Chapter 70

2009 EDITION

Limited Partnerships

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GENERAL PROVISIONS

70.005 Definitions. As used in this chapter:

(1) "Certificate of limited partnership" means the certificate referred to in ORS 70.075, and the certificate as amended, articles of conversion and articles of merger.

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

(3) "Corporation" or "domestic corporation" means a corporation for profit incorporated under ORS chapter 60.

(4) "Domestic limited liability company" means an entity that is an unincorporated association having one or more members and that is organized under ORS chapter 63.

(5) "Domestic nonprofit corporation" means a corporation not for profit incorporated under ORS chapter 65.

(6) "Domestic professional corporation" means a corporation organized under ORS chapter 58 for the purpose of rendering professional services and for the purposes provided under ORS chapter 58.

(7) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in ORS 70.180.

(8) "Foreign corporation" means a corporation for profit incorporated under laws other than the laws of this state.

(9) "Foreign limited liability company" means an entity that is an unincorporated association organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity's members limited liability with respect to liabilities of the entity.

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

(11) "Foreign nonprofit corporation" means a corporation not for profit organized under laws other than the laws of this state.

(12) "Foreign professional corporation" means a professional corporation organized under laws other than the laws of this state.

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

(14) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(15) "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(16) "Partner" means a limited or general partner.

(17) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of the business of the limited partnership.

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

(19) "Person" means an individual, partnership, limited partnership (domestic or foreign), association or corporation. [1985 c.677 §2; 1987 c.414 §65; 1987 c.543 §1; 1999 c.362 §53; 2001 c.315 §36; 2005 c.107 §5; 2009 c.14 §5; 2009 c.294 §9]

70.010 Name of limited partnership; registration of assumed business name; application of other law. (1) The name of each limited partnership as set forth in its certificate of limited partnership:

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

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

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

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

(c) Must be distinguishable upon the records of the Office of Secretary of State from any other limited partnership or corporate name, including any reserved name or registered corporate name or assumed business name of active record in the Office of Secretary of State. However, the Secretary of State may accept for filing a certificate of limited partnership containing a name that otherwise may not be accepted under this subsection if the applicant submits for filing to the Office of Secretary of State a certified copy of a final judgment or order entered by a court of competent jurisdiction that finds that the applicant has a prior or concurrent right to use the limited partnership name in this state.

(d) May not contain the words "incorporated" or "corporation" or any abbreviation or derivative thereof.

(e) Shall be written using letters of the English alphabet and may include numerals and incidental punctuation.

(2) If a limited partnership carries on, conducts or transacts business in this state under an assumed business name, the assumed business name must be registered under ORS chapter 648.

(3) Nothing in this section abrogates or limits the law as to unfair competition or unfair trade practices or derogates 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 to protect trade names. [1985 c.677 §3; 1987 c.543 §2]

70.015 Reservation of limited partnership name. (1) A limited partnership name may be reserved by any of the following persons:

(a) Any person intending to organize a limited partnership under ORS 70.075 and to adopt that name.

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

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

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

(2) A person who desires to reserve a limited partnership name shall submit to the Office of Secretary of State a signed application that specifies the limited partnership name and states the name and address of the person for whom the name is reserved. If the Secretary of State finds that the limited partnership name conforms to ORS 70.010, the Secretary of State shall reserve the limited partnership name for the applicant for a period of 120 days. The applicant for whom a name is reserved may transfer the reservation to any other person by executing and submitting for filing to the Office of Secretary of State a notice of the transfer, specifying the name and address of the transferee. [1985 c.677 §4; 1991 c.132 §6]

70.020 Office in state. Each limited partnership shall continuously maintain in this state an office at which the records referred to in ORS 70.050 shall be kept. The office may be but need not be a place of business of the limited partnership in this state. [1985 c.677 §5]

70.025 Registered agent; changing agent. (1) Each domestic limited partnership and each foreign limited partnership doing business in this state and all general partners of each domestic limited partnership or foreign limited partnership shall continuously maintain in this state a single registered agent who shall be amenable to service of process at the registered agent's business office in this state. The registered agent shall be:

(a) An individual resident of this state who has a business office in this state;

(b) A domestic corporation, domestic limited liability company, domestic professional corporation or domestic nonprofit corporation that has a business office in this state; or

(c) A foreign corporation, foreign limited liability company, foreign professional corporation or foreign nonprofit corporation that is authorized to transact business in this state and has a business office in this state.

(2) A domestic or foreign limited partnership and the general partners thereof may change their registered agent upon submitting for filing to the Office of Secretary of State a statement described in this subsection. The statement shall be executed by any general partner. The filing of the statement shall immediately terminate the existing registered agent and establish the newly appointed registered agent as the registered agent of the domestic or foreign limited partnership and the general partners thereof. The statement shall include the following:

(a) The name of the domestic or foreign limited partnership and the name and address of each general partner thereof; and

(b) The name of the successor registered agent and the street address of that registered agent's business office in this state. [1985 c.677 §5a; 1987 c.543 §3; 2001 c.315 §31]

70.030 Change of address and resignation procedures for registered agent. (1) A registered agent may change the address of the registered agent's business office in this state by executing and submitting for filing to the Office of Secretary of State a statement that includes the following:

(a) The name and address of the domestic or foreign limited partnership and each general partner thereof;

(b) The new street address of the registered agent's business office in this state; and

(c) A declaration that a copy of the statement has been mailed to the domestic or foreign limited partnership and each general partner thereof.

(2) A person may resign as the registered agent of the domestic or foreign limited partnership and the general partners thereof by executing and submitting for filing to the Office of Secretary of State a statement of

resignation and giving notice in the form of a copy of the statement to the domestic or foreign limited partnership. The resignation shall be effective on the 31st day after the date on which the statement is filed, unless the domestic or foreign limited partnership and the general partners thereof sooner appoint a successor registered agent, thereby terminating the capacity of the agent. Upon delivery of the signed statement, the Secretary of State shall file the resignation statement. The copy of the statement given to the domestic or foreign limited partnership shall be addressed to the domestic or foreign limited partnership at its last-known address as shown by the records of the Office of Secretary of State. For purposes of this subsection, written notice is effective at the earliest of the following:

(a) When received;

(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed; or

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested and the receipt is signed by or on behalf of the addressee. [1985 c.677 §5b; 1987 c.543 §4; 1989 c.196 §1; 1993 c.190 §10]

70.035 Scope of agency of registered agent. The registered agent of a domestic or foreign limited partnership shall be an agent of that domestic or foreign limited partnership and the general partners thereof. Any process, notice or demand that arises out of a conduct of the affairs of the domestic or foreign limited partnership and that is required or permitted by law to be served upon the domestic or foreign limited partnership or any general partner thereof may be served upon the registered agent. [1985 c.677 §5c; 1987 c.543 §5]

70.040 When Secretary of State to serve as agent; service on Secretary of State; when default may be entered. (1) Under any circumstance described in this subsection, the Secretary of State shall be an agent of a domestic or foreign limited partnership and each general partner thereof, for the purpose of serving any process, notice or demand that arises out of the conduct of the affairs of the domestic or foreign limited partnership and that is required or permitted by law to be served upon the domestic or foreign limited partnership or any general partner thereof. The Secretary of State may be served as agent of the domestic or foreign limited partnership and each general partner thereof:

(a) Whenever the domestic or foreign limited partnership and its general partners fail to appoint or maintain a registered agent in this state;

(b) Whenever the registered agent cannot with reasonable diligence be found at the address of the registered agent's business office in this state as shown by the records of the Office of Secretary of State; or

(c) Whenever a domestic or foreign limited partnership has been dissolved or has become and remains inactive for failure to file its annual report pursuant to ORS 70.610. Such dissolution or inactivity shall not:

(A) Terminate the authority of the registered agent of the foreign or domestic limited partnership or the general partners thereof;

(B) Prevent the commencement of a proceeding against the dissolved or inactive partnership; or

(C) Abate or suspend a proceeding by or against the partnership pending on the effective date of the dissolution or inactivity.

(2) A person who causes service to be made on the Secretary of State under this section must satisfy the following requirements:

(a) The person shall serve the Secretary of State as follows:

(A) By serving the Secretary of State or a clerk on duty in the Office of Secretary of State with a copy of the process, notice or demand and any papers required by law to be delivered in connection with the service and paying the required fee for each party being served; or

(B) By mailing to the Secretary of State a copy of the process, notice or demand by certified or registered mail, and paying the required fee for each party being served.

(b) The person shall transmit to the registered agent, the domestic or foreign limited partnership and all general partners thereof a notice of the service on the Secretary of State and a copy of the process, notice or demand and accompanying papers. The person shall transmit such documents by certified or registered mail, return receipt requested, to the last-known address of the registered agent's business office in this state, of the domestic or foreign limited partnership and of each general partner respectively, as shown on the records of the Office of Secretary of State.

(c) The person shall file with the appropriate court or other body, as part of the return of service, the return receipt of mailing and an affidavit of the person initiating the proceedings that the person has complied with the requirements of this subsection.

(3) A court may not enter a default against any defendant served under this section who has not either received or rejected a registered or certified letter containing the notice of such service and a copy of the

process, notice or demand and accompanying papers, unless the plaintiff can show that the defendant, after due diligence, cannot be found within or without this state and that fact appears by affidavit to the satisfaction of the court or judge thereof. Due diligence is satisfied when it appears from the affidavit that the defendant cannot be found at the last-known address as shown by the records of the Office of Secretary of State, if it appears from the affidavit that inquiry at such address was made within a reasonable time preceding service on the Secretary of State. When due diligence is proved to the court by such an affidavit, the service upon the Secretary of State shall be sufficient valid personal service upon the defendant notwithstanding that the defendant did not actually receive a notice of the service because of the defendant's failure to notify the Secretary of State of a change in address as required by this chapter.

(4) The Secretary of State shall keep a record of all processes, notices and demands served upon the Secretary of State under this section.

(5) After the completion of initial service upon the Secretary of State, no additional documents need be served upon the Secretary of State to maintain jurisdiction in the same proceeding or to give notice of any motion or provisional process. [1985 c.677 §5d; 1987 c.543 §6; 1991 c.132 §7]

70.045 Effect of ORS 70.020 to 70.040. Nothing contained in ORS 70.020 to 70.040:

(1) Limits or affects the jurisdiction of the courts of this state;

(2) Limits or affects the right to serve any process, notice or demand required or permitted by law to be served upon a limited partnership or the general partners thereof in any other manner now or hereafter permitted by law; or

(3) Enlarges the purposes for which service on the Secretary of State is permitted when the purposes are limited by any other provision of law. [1985 c.677 §5e]

70.050 Records required in office in state; inspection. (1) Each limited partnership shall keep at the office referred to in ORS 70.020 the following records:

(a) A current list of the full name and last-known business address of each partner specifying separately the general partners and the limited partners in alphabetical order.

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

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

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

(e) Unless contained in a written partnership agreement, a description of:

(A) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and that each partner has agreed to contribute;

(B) The times at which or events upon the happening of which any additional contributions agreed to be made by each partner are to be made;

(C) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(D) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(2) The records specified in subsection (1) of this section are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours. [1985 c.677 §6; 1987 c.543 §7]

70.055 Authority of limited partnership. A limited partnership may carry on any business that a partnership without limited partners may carry on. [1985 c.677 §7]

70.060 Authority of partner to do business with limited partnership. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner. [1985 c.677 §8]

70.065 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. [1991 c.132 §12; 1999 c.362 §§54,54a]

70.067 Forms; rules. Upon request, the Secretary of State may furnish forms for documents required or permitted to be filed by this chapter. The Secretary of State may by rule require the use of the forms. [1995 c.215 §17]

70.070 Filing duty of Secretary of State. (1) If a document delivered to the Office of Secretary of State for filing satisfies the requirements of this chapter, 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, except as provided in ORS 70.030 and 70.610, the Secretary of State shall return an acknowledgment of filing to the domestic or foreign limited partnership or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return the document to the domestic or foreign limited 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 Secretary of State's duty 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 for filing. The Secretary of State's filing or refusing to file a document 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 Secretary of State's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1993 c.190 §15; 1999 c.486 §13; 2001 c.104 §21]

FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

70.075 Formation of limited partnership; certificate of limited partnership; rules. (1) To form a limited partnership, a certificate of limited partnership must be executed and submitted for filing to the Office of Secretary of State. The certificate shall set forth the following:

(a) The name of the limited partnership.

(b) The address of the office required to be maintained under ORS 70.020 and the name and street address of the agent.

(c) A mailing address to which the Secretary of State may mail notices as required by this chapter.

(d) The name and the business address of each general partner.

(e) The latest date upon which the limited partnership is to dissolve.

(f) Any other matters the general partners decide to include in the certificate.

(g) Any additional identifying information that the Secretary of State may require by rule.

(2) A limited partnership is formed when the Secretary of State has filed the certificate or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. [1985 c.677 §9; 1987 c.543 §8; 1991 c.132 §8; 1995 c.215 §18]

70.080 Amendment of certificate. (1) A certificate of limited partnership is amended by submitting for filing a certificate of amendment thereto to the Office of Secretary of State. The certificate shall set forth the following:

(a) The name of the limited partnership immediately prior to the filing of the certificate of amendment.

(b) The amendment to the certificate.

(2) Not later than the 30th day after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event shall be filed:

(a) The admission of a new general partner.

(b) The withdrawal of a general partner.

(c) The continuation of the business under ORS 70.325 (4) after an event of withdrawal of a general partner.

(d) A change in the name of the limited partnership.

(3) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

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

(5) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (2) of this section if the amendment is filed within the period specified in subsection (2) of this section.

(6) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment. [1985 c.677 §10; 1987 c.543 §9]

70.085 Cancellation of certificate. A certificate of limited partnership shall be canceled upon the dissolution and the com-

mencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be submitted for filing to the Office of Secretary of State and shall set forth the following:

(1) The name of the limited partnership.

(2) The reason for filing the certificate of cancellation.

(3) The effective date of cancellation, which shall be a date certain, if the cancellation is not to be effective upon the submission of the certificate.

(4) Any other information the general partners submitting the certificate for filing decide to include in the certificate. [1985 c.677 §11]

70.090 Execution of certificate. (1) Each certificate required by ORS 70.075 to 70.115 to be filed by the Secretary of State shall be executed in the following manner:

(a) An original certificate of limited partnership must be signed by all general partners named therein.

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner.

(c) A certificate of cancellation must be signed by all general partners.

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

(3) The execution of a certificate by a general partner constitutes an affirmation under the applicable penalties of false swearing or perjury that the facts stated therein are true. [1985 c.677 §12; 1987 c.543 §10]

70.095 Remedy for failure to execute certificate. If a person required by ORS 70.090 to execute any certificate fails to do so, any other person who is adversely affected by the failure may petition the circuit court to direct the execution of the certificate. If the court finds that it is proper for the certificate to be executed, and that any person so designated has failed to execute the certificate, it shall order the Secretary of State to record an appropriate certificate. [1985 c.677 §13; 1987 c.543 §11]

70.100 Filing with Office of Secretary of State. (1) One original of the certificate of limited partnership, of any certificates of amendment or cancellation or of any judgment or judicial order of amendment or cancellation, shall be submitted for filing to the Office of Secretary of State. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of such authority as a prerequisite to filing. Unless the Secretary of State finds that any certificate does not conform to the filing requirements of this chapter, upon receipt of all filing fees required by law, the Secretary of State shall file the certificate, judgment or judicial order and return an acknowledgment of filing to the sender.

(2) Upon the filing of a certificate of amendment or judgment or judicial order of amendment by the Secretary of State, the certificate of limited partnership shall be amended as set forth therein.

(3) A certificate of limited partnership is canceled on the date that a certificate of cancellation or the judgment or judicial order of cancellation is filed by the Secretary of State unless the certificate, judgment or judicial order specifies another effective date. [1985 c.677 §14; 1987 c.543 §12; 1999 c.486 §14]

70.105 Remedy for false statements in certificate. If any certificate of limited partnership or certificate of amendment or cancellation contains a false material statement, one who suffers loss by reliance on the statement may recover damages for the loss from any of the following persons:

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

(2) Any general partner who:

(a) After the certificate was executed, knew or should have known that any arrangement or other fact described in the certificate had changed, thus making any material statement in the certificate false; and

(b) Had a reasonably sufficient time before the statement was relied upon to cancel or amend the certificate, or to file a petition for its cancellation or amendment under ORS 70.095. [1985 c.677 §15]

70.110 Filing as notice of limited partnership. The fact that a certificate of limited partnership is on file in the Office of Secretary of State is notice that the partnership is a limited partnership and the persons designated therein as general partners are general partners, but it is not notice of any other fact. [1985 c.677 §16; 1987 c.543 §13]

70.115 Duty of general partners to deliver copy of certificate to each limited partner. Upon the return by the Secretary of State pursuant to ORS 70.100 of an acknowledgment of filing, the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment or cancellation to each limited partner unless the partnership agreement provides otherwise. [1985 c.677 §17; 1999 c.486 §15]

LIMITED PARTNERS

70.125 Date person becomes limited partner; admission of additional limited partner. (1) A person becomes a limited partner on the later of:

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

(b) The date stated in the records of the limited partnership as the date that person becomes a limited partner.

(2) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner as follows:

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

(b) In the case of an assignee of a partnership interest, upon the occurrence of either of the following:

(A) Upon the exercise by the assignor of a power provided in ORS 70.300, to grant to the assignee the right to become a limited partner, and upon compliance with any conditions limiting the grant or exercise of the power; or

(B) Upon the consent of all partners other than the assignor. [1985 c.677 §18; 1987 c.543 §14]

70.130 Voting rights. Subject to ORS 70.135, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, on a per capita or other basis, upon any matter. [1985 c.677 §19]

70.135 Liability of limited partner. (1) Except as provided in subsection (4) of this section, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of rights and powers as a limited partner, the limited partner participates in the control of the business. However, if the limited partner participates in the control of the business, the limited partner is liable only to persons who transact business with the limited partnership and who reasonably believe, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section solely by doing one or more of the following:

(a) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or being an officer, director or shareholder of a general partner that is a corporation.

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

(c) Acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership.

(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership.

(e) Bringing a derivative action in the right of the limited partnership to recover a judgment in its favor pursuant to ORS 70.400 to 70.415.

(f) Requesting or attending a meeting of partners.

(g) Proposing, approving or disapproving, by voting or otherwise, one or more of the following matters:

(A) The dissolution and winding up or the continuation of the limited partnership.

(B) The sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited partnership.

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

(D) A change in the nature of the business.

(E) The admission or removal of a general partner.

(F) The admission or removal of a limited partner.

(G) A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners.

(H) An amendment to the partnership agreement or certificate of limited partnership.

(I) Matters related to the business of the limited partnership not otherwise listed in this paragraph that the partnership agreement states in writing may be subject to the approval or disapproval of limited partners.

(h) Winding up the limited partnership pursuant to ORS 70.325.

(i) Exercising any right or power permitted to limited partners under ORS 70.005, 70.010, 70.025 to 70.040, 70.050, 70.075, 70.080, 70.090 to 70.100, 70.110, 70.125, 70.135, 70.140, 70.175, 70.180, 70.230 to 70.255, 70.265, 70.275, 70.300, 70.325, 70.355 to 70.375, 70.610 and 70.620 and not specifically listed in this subsection.

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a

limited partner constitutes participation by the limited partner in the control of the business of the limited partnership.

(4) A limited partner who knowingly permits the limited partner's name to be used in the name of the limited partnership, except under circumstances permitted by ORS 70.010 (2), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner. [1985 c.677 §20; 1987 c.543 §15]

70.140 Liability of person who erroneously believes person is limited partner. A person who makes a contribution to a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise or exercising any rights of a limited partner if, on ascertaining the mistake, the person promptly takes either of the following actions:

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

(2) Withdraws from future equity participation in the enterprise by executing and submitting for filing with the Office of Secretary of State a certificate declaring withdrawal under this section. [1985 c.677 §21; 1987 c.543 §16]

70.145 Powers of limited partner. Each limited partner may:

(1) Inspect and copy any of the partnership records required to be maintained by ORS 70.050.

(2) Obtain from the general partners from time to time upon reasonable demand:

(a) True and full information regarding the state of the business and financial condition of the limited partnership;

(b) A copy of the limited partnership's federal, state and local income tax returns for each year promptly after they become available; and

(c) Other information regarding the affairs of the limited partnership as is just and reasonable. [1985 c.677 §22]

GENERAL PARTNERS

70.175 Admission of additional general partners. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners. [1985 c.677 §23; 1987 c.543 §17]

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

(1) The general partner withdraws from the limited partnership as provided in ORS 70.255 (1).

(2) The general partner ceases to be a member of the limited partnership as provided in ORS 70.290.

(3) The general partner is removed as a general partner in accordance with the partnership agreement.

(4) Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated a bankrupt or insolvent;

(d) Files a petition or answer seeking for the general partner any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the general partner in any proceeding of this nature; or

(f) Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the general partner or of all or any substantial part of the general partner's properties.

(5) Unless otherwise provided in writing in the partnership agreement:

(a) If a proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule has not been dismissed on or before the 120th day after commencement of the proceeding;

(b) If an appointment, without the general partner's consent, of a trustee, receiver or liquidator either of the general partner or of all or any substantial part of the general partner's properties is not vacated or stayed on or before the 90th day after the appointment; or

(c) If an appointment described in paragraph (b) of this subsection is not vacated on

or before the 90th day after expiration of the stay under paragraph (b) of this subsection.

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

(a) The death of the general partner.

(b) The entry of a judgment by a court of competent jurisdiction adjudicating the general partner incompetent to manage the general partner's person or estate.

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee.

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

(9) In the case of a general partner that is a corporation, the voluntary dissolution of the corporation, the involuntary dissolution of the corporation or the entry of a judgment or judicial order of involuntary dissolution of the corporation.

(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership. [1985 c.677 §24; 1987 c.543 §18]

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

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

(3) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners. [1985 c.677 §25]

70.190 Rights and powers of general partner as general and limited partner. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of and in distributions from the limited partnership as a general partner. A general partner also may make contributions to and share in the profits, losses and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers and is subject to the restrictions and liabilities of a general partner and, except as provided in the partnership agreement, also has the powers and is subject to the restrictions of a limited partner to the extent of the person's participation in the partnership as a limited partner. [1985 c.677 §26]

70.195 Voting rights. The partnership agreement may grant to all or certain identified general partners the right to vote, separately or with all or any class of the limited partners, on any matter. The right to vote may be granted on a per capita or any other basis. [1985 c.677 §27]

FINANCES

70.225 Form of contribution. The contribution of a partner may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. [1985 c.677 §28]

70.230 Obligation of partner. (1) A promise by a limited partner to contribute to the limited partnership is not enforceable unless set out in writing signed by the limited partner.

(2) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or other property or to perform services, even if the partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, the partner shall be obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the records required to be kept pursuant to ORS 70.050, of the stated contribution that has not been made.

(3) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor may enforce the original obligation if the creditor extended credit or otherwise acted in reliance on that obligation, during the period occurring:

(a) After the partner signs a writing that reflects the obligation; and

(b) Before the amendment or cancellation thereof to reflect the compromise. [1985 c.677 §29; 1987 c.543 §19]

70.235 Allocation of profits and losses. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, profits and losses shall be allocated on the basis of the value of the

contributions made by each partner, as stated in the partnership records required to be kept pursuant to ORS 70.050, to the extent they have been received by the partnership and have not been returned. [1985 c.677 §30; 1987 c.543 §20]

70.240 Allocation of distributions of assets. Distributions of cash or other assets of a limited partnership shall be allocated among the partners and among classes of partners in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value of the contributions made by each partner, as stated in the partnership records required to be kept pursuant to ORS 70.050, to the extent they have been received by the partnership and have not been returned. [1985 c.677 §31; 1987 c.543 §21]

DISTRIBUTION AND WITHDRAWAL

70.250 Entitlement to distributions. Except as provided in ORS 70.250 to 70.275, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement. [1985 c.677 §32; 1987 c.543 §22]

70.255 Withdrawal of partner. (1) A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the withdrawing general partner.

(2) A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in writing in the partnership agreement. If the partnership agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at the general partner's address on the books of the limited partnership at its office in this state. [1985 c.677 §§33,34; 1987 c.543 §23]

70.260 Entitlements of withdrawing partner. Except as provided in ORS 70.250 to 70.275, upon withdrawal, any withdrawing partner is entitled to receive any distribution to which the withdrawing partner is entitled under the partnership agreement. If not otherwise provided in the partnership agreement, the withdrawing partner also is entitled to receive, within a reasonable time after withdrawal, the fair value of the withdrawing partner's interest in the limited partnership as of the date of withdrawal based upon the withdrawing partner's right to share in distributions from the limited partnership. For purposes of this section, the fair value of the withdrawing partner's interest in the limited partnership shall be determined by assuming that any distribution to which the withdrawing partner is otherwise entitled by reason of this section has been made. [1985 c.677 §35]

70.265 Rights of partner regarding distribution; remedies. (1) Except as provided in writing in the partnership agreement, a partner has no right to demand and receive any distribution from a limited partnership in any form other than cash, regardless of the nature of the partner's contribution. Except as provided in writing in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset that is equal to the percentage in which the partner shares in distributions from the limited partnership.

(2) When a partner becomes entitled to receive a distribution, the partner has the status of and is entitled to all remedies available to a creditor of the limited partnership with respect to the distribution. [1985 c.677 §§36,37; 1987 c.543 §24]

70.270 Limit on distribution. A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, the liabilities of the limited partnership exceed the fair value of the partnership assets. For purposes of this section, the following shall be disregarded as liabilities of the limited partnership:

(1) Liabilities to partners on account of their partnership interests; and

(2) With respect to any liability as to which the recourse of creditors is limited to specific property of the limited partnership, the amount by which such liability exceeds the fair value of such specific property. [1985 c.677 §38]

70.275 Liability of partner who receives return of contribution. (1) If a partner has received the return of any part of the partner's contribution without violation of the partnership agreement or this chapter, the partner is liable to the limited partnership for a period of one year after receipt of the return for the amount of the returned contribution, but only to the extent

necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(2) If a partner has received the return of any part of the partner's contribution in violation of the partnership agreement or this chapter, the partner is liable to the limited partnership for a period of six years after receipt of the return for the amount of the contribution wrongfully returned.

(3) A partner receives a return of the partner's contribution to the extent that a distribution to the partner reduces the partner's share of the fair value of the net assets of the limited partnership below the value of the partner's contribution, as set forth in the partnership records required to be kept pursuant to ORS 70.050, that has not been distributed to the partner. [1985 c.677 §39; 1987 c.543 §25]

ASSIGNMENT OF PARTNERSHIP INTERESTS

70.285 Partnership as personal property. A partnership interest is personal property. [1985 c.677 §40]

70.290 Assignability of partnership interest. Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all the partner's partnership interest. [1985 c.677 §41]

70.295 Rights of judgment creditor of partner. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to the partner's partnership interest. [1985 c.677 §42]

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

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

(b) All other partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make and return contributions as provided in ORS 70.225 to 70.275. However, the assignee is not obligated for liabilities that were unknown to the assignee at the time the assignee became a limited partner and that could not be ascertained from the certificate of limited partnership.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from the assignor's liability to the limited partnership under ORS 70.105 and 70.230. [1985 c.677 §43; 1987 c.543 §26]

70.305 Death, incompetency, dissolution or termination of partner. (1) If a partner who is an individual dies or a court of competent jurisdiction adjudges the partner to be incompetent to manage the partner's person or property, the partner's executor, administrator, guardian, conservator or other legal representative may exercise all the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner held to give an assignee the right to become a limited partner.

(2) If a partner is a corporation, trust or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor. [1985 c.677 §44]

DISSOLUTION

70.325 When dissolution occurs. A limited partnership is dissolved and its affairs shall be wound up when the first of any of the following events occurs:

(1) Upon reaching the time for dissolution specified in the certificate of limited partnership.

(2) Upon the happening of events specified in writing in the partnership agreement.

(3) By the vote or such other action of the partners as is provided in writing in the partnership agreement, or if the partnership agreement does not so provide in writing, by the written consent of all partners.

(4) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the written provisions of the partnership agreement per-

mit the business of the limited partnership to be carried on by the remaining general partner and that partner does so. However, a limited partnership is not dissolved under this subsection and is not required to be wound up by reason of any event of withdrawal if, not later than the 90th day after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired.

(5) Entry of a judgment or judicial order of involuntary dissolution under ORS 70.330. [1985 c.677 §45; 1987 c.543 §27]

70.330 Judgment of dissolution. On application by or for a partner, the circuit court may enter a judgment for the dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement. [1985 c.677 §46; 2003 c.576 §332]

70.335 Who may wind up partnership affairs. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if no such general partners, the limited partners, may wind up the limited partnership's affairs. However, the circuit court upon cause shown may wind up the limited partnership's affairs upon application of any partner, or the partner's legal representative or assignee. [1985 c.677 §47]

70.340 Distribution of assets. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To the extent permitted by law, to creditors, including partners who are creditors, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under ORS 70.250 or 70.260.

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under ORS 70.250 or 70.260.

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

(a) First, for the return of their contributions; and

(b) Secondly, respecting their partnership interests, in the proportions in which the partners share in distributions. [1985 c.677 §48]

FOREIGN LIMITED PARTNERSHIPS

70.350 Law applicable to foreign limited partnership. (1) The laws of the jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners.

(2) A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state. [1985 c.677 §49]

70.355 Registration of foreign limited partnership; rules. (1) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit for filing to the Office of Secretary of State an application for registration as a foreign limited partnership. The application shall be signed by a general partner and shall set forth the following:

(a) The name of the foreign limited partnership.

(b) The jurisdiction and the date of formation of the foreign limited partnership.

(c) The name and street address of the initial registered agent which the foreign limited partnership and all general partners thereof are required to maintain in this state under ORS 70.025.

(d) A mailing address to which the Secretary of State may mail notices as required by this chapter.

(e) The address of the office where the records listed in ORS 70.050 are maintained together with an undertaking by the foreign limited partnership to keep these records until the foreign limited partnership's registration in this state is canceled.

(f) The name and business address of each general partner.

(g) Any additional identifying information that the Secretary of State may require by rule.

(2) A person who signs the application for registration as a foreign limited partnership as an agent or fiduciary need not exhibit evidence of such authority as a prerequisite to filing.

(3) The execution by a general partner of the application for registration as a foreign limited partnership constitutes an affirmation under the applicable penalties of false swearing or perjury that the facts stated therein are true.

(4) The foreign limited partnership shall deliver with the completed application a certificate of existence or a similar document that is current within 60 days of the date of delivery. The certificate or document shall be authenticated by the official having custody of limited partnership records in the state or country under whose law the partnership is organized. [1985 c.677 §50; 1987 c.543 §28; 1991 c.132 §9; 1995 c.215 §19; 1999 c.486 §16]

70.360 [1985 c.677 §51; 1987 c.543 §29; repealed by 1993 c.190 §24]

70.365 Name requirements. The Secretary of State shall not register a foreign limited partnership whose name does not meet the requirements of ORS 70.010 (1)(c) unless the foreign limited partnership states its name on its application as (name of limited partnership), a limited partnership of (place of registration), which shall be the "real and true name" of the limited partnership. [1985 c.677 §52; 1987 c.543 §30]

70.370 Correction of application. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly submit for filing to the Office of Secretary of State a certificate, signed by a general partner, correcting the statement. [1985 c.677 §53; 1987 c.543 §30a]

70.375 Cancellation of registration. (1) A foreign limited partnership may cancel its registration by submitting for filing a certificate of cancellation to the Office of Secretary of State signed by a general partner.

(2) A certificate of cancellation shall set forth:

(a) The name of the limited partnership and the state or country under the laws of which it is organized;

(b) A statement that the limited partnership is not transacting business in this state;

(c) A statement that the limited partnership revokes the authority of its registered agent in this state to accept service of process, notice or demand and consents that service of process, notice or demand in any action, suit or proceeding based upon any transaction, event or occurrence that took place in this state prior to the filing of the certificate of cancellation may thereafter be made on the limited partnership by service on the Secretary of State; and

(d) A mailing address to which the person initiating any proceeding may mail a copy of any process, notice or demand to the limited partnership that has been served on the Secretary of State.

(3) The certificate of cancellation shall be signed by one of the general partners or, if the foreign limited partnership is in the hands of a receiver or trustee, shall be signed by the receiver or trustee.

(4) If the Secretary of State finds that the certificate conforms to the filing requirements of this chapter, the Secretary of State shall file the certificate and return an acknowledgment of filing to the sender. Upon the filing of the certificate of cancellation, the authority of the foreign limited partnership to transact business in this state shall cease.

(5) A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this state. [1985 c.677 §54; 1987 c.543 §31; 1999 c.486 §17]

70.380 Registration prerequisite to suing in state; effect on contracts, liability; agent. (1) A foreign limited partnership transacting business in this state may not maintain any action or proceeding in any court of this state until it has registered in this state.

(2) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action or proceeding in any court of this state.

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

(4) A foreign limited partnership, by transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state. [1985 c.677 §55]

70.385 Attorney General's enforcement. The Attorney General may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of ORS 70.350 to 70.385. [1985 c.677 §56]

DERIVATIVE ACTIONS

70.400 Action by limited partner upon refusal of general partner. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed. [1985 c.677 §57]

70.405 Status of plaintiff. In a derivative action, the plaintiff must be a partner when the plaintiff brings the action and:

(1) The plaintiff must have been a partner at the time of the transaction of which the plaintiff complains; or

(2) The plaintiff's status as a partner must have devolved upon the plaintiff from a person who was a partner at the time of the transaction. [1985 c.677 §58]

70.410 Content of complaint. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort. [1985 c.677 §59]

70.415 Remittance of proceeds received by plaintiff; attorney fees. If a derivative action is successful in whole or in part or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action or claim, the court shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by the plaintiff. The court may award reasonable attorney fees to the prevailing party in a derivative action. [1985 c.677 §60; 1995 c.618 §43]

INACTIVATION OF CERTIFICATE OR REGISTRATION

70.430 Grounds for administrative action to inactivate certificate or registration of limited partnership. The Secretary of State may commence a proceeding under ORS 70.435 to inactivate a certificate of limited partnership or the registration of a foreign limited partnership if:

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

(2) The limited partnership does not deliver its annual report to the Secretary of State when due;

(3) The limited partnership is without a registered agent or registered office in this state;

(4) The limited partnership does not notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued; or

(5) The limited partnership's period of duration stated in its certificate of limited partnership expires. [1993 c.190 §13]

70.435 Notice of administrative inactivation; effect of inactivation on authority of registered agent. (1) If the Secretary of State determines that one or more grounds exist under ORS 70.430 for inactivating a certificate of limited partnership or the registration of a foreign limited partnership, the Secretary of State shall give the limited partnership notice of that determination.

(2) If the limited partnership, within 45 days after the notice is given, does not correct each ground for inactivation or demonstrate to the satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist, the Secretary of State shall inactivate the certificate of limited partnership or the registration of a foreign limited partnership.

(3) The administrative inactivation of a certificate of domestic limited partnership does not terminate the authority of its registered agent.

(4) The administrative inactivation of the registration of a foreign limited partnership terminates the authority of the registered agent of the foreign limited partnership. [1993 c.190 §14; 2001 c.315 §38]

70.440 Reinstatement following administrative inactivation. (1) A limited partnership administratively inactivated under ORS 70.430 may apply to the Secretary of State for reinstatement within five years from the date of inactivation. The application shall:

(a) State the name of the limited partnership and effective date of its administrative inactivation; and

(b) State that the ground or grounds for inactivation 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 partnership's name satisfies the requirements of ORS 70.010, the Secretary of State shall reinstate the limited partnership.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative inactivation and the limited partnership is considered to resume carrying on its business as if the administrative inactivation had never occurred. [1995 c.215 §20]

70.450 [1985 c.677 §61; renumbered 70.600 in 1999]

70.455 [1985 c.677 §62; renumbered 70.605 in 1999]

70.460 [1985 c.677 §62a; 1987 c.543 §32; 1987 c.843 §23; 1991 c.132 §10; 1993 c.190 §11; 1995 c.215 §21; renumbered 70.610 in 1999]

70.465 [1985 c.677 §63; 1997 c.775 §89; 1999 c.86 §19; renumbered 70.615 in 1999]

70.470 [1987 c.543 §9b; renumbered 70.620 in 1999]

70.490 [1985 c.677 §1; renumbered 70.625 in 1999]

CONVERSIONS AND MERGERS

70.500 Definitions for ORS 70.500 to 70.540. As used in ORS 70.500 to 70.540:

(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 ORS chapter 67, and a partnership governed by law of another jurisdiction that expressly provides for conversions and mergers; and

(E) A limited partnership organized under this chapter, 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) "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.

(3) "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) General partner or limited partner of a limited partnership. [1999 c.362 §56; 2003 c.80 §29]

70.505 Conversion. (1) A business entity other than a limited partnership may be converted to a limited partnership organized under this chapter, and a limited 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 limited 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 limited 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 limited partnership complies with any requirements imposed under the laws of the other jurisdiction with respect to the conversion.

(2) A plan of conversion shall set forth:

(a) The name and type of 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) 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 §57; 2001 c.315 §20; 2003 c.80 §24]

70.510 Action on plan of conversion. (1) A plan of conversion shall be approved as follows:

(a) In the case of a limited partnership, by all the partners, unless a lesser vote is provided for in the certificate of limited partnership or, in the case of a foreign limited partnership, by the law of the jurisdiction in which the limited partnership is organized.

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

(2) After a plan of 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 limited partnership, without further action by the limited partners, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner determined by the general partners.

(b) By a party to the conversion that is not a limited 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 §58]

70.515 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 and the name and type of business entity after conversion, and shall include the plan of conversion.

(2) The conversion takes effect on the latest of:

(a) The filing of the articles of conversion;

(b) If the surviving business entity is not a limited partnership, satisfaction of any additional filing requirements imposed pursuant to the statutes governing that business entity; or

(c) On the delayed effective date and time set forth in the filings. [1999 c.362 §59; 2001 c.315 §11]

70.520 Effect of conversion; assumed business name. (1) When a conversion to or from a limited partnership pursuant to ORS 70.505 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 limited partnership or a foreign limited partnership and its obligations incurred before the conversion are not satisfied by the converted business entity, the persons who were general 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, or in the limited partnership statutes of the jurisdiction in which the entity was formed, as if the converting business entity were dissolved; and

(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 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.

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

(a) In the case of a limited partnership, a limited partner who did not vote in favor of the conversion is considered to be a partner who has withdrawn from the limited partnership effective immediately upon the effective date of 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 partner's desire not to withdraw. A withdrawal under this paragraph is not a wrongful withdrawal; and

(b) In the case of owners of business entities other than limited 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.

(3) Unless the converted business entity is a partnership, the registration of an assumed business name of a business entity under ORS chapter 648 shall continue as the

assumed business name of the converted business entity. If the converted business entity is a partnership, the converting business entity shall amend or cancel the registration of the assumed business name under ORS chapter 648, and the partners of the partnership shall register the name as an assumed business name under ORS chapter 648. [1999 c.362 §60; 2001 c.315 §6]

70.525 Merger. (1) One or more business entities may merge into a limited 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 limited 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 limited 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 the status of each owner; and

(e) If any party is a business entity other than a limited 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 certificate of limited partnership, if a limited partnership is the surviving business entity; and

(b) Other provisions relating to the merger. [1999 c.362 §61; 2001 c.315 §21; 2003 c.80 §25]

70.530 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 limited partnership, by all the partners, unless a lesser vote is provided for in the certificate of limited partnership or, in the case of a foreign limited partnership, by the law of the jurisdiction in which the limited partnership is formed.

(b) In the case of a business entity other than a limited 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 limited partnership, without further action by the limited partners, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the general partners.

(b) By a party to the merger that is not a limited 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 §62]

70.535 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 Secretary of State, for filing, articles of merger setting forth:

(a) The plan of merger; and

(b) A statement that the plan of merger was duly authorized and approved by any party that was a limited partnership in accordance with ORS 70.525, and by any party that was another business entity in accordance with the statutes governing that business entity.

(2) The merger takes effect on the latest of:

(a) The filing of the articles of merger;

(b) The filing of all documents required to be filed by the statute governing any party to the merger that is a business entity other than a limited partnership; or

(c) Any later effective date specified in the articles of merger. [1999 c.362 §63; 2001 c.104 §22]

70.540 Effect of merger. (1) When a merger involving a limited 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 limited partnership is the surviving business entity, its certificate of limited partnership 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 limited partnership or a foreign limited partnership, and its obligations incurred before the merger are not satisfied by the surviving business entity, the persons who were general partners of the merging business entity 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, or in the limited partnership statutes of the jurisdiction in which the entity was formed, as if the merged party were dissolved;

(i) If prior to merger an owner of a business entity was a general partner of a limited partnership or a foreign limited partnership, 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; and

(j) The registration of an assumed business name of a business entity under ORS chapter 648 shall continue as the assumed business name of the surviving business entity.

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

(a) Any limited partner who did not vote in favor of the merger is deemed to have withdrawn from the limited 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 limited partnership of the partner's desire not to withdraw. A withdrawal under this paragraph is not a wrongful withdrawal; and

(b) In the case of owners of business entities other than limited 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. [1999 c.362 §64]

MISCELLANEOUS

70.600 Construction to promote uniformity. This chapter shall be so applied and construed to carry out its general purpose of making the law with respect to limited partnerships uniform among states enacting this chapter. [Formerly 70.450]

70.605 Application to partnerships existing prior to July 1, 1986. (1) Any limited partnership formed on or after July 1, 1986, shall be governed by this chapter.

(2) Any limited partnership formed before July 1, 1986, shall be governed by this chapter except as follows:

(a) The limited partnership shall not be required to change its name to comply with ORS 70.010 (1)(a) unless the limited partnership changes its name after July 1, 1986.

(b) The limited partnership need not file with the Secretary of State a certificate of amendment that would cause its certificate of limited partnership to comply with this chapter until the occurrence of an event that, under this chapter, requires the filing of a certificate of amendment. If any limited partnership formed before July 1, 1986, fails to file such a certificate of amendment re-

quired under this chapter, the limited partnership nevertheless shall be governed by this chapter. [Formerly 70.455]

70.610 Annual report; fees; rules. (1) Each domestic limited partnership and each foreign limited partnership registered to transact business in this state shall submit for filing an annual report to the Office of Secretary of State that includes:

(a) The name of the domestic or foreign limited partnership and the state or country under the laws of which it is formed;

(b) The street address of its registered office in this state and the name of its registered agent at that office;

(c) The name and respective address of each general partner of the domestic or foreign limited partnership;

(d) The category of the classification code as established by rule of the Secretary of State most closely designating the primary business activity of the domestic or foreign limited partnership;

(e) The location of the office in which the records described in ORS 70.050 are kept;

(f) A mailing address to which the Secretary of State may mail notices as required by this chapter; and

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

(2) The annual report shall be on forms prescribed and furnished by the Secretary of State. The information contained in the annual report shall be current as of 30 days before the anniversary of the domestic or foreign limited partnership.

(3) The annual report shall be signed by at least one general partner, or if the domestic or foreign limited partnership is in the hands of a receiver or trustee, it shall be signed on behalf of the partnership by such receiver or trustee.

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

(5) If the Secretary of State finds that the report conforms to the requirements of this chapter and all fees have been paid, the Secretary of State shall file the report.

(6) A limited partnership may deliver to the Office of 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 Secretary of State for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the certificate of limited partnership. The amendment to the annual report shall set forth:

(a) The name of the limited partnership as shown on the records of the Office of Secretary of State; and

(b) The information as changed. [Formerly 70.460; 2001 c.104 §23; 2001 c.315 §37; 2007 c.186 §12]

70.615 Application of ORS chapter 67. In any case governing limited partnerships that is not provided for in this chapter, the provisions of ORS chapter 67 govern. [Formerly 70.465]

70.620 Correction of documents; effective date of correction. (1) A domestic or foreign limited partnership may correct a document filed by the Secretary of State if the document contains an incorrect statement or was defectively executed, attested, sealed, verified or acknowledged.

(2) A domestic or foreign limited partnership shall correct a document by delivering a certificate of correction to the Office of Secretary of State. The certificate shall include the following:

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

(b) The incorrect statement and the reason it is incorrect, or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective.

(c) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(3) Certificates of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, certificates of correction are effective when filed. [Formerly 70.470]

70.625 Short title. This chapter may be cited as the Uniform Limited Partnership Act. [Formerly 70.490]