser vote is provided in the partnership agreement; and

(b) In the case of a business entity other than a partnership, as provided by the statutes governing that business entity.

(2) After a conversion is approved, and at any time before articles of conversion are filed, the planned conversion may be abandoned, subject to any contractual rights:

(a) By a partnership that planned to convert to another business entity, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, by a vote of the partners; and

(b) By a business entity other than a partnership that planned to convert to a partnership, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner permitted by the statutes governing that business entity. [1999 c.362 §43]

67.345 [1997 c.775 §41; repealed by 1999 c.362 §67]

67.346 Articles of conversion. (1) After conversion is approved by the owners, the converting business entity shall file articles of conversion, which shall state the name and type of business entity prior to conversion, the name and type of business entity after conversion and the names and addresses of at least two partners, and shall include the plan of conversion.

(2) The conversion takes effect at the later of the date and time determined pursuant to ORS 67.530 or the date and time determined pursuant to the statutes governing the business entity that is not a partnership. [1999 c.362 §44; 2001 c.315 §10]

67.348 Effect of conversion; entity existence continues; assumed business name. (1) When a conversion to or from a partnership pursuant to ORS 67.342 takes effect:

(a) The business entity continues its existence despite the conversion;

(b) Title to all real estate and other property owned by the converting business entity is vested in the converted business entity without reversion or impairment;

(c) All obligations of the converting business entity, including, without limitation, contractual, tort, statutory and administrative obligations, are obligations of the converted business entity;

(d) An action or proceeding pending against the converting business entity or its owners may be continued as if the conversion had not occurred, or the converted business entity may be substituted as a party to the action or proceeding;

(e) The ownership interests of each owner that are to be converted into ownership interests or obligations of the converted business entity or any other business entity, or into cash or other property, are converted as provided in the plan of conversion;

(f) Liability of an owner for obligations of the business entity, including, without limitation, contractual, tort, statutory and administrative obligations, shall be determined:

(A) As to obligations incurred prior to conversion, according to the laws applicable prior to conversion, except as provided in paragraph (g) of this subsection; and

(B) As to obligations incurred after conversion, according to the laws applicable after conversion, except as provided in paragraph (h) of this subsection;

(g) If the converting business entity is a partnership other than a limited liability partnership and its obligations incurred before the conversion are not satisfied by the converted business entity, the persons who were partners of the converting business entity immediately before the effective date of the conversion shall contribute the amount necessary to satisfy the converting business entity's obligations in the manner provided in ORS 67.315 as if the converting business entity were dissolved;

(h) If prior to conversion an owner of a business entity was a partner of a partnership or general partner of a limited partnership or a foreign limited partnership, and was personally liable for the business entity's obligations, and after conversion is an owner normally protected from personal liability, then such owner shall continue to be personally liable for the business entity's obligations incurred during the 12 months following conversion, if the other party or parties to the transaction reasonably believed that the owner would be personally liable and had not received notice of the conversion; and

(i) The registrants of an assumed business name that is used as the name of a partnership that is a converting business entity shall file an application to cancel the registration under ORS chapter 648, and the converted business entity, if it intends to continue using the name, shall file an assumed business name registration for the name under ORS chapter 648.

(2) Owners of the business entity that converted are entitled to the rights provided in the plan of conversion and:

(a) Any partner who did not vote in favor of the conversion is deemed to have dissociated from the partnership effective immediately before the conversion unless, within 60 days after the later of the effective date of the conversion or the date the partner receives notice of the conversion, the partner notifies the partnership of the part-

ner's desire not to dissociate. A dissociation under this paragraph is not a wrongful withdrawal; and

(b) In the case of owners of business entities other than partnerships, the rights provided in the statutes applicable to the business entity prior to conversion, including, without limitation, any rights to dissent, to dissociate, to withdraw, to recover for breach of any duty or obligation owed by the other owners, and to obtain an appraisal or payment for the value of an owner's interest. [1999 c.362 §45; 2001 c.315 §5]

67.350 [1997 c.775 §42; repealed by 1999 c.362 §67]

67.355 [1997 c.775 §43; repealed by 1999 c.362 §67]

67.360 Merger. (1) One or more business entities may merge into a partnership organized under this chapter if the merger is permitted by the statutes governing each other business entity that is a party to the merger, a plan of merger is approved by each business entity that is a party to the merger and articles of merger are filed. A partnership organized under this chapter may be merged into a business entity organized under the laws of this state or under the laws of another jurisdiction if:

(a) The merger is permitted by the laws of this state or by the laws of the other jurisdiction that govern the other business entity;

(b) A plan of merger is approved by each business entity that is a party to the merger;

(c) Articles of merger are filed in this state; and

(d) The partnership complies with all requirements imposed under the laws of this state and, if applicable, the laws of the other jurisdiction with respect to the merger.

(2) The plan of merger shall set forth:

(a) The name and type of each business entity planning to merge;

(b) The name and type of the business entity that will survive;

(c) A summary of the material terms and conditions of the merger;

(d) The manner and basis of converting the ownership interests of each owner into ownership interests or obligations of the surviving business entity or any other business entity, or into cash or other property in whole or in part; and

(e) If any party is a business entity other than a partnership, any additional information required for a merger by the statutes governing that business entity.

(3) The plan of merger may set forth:

(a) Amendments to the partnership agreement of a partnership and, if applicable, its registration as a limited liability partnership if the partnership is the surviving business entity; and

(b) Other provisions relating to the merger. [1997 c.775 §44; 1999 c.362 §46; 2001 c.315 §19; 2003 c.80 §23]

67.362 Action on plan of merger. (1) A plan of merger shall be approved by each business entity that is a party to the merger, as follows:

(a) In the case of a partnership, by unanimous vote of the partners, or by the number or percentage specified for merger in its partnership agreement; and

(b) In the case of a business entity other than a partnership, as provided by the statutes governing that business entity.

(2) After a merger is authorized, and at any time before articles of merger are filed, the planned merger may be abandoned, subject to any contractual rights:

(a) By the partnership, without further action by the partners, in accordance with the procedure set forth in the plan of merger or the partnership agreement; and

(b) By a party to the merger that is not a partnership, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner permitted by the statutes governing that business entity. [1999 c.362 §47]

67.364 Articles of merger. (1) After a plan of merger is approved by each business entity that is a party to the merger, the surviving business entity shall deliver to the office of the Secretary of State, for filing, articles of merger, except that no filing is required if all of the parties to the merger are partnerships that have not registered as limited liability partnerships. The articles of merger shall set forth:

(a) The plan of merger; and

(b) A statement that the plan of merger was duly authorized and approved by each business entity that is a party to the merger in accordance with ORS 67.360.

(2) The merger takes effect on the later of the date and time determined pursuant to ORS 67.530 or the date and time determined pursuant to the statutes governing any party to the merger that is a business entity other than a partnership. [1999 c.362 §48]

67.365 Effect of merger. (1) When a merger involving a partnership takes effect:

(a) Every other business entity that is a party to the merger merges into the surviving business entity, and the separate existence of every other party ceases;

(b) The title to all real estate and other property owned by each of the business entities that were parties to the merger is vested

in the surviving business entity without reversion or impairment;

(c) All obligations of each of the business entities that were parties to the merger, including, without limitation, contractual, tort, statutory and administrative obligations, are obligations of the surviving business entity;

(d) An action or proceeding pending against each of the business entities or its owners that were parties to the merger may be continued as if the merger had not occurred, or the surviving business entity may be substituted as a party to the action or proceeding;

(e) If a partnership is the surviving business entity, its partnership agreement is amended to the extent provided in the plan of merger;

(f) The shares or other ownership interests of each partner or other owner that are to be converted into shares or other ownership interests or obligations of the surviving business entity or any other business entity, or into cash or other property, are converted as provided in the plan of merger;

(g) Liability of an owner for obligations of a business entity, including, without limitation, contractual, tort, statutory and administrative obligations, shall be determined:

(A) As to obligations incurred prior to merger, according to the laws applicable prior to merger, except as provided in paragraph (h) of this subsection; and

(B) As to obligations incurred after merger, according to the laws applicable after merger, except as provided in paragraph (i) of this subsection;

(h) If a party to the merger is a partnership other than a limited liability partnership and its obligations incurred before the merger are not satisfied by the surviving business entity, the persons who were partners of the merging partnership immediately before the effective date of the merger shall contribute the amount necessary to satisfy the merging business entity's obligation to the surviving business entity in the manner provided in ORS 67.315 as if the merged party were dissolved; and

(i) If prior to merger an owner of a business entity was a partner of a partnership or general partner of a limited partnership or a foreign limited partnership, and was personally liable for the business entity's obligations, and after merger is an owner normally protected from personal liability, then such owner shall continue to be personally liable for the business entity's obligations incurred during the 12 months following merger, if the other party or parties to the transaction reasonably believed that the owner would be personally liable and had not received notice of the merger.

(2) Owners of the business entity that merged are entitled to the rights provided in the plan of merger and:

(a) Any partner who did not vote in favor of the merger is deemed to have dissociated from the partnership effective immediately before the merger unless, within 60 days after the later of the effective date of the merger or the date the partner receives notice of the merger, the partner notifies the partnership of the partner's desire not to dissociate. A dissociation under this paragraph is not a wrongful withdrawal; and

(b) In the case of owners of business entities other than partnerships, the rights provided in the statutes applicable to the business entity prior to merger, including, without limitation, any rights to dissent, to dissociate, to withdraw, to recover for breach of any duty or obligation owed by the other owners, and to obtain an appraisal or payment for the value of an owner's interest.

(3) The registration of an assumed business name of a business entity under ORS chapter 648 shall not be affected by the merger. [1997 c.775 §45; 1999 c.362 §49]

67.370 [1997 c.775 §46; repealed by 1999 c.362 §67]

LIMITED LIABILITY PARTNERSHIPS

(General Provisions)

67.500 Eligibility for registration as a limited liability partnership; required vote. (1) Notwithstanding any other provision of this chapter, a partnership, not including a limited liability partnership, may register as a limited liability partnership or apply for authority as a foreign limited liability partnership only if it:

(a) Renders professional service; or

(b) Is affiliated with a limited liability partnership or a foreign limited liability partnership that renders professional service and renders services related to or complementary to the professional service rendered by, or provides services or facilities to, the limited liability partnership or foreign limited liability partnership that renders professional service.

(2) For purposes of subsection (1) of this section, a partnership is affiliated with a limited liability partnership or foreign limited liability partnership that renders professional services if:

(a) At least a majority of partners in one partnership are partners in the other partnership;

(b) At least a majority of the partners in each partnership also are partners or hold interest in another person and each partner-

ship renders services pursuant to an agreement with such other person; or

(c) One partnership directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the other partnership.

(3) The terms and conditions by which a partnership becomes a limited liability partnership and a decision to cancel registration as a limited liability partnership must be approved by either:

(a) The vote of the partners necessary to amend the partnership agreement; or

(b) In the case of a partnership agreement that includes provisions that expressly address the obligations of partners to make contributions to cover partnership losses, the vote of the partners necessary to amend such provisions. [1997 c.775 §47]

(Filing Documents)

67.520 Filing requirements. (1) A document must satisfy the requirements of this section, as modified by any other provision of this chapter, to be entitled to filing by the Secretary of State.

(2) This chapter must require or permit filing of the document with the office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may contain other information as well.

(4) The document must be legible.

(5) The document must be in the English language.

(6) Each document or report required by this chapter to be filed with the office of the Secretary of State shall be executed by one or more partners. If the limited liability partnership is in the hands of a receiver, trustee or other court-appointed fiduciary, a document or report shall be signed by that receiver, trustee or fiduciary.

(7) The person executing the document shall state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may, but is not required to, contain acknowledgment, verification or proof.

(8) If the Secretary of State has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(9) The document must be delivered to the office of the Secretary of State accompanied by the required fees.

(10) Delivery of a document to the office of the Secretary of State is accomplished only when the document is actually received by the office of the Secretary of State. [1997 c.775 §48]

67.525 Filing, service, copying and certification fees. The Secretary of State shall collect the fees described in ORS 56.140 for each document delivered for filing under this chapter and for process served on the secretary under this chapter. The secretary may collect the fees described in ORS 56.140 for copying any public record under this chapter, certifying the copy or certifying to other facts of record under this chapter. [1997 c.775 §49; 1999 c.362 §§50,50a]

67.530 Effective time and date of document. (1) Except as provided in subsection (2) of this section, a document accepted for filing is effective on the date it is filed by the Secretary of State and at the time, if any, specified in the document as its effective time or at 12:01 a.m. on that date if no effective time is specified.

(2) If a document specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed. [1997 c.775 §50]

67.535 Filing duty of Secretary of State. (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of ORS 67.520, the Secretary of State shall file it.

(2) The Secretary of State files a document by indicating thereon that it has been filed by the Secretary of State and the date of filing. After filing a document, the Secretary of State shall return an acknowledgment of filing to the limited liability partnership or foreign limited liability partnership or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the limited liability partnership or foreign limited liability partnership or its representative within 10 business days after the document was delivered together with a brief written explanation of the reason for the refusal.

(4) The duty of the Secretary of State to file documents under this section is ministerial. The Secretary of State is not required to verify or inquire into the legality or truth of any matter included in any document delivered to the office of the Secretary of State for filing. The filing of or refusal to file a document by the Secretary of State does not:

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

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

(5) The refusal by the Secretary of State to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1997 c.775 §51; 1999 c.486 §12]

67.540 Appeal from actions of Secretary of State. (1) If the Secretary of State refuses to file a document delivered to the office of the Secretary of State for filing, the limited liability partnership or foreign limited liability partnership, in addition to any other legal remedy that may be available, shall have the right to appeal from the order pursuant to ORS chapter 183.

(2) If the Secretary of State revokes the registration of a limited liability partnership or revokes the authorization of a foreign limited liability partnership, the limited liability partnership or foreign limited liability partnership, in addition to any other legal remedy that may be available, shall have the right to appeal from the order pursuant to ORS chapter 183. [1997 c.775 §52]

67.545 Evidentiary effect of copy of filed document. (1) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, is conclusive evidence that the document or a facsimile thereof is on file with the office of the Secretary of State.

(2) The provisions of ORS 56.110 shall apply to all documents filed pursuant to this chapter. [1997 c.775 §53]

67.550 Certificate of existence or authorization. (1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a limited liability partnership or a certificate of authorization for a foreign limited liability partnership.

(2) A certificate of existence or authorization when issued means that:

(a) The name of the limited liability partnership or the foreign limited liability partnership is registered in this state;

(b) The limited liability partnership is duly registered under the laws of this state or the foreign limited liability partnership is authorized to transact business in this state;

(c) All fees payable to the Secretary of State under this chapter have been paid, if nonpayment affects the existence or authorization of the limited liability partnership or foreign limited liability partnership;

(d) An annual report required by ORS 67.645 has been filed by the Secretary of State within the preceding 14 months; and

(e) A cancellation notice under ORS 67.595 or a withdrawal notice under ORS 67.740 has not been filed by the Secretary of State.

(3) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the limited liability partnership or foreign limited liability partnership is registered or is authorized to transact business in this state. [1997 c.775 §54]

(Secretary of State)

67.570 Powers. The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this chapter. [1997 c.775 §55]

(Registration)

67.590 Application for registration; effective date; duration of status as limited liability partnership. (1) After the approval required by ORS 67.500 (3), a partnership may become a limited liability partnership by delivering an application for registration to the office of the Secretary of State for filing.

(2) The application for registration shall set forth the following information:

(a) The name of the partnership;

(b) The address, including street and number, and mailing address, if different, of the principal office from which the partnership conducts its business;

(c) A mailing address to which notices as required by this chapter may be mailed until an address has been designated by the limited liability partnership in its annual report;

(d) A brief statement describing the primary business activity of the partnership and, for a partnership rendering a professional service or services, the professional service or services to be rendered through the partnership;

(e) The federal employer identification number of the partnership;

(f) A representation by the partner or partners executing the application for registration that the application for registration has been approved by a vote of the partners as required by ORS 67.500 (3); and

(g) The names and addresses of at least two partners of the partnership.

(3) The application for registration may set forth any other provisions, not inconsistent with law, that the partnership may decide to include in the application.

(4) The filing of an application for registration establishes that the partnership has satisfied all conditions precedent to the

qualification of the partnership as a limited liability partnership.

(5) The status of the partnership as a limited liability partnership is effective upon filing of the application for registration or, if applicable, upon the delayed effective time and date set forth in the application for registration in accordance with ORS 67.530, and the payment of the required fee. The status remains effective, regardless of changes in the partnership, until the registration is voluntarily canceled pursuant to ORS 67.595 or the registration is revoked pursuant to ORS 67.660. The cancellation or revocation of the registration shall not affect the personal liability of any partner with respect to any obligations of the limited liability partnership that are incurred by the limited liability partnership prior to the effective date of the cancellation or revocation of the registration.

(6) A partnership that is a limited liability partnership on January 1, 1998, shall not be required to file a new registration by reason of this chapter to continue its status as a limited liability partnership. [1997 c.775 §56; 1997 c.774 §15a]

67.595 Cancellation of registration; effect. (1) A registration of a limited liability partnership may be canceled by delivering to the office of the Secretary of State for filing a written cancellation notice.

(2) The cancellation notice shall contain:

(a) The name of the limited liability partnership;

(b) The date of filing of the initial application for registration;

(c) A statement that the registration of the partnership as a limited liability partnership is being canceled; and

(d) A representation by the partner or partners executing the cancellation notice that the cancellation has been approved by a vote of the partners as required by ORS 67.500 (3).

(3) A cancellation notice terminates the status of the partnership as a limited liability partnership as of the date of filing the cancellation notice or a later effective date specified in the cancellation notice. [1997 c.775 §57]

(Partnership Powers)

67.610 Effect of changes in partnership on limited liability partnership status and liability of partners; amendment of application for registration. (1) The status of a partnership as a limited liability partnership is not affected by changes, occurring after the filing of an application for registration, in the information stated in the application. The partnership is not required to amend or correct the application for registration with respect to the changes, but is required to provide accurate information in any annual report that is subsequently filed.

(2) The dissolution or winding up of a limited liability partnership does not affect the liability of a partner under ORS 67.105 for any obligation incurred while the partnership was a limited liability partnership.

(3) The status of a partnership as a limited liability partnership is not affected by errors in the information stated in an application for registration. The partnership shall correct any errors in the application by amending its registration in accordance with subsection (4) of this section.

(4) Consistent with the provisions of this chapter, a limited liability partnership may amend its application for registration at any time. A limited liability partnership amending its application shall deliver the amendment to the office of the Secretary of State for filing. The amendment shall contain:

(a) The name of the limited liability partnership;

(b) The date of filing of the initial application for registration;

(c) The text of each amendment adopted; and

(d) The date of adoption of each amendment.

(5) An amendment of an application for registration is effective when filed or at a later effective date specified in the amendment. [1997 c.775 §58]

67.615 Distributions to partners. (1) A distribution may be made by a limited liability partnership to any partner only if, after giving effect to the distribution, in the judgment of the partners approving the distribution:

(a) The partnership would be able to pay its debts as they become due in the ordinary course of business; and

(b) The fair value of the total assets of the partnership would equal or exceed its total liabilities.

(2) The partners of a limited liability partnership may base a determination that a distribution is not prohibited under subsection (1) of this section either on:

(a) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(b) A fair valuation or other method that is reasonable in the circumstances.

(3) For purposes of this section, the amount, if any, by which a liability as to which the recourse of creditors is limited to

specific property of the limited liability partnership exceeds the fair value of such specific property shall be disregarded as a liability of the partnership.

(4) This section shall not apply to distributions to the partners that are regularly and customarily paid and constitute reasonable compensation for services performed by the partners in the business of the partnership.

(5) If a partner receives a distribution in violation of the partnership agreement or this section, the partner is liable to the limited liability partnership for a period of two years after the receipt of such distribution for that portion of the distribution that violates the partnership agreement or this section. [1997 c.775 §60]

(Name)

67.625 Limited liability partnership name. (1) The name of the limited liability partnership shall contain the word "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

(2) A limited liability partnership name shall not contain the word "cooperative," "corporation," "corp.," "incorporated," "Inc.," "limited partnership," "L.P.," "LP," "Ltd.," "limited liability company," "L.L.C." or "LLC" or any abbreviation or derivation of any of the terms used in this subsection.

(3) A limited liability partnership name shall be written in the alphabet used to write the English language and may include Arabic and Roman numerals and incidental punctuation.

(4) A limited liability partnership name shall be distinguishable upon the records of the office of the Secretary of State from any other limited liability partnership name, limited liability company name, corporate name, professional corporate name, nonprofit corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the office.

(5) Notwithstanding subsection (4) of this section, a limited liability partnership that renders professional service may use as its name all or some of the names of individual present or former partners of the partnership or a predecessor partnership, as permitted by the applicable rules of ethics and by the applicable statutory or regulatory provisions governing the rendering of such professional service. The limited liability partnership name need not satisfy the requirement of subsection (4) of this section if the partnership delivers to the office a certified copy of a final judgment of a court of competent jurisdiction that finds that the partnership has a prior or concurrent right to use the partnership name in this state.

(6) A limited liability partnership shall not transact business under an assumed business name unless the assumed business name contains the words or the abbreviation required by subsection (1) of this section and the assumed business name is registered in accordance with ORS chapter 648.

(7) A limited liability partnership is not required to register the name of the limited liability partnership as an assumed business name under ORS chapter 648 as long as its status as a limited liability partnership is effective.

(8) The name of a partnership that is not a limited liability partnership or a foreign limited liability partnership and the name of any corporation, limited liability company or other form of entity shall not contain the word "limited liability partnership" or the abbreviation "L.L.P." or "LLP" or any abbreviation or derivation of any of the terms used in this subsection.

(9) The provisions of this section do not:

(a) Abrogate or limit the law governing unfair competition or unfair trade practices; or

(b) Derogate from the common law, the principles of equity or the statutes of this state or of the United States with respect to the right to acquire and protect trade names. [1997 c.775 §59]

(Service of Process)

67.635 Service of process on limited liability partnership. Service of process shall be made upon a limited liability partnership or a foreign limited liability partnership in the same manner as service is made upon a general partnership under the Oregon Rules of Civil Procedure. [1997 c.775 §61]

(Annual Report)

67.645 Annual report. (1) Each limited liability partnership registered to transact business in this state, and each foreign limited liability partnership authorized to transact business in this state, shall by its anniversary deliver an annual report to the office of the Secretary of State for filing. The annual report shall set forth:

(a) The name of the partnership and the state or country under whose law it is registered or qualified as a limited liability partnership;

(b) The address, including street and number, and mailing address, if different, of

the principal office from which the partnership conducts its business;

(c) The names and addresses of at least two partners of the partnership;

(d) A brief statement describing the primary business activity of the partnership;

(e) The federal employer identification number of the partnership; and

(f) Additional identifying information that the Secretary of State may require by rule.

(2) The information contained on the annual report shall be current within 30 days before the report is due.

(3) The Secretary of State shall mail the annual report form to any address shown for the limited liability partnership or foreign limited liability partnership in the current records of the office of the Secretary of State. The failure of the limited liability partnership or foreign limited liability partnership to receive the annual report form from the Secretary of State shall not relieve the limited liability partnership or foreign limited liability partnership of its duty to deliver an annual report to the office of the Secretary of State as required by this section.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall notify the reporting limited liability partnership or foreign limited liability partnership in writing and return the report to it for correction. The limited liability partnership or foreign limited liability partnership must correct the error within 45 days after the Secretary of State gives such notice.

(5) A limited liability partnership or foreign limited liability partnership may deliver to the office of the Secretary of State for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the office of the Secretary of State for filing and before the next anniversary. The amendment to the annual report must set forth:

(a) The name of the limited liability partnership or foreign limited liability partnership as shown on the records of the office; and

(b) The information as changed. [1997 c.775 §62; 1999 c.86 §21]

(Administrative Revocation)

67.655 Grounds for administrative revocation. The Secretary of State may commence a proceeding under ORS 67.660 to administratively revoke the registration of a limited liability partnership if:

(1) The limited liability partnership does not pay when due any fees imposed by this chapter; or

(2) The limited liability partnership does not deliver its annual report to the Secretary of State when due. [1997 c.775 §63]

67.660 Procedure for and effect of administrative revocation. (1) If the Secretary of State determines that one or more grounds exist under ORS 67.655 for revoking the registration of a limited liability partnership, the Secretary of State shall give the limited liability partnership written notice of the determination.

(2) If the limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State within 45 days after notice is given that each ground determined by the Secretary of State does not exist, the Secretary of State shall revoke the registration of the partnership as a limited liability partnership. [1997 c.775 §64]

67.665 Reinstatement following administrative revocation. (1) A limited liability partnership for which the Secretary of State has administratively revoked its registration as a limited liability partnership may apply to the Secretary of State for reinstatement within five years from the date of revocation. The application shall:

(a) State the name of the limited liability partnership and the effective date of the administrative revocation of its registration as a limited liability partnership; and

(b) State that the ground or grounds for revocation either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the limited liability partnership's name satisfies the requirements of ORS 67.625, the Secretary of State shall reinstate the registration of the limited liability partnership.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative revocation and the partnership's status as a limited liability partnership continues as if the administrative revocation had never occurred. [1997 c.775 §65]

67.670 Appeal from denial of reinstatement. (1) If the Secretary of State denies a limited liability partnership's application for reinstatement following administrative revocation of its registration as a limited liability partnership, the Secretary of State shall give written notice to the limited liability partnership that explains the reason or reasons for denial.

(2) The limited liability partnership may appeal the denial of reinstatement pursuant to the provisions of ORS chapter 183. [1997 c.775 §66]

(Interstate Application)

67.680 Interstate application. (1) A partnership, including a limited liability partnership, created pursuant to an agreement governed by the laws of this state, may conduct its business, carry on its operations and have and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(2) It is the intent of the Legislative Assembly that the legal existence of limited liability partnerships governed by the laws of this state that are registered under ORS 67.590 be recognized outside the boundaries of this state and that the laws of this state governing such limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States. [1997 c.775 §67]

FOREIGN LIMITED LIABILITY PARTNERSHIPS

(Authority to Transact Business)

67.700 Authority to transact business. (1) A foreign limited liability partnership may not transact business in this state until it has been authorized to do so by the Secretary of State.

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the partners or carrying on other activities concerning the internal affairs of the partnership;

(c) Maintaining bank accounts;

(d) Selling through independent contractors;

(e) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(f) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(g) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(h) Owning, without more, real or personal property;

(i) Conducting an isolated transaction that is completed within 30 days and is not one in the course of repeated transactions of a like nature; or

(j) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive. [1997 c.775 §68]

67.705 Consequences of transacting business without authority. (1) A foreign limited liability partnership transacting business in this state without authorization from the Secretary of State may not maintain a proceeding in any court in this state until it obtains authorization from the Secretary of State to transact business in this state.

(2) The successor to a foreign limited liability partnership that transacted business in this state without authority to transact business in this state and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability partnership or its successor obtains authorization from the Secretary of State to transact business in this state.

(3) A court may stay a proceeding commenced by a foreign limited liability partnership or its successor or assignee until it determines whether the foreign limited liability partnership or its successor requires authorization from the Secretary of State to transact business in this state. If it so determines, the court may further stay the proceeding until the foreign limited liability partnership or its successor obtains the authorization.

(4) A foreign limited liability partnership that transacts business in this state without authority shall be liable to this state for the years or parts thereof during which it transacted business in this state without authority in an amount equal to all fees that would have been imposed by this chapter upon the foreign limited liability partnership had it duly applied for and received authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign limited liability partnership to obtain authority to transact business in this state does not:

(a) Impair the validity of its acts or prevent it from defending any proceeding in this state; or

(b) Result in a waiver of limitations on personal liability of the partners of the for-

eign limited liability partnership. [1997 c.775 §69]

67.710 Application for authority to transact business; effective date of authorization. (1) A foreign limited liability partnership may apply for authority to transact business in this state by delivering an application for authorization to the office of the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign limited liability partnership or, if its name is unavailable for filing in this state, another name that satisfies the requirements of ORS 67.730;

(b) The name of the state or country under whose law it is registered and the date of registration;

(c) The address, including street and number, and mailing address, if different, of its principal office;

(d) A mailing address to which notices as required by this chapter may be mailed;

(e) A brief statement describing the primary business activity of the foreign limited liability partnership;

(f) The federal employer identification number of the foreign limited liability partnership; and

(g) The names and addresses of at least two partners of the foreign limited liability partnership.

(2) The foreign limited liability partnership shall deliver with the completed application a certificate of existence, or a document of similar import, current within 60 days of delivery and authenticated by the official having custody of limited liability partnership records in the state or country under whose law it is registered.

(3) The foreign limited liability partnership shall be authorized by the Secretary of State to transact business in this state upon the filing of the application for authorization, or if applicable, upon the delayed effective time and date set forth in the application for authorization in accordance with ORS 67.530, and the payment of the required fee. The authorization shall remain effective until the authorization is voluntarily withdrawn pursuant to ORS 67.740 or the authorization is revoked pursuant to ORS 67.755. [1997 c.775 §70]

67.715 Amendment to application for authority. (1) A foreign limited liability partnership authorized to transact business in this state shall deliver an amendment to its application for authorization to the office of the Secretary of State for filing if it changes:

(a) Its name as shown on the records of the office of the Secretary of State; or

(b) The address of its principal office.

(2) The amendment to the application for authorization shall set forth its name shown on the records of the office of the Secretary of State and the text of each amendment. The name as changed must satisfy the requirements of ORS 67.730. [1997 c.775 §71]

67.720 Limitations applicable to foreign limited liability partnerships. (1) Except as provided in subsection (2) of this section, a foreign limited liability partnership may not be denied authorization to transact business in this state by the Secretary of State by reason of any difference between the laws of this state and the laws of the state or other jurisdiction under which the foreign limited liability partnership is registered.

(2) Notwithstanding subsection (1) of this section, a foreign limited liability partnership shall not be authorized or permitted to exercise any powers or purposes or conduct any business or affairs in this state that a limited liability partnership is proscribed from exercising, pursuing or undertaking in this state. [1997 c.775 §72]

(Name)

67.730 Name of foreign limited liability partnership. (1) Except as provided in subsections (2) and (3) of this section, the Secretary of State shall not authorize a foreign limited liability partnership to transact business in this state if the name of the foreign limited liability partnership does not conform to ORS 67.625.

(2) The name of the foreign limited liability partnership must contain the words or the abbreviation required by ORS 67.625 unless the name contains some other word, phrase or abbreviation that the laws of the state or country under whose laws the foreign limited liability partnership is registered require to denote a limited liability partnership. A foreign limited liability partnership shall not transact business in this state under an assumed business name unless the assumed business name contains the words or the abbreviation required by ORS 67.625 and the assumed business name is registered in accordance with ORS chapter 648.

(3) If a limited liability partnership name, limited liability company name, corporate name, professional corporate name, nonprofit corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the office of the Secretary of State is not distinguishable on the records of the office of the Secretary of State from the name of the foreign limited liability partnership, the

Secretary of State shall not authorize the foreign limited liability partnership to transact business in this state unless the foreign limited liability partnership states its name on the application for authority to transact business in this state as (name under which created), a limited liability partnership of (state or country under whose laws the foreign limited liability partnership is registered), the entirety of which shall be the real and true name of the foreign limited liability partnership in this state under ORS chapter 648.

(4) Notwithstanding subsection (3) of this section, a foreign limited liability partnership that renders professional service may use as its name all or some of the names of individual present or former partners of the partnership or a predecessor partnership, as permitted by the applicable rules of ethics and by the applicable statutory or regulatory provisions governing the rendering of such professional service.

(5) If a foreign limited liability partnership authorized to transact business in this state changes its name to one that does not satisfy the requirements of this section, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of this section and amends its application for authorization in accordance with ORS 67.715. [1997 c.775 §73]

(Withdrawal)

67.740 Withdrawal of foreign limited liability partnership. (1) A foreign limited liability partnership authorized to transact business in this state may withdraw from transacting business in this state by applying to the office of the Secretary of State for withdrawal. The application shall set forth:

(a) The name of the foreign limited liability partnership and the name of the state or country under whose law it is registered; and

(b) A commitment to notify the Secretary of State for a period of five years from the date of withdrawal of any change in its mailing address.

(2) A withdrawal notice terminates the active status of the partnership as a foreign limited liability partnership as of the date of filing the notice or a later date specified in the notice. [1997 c.775 §74]

(Revocation)

67.750 Grounds for revocation. The Secretary of State may commence a proceeding under ORS 67.755 to revoke the authority of a foreign limited liability partnership to transact business in this state if:

(1) The foreign limited liability partnership does not deliver its annual report to the office of the Secretary of State within the time prescribed by this chapter; or

(2) The foreign limited liability partnership does not pay within the time prescribed by this chapter any fees imposed by this chapter. [1997 c.775 §75]

67.755 Procedure for and effect of revocation. (1) If the Secretary of State determines that one or more grounds exist under ORS 67.750 for revocation of authority of a foreign limited liability partnership to transact business in this state, the Secretary of State shall give the foreign limited liability partnership written notice of the determination.

(2) If the foreign limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within 45 days after notice is given, the Secretary of State shall revoke the authority of the foreign limited liability partnership.

(3) The authority of a foreign limited liability partnership to transact business in this state ceases as of the date of revocation of its authority to transact business in this state.

(4) The Secretary of State's revocation of a foreign limited liability partnership's authority to transact business in this state appoints the Secretary of State as the foreign limited liability partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability partnership was authorized to transact business in this state. [1997 c.775 §76]

67.760 Appeal from revocation. In addition to any other legal remedy which may be available, a foreign limited liability partnership shall have the right to appeal the Secretary of State's revocation of its authority to transact business in this state pursuant to the provisions of ORS chapter 183. [1997 c.775 §77]

67.765 Reinstatement of authority. (1) A foreign limited liability partnership which has had its authority revoked under ORS 67.755 may apply to the Secretary of State for reinstatement within five years from the date of revocation. The application shall:

(a) State the name of the foreign limited liability partnership and the effective date its authority was revoked; and

(b) State that the ground or grounds for revocation of authority either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the foreign limited liability partnership's name satisfies the requirements of ORS 67.730, the Secretary of State shall reinstate the authority.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the revocation of authority and the foreign limited liability partnership resumes carrying on its business as if the revocation of authority had never occurred. [1997 c.775 §78]

67.770 Action by Attorney General. The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in this state in violation of this chapter. [1997 c.775 §79]

MISCELLANEOUS

67.800 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1997 c.775 §80]

67.805 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [1997 c.775 §82]

67.810 Partnership subject to amendment or repeal of chapter. All or part of this chapter may be amended or repealed at any time and all partnerships subject to this chapter are governed by any amendment or repeal. [1997 c.775 §83]

67.815 Short title. This chapter may be cited as the Oregon Revised Partnership Act. [1997 c.775 §81]