

3/18/97 W. + memo

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SENATE FILE 491  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 209)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to limited partnerships and the rights and duties  
2 of limited partners, partnership agreements, duties of the  
3 secretary of state with respect to limited partnerships, and  
4 other related matters affecting foreign and domestic limited  
5 partnerships, and establishing fees and penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 487.101, subsections 1 and 6, Code  
2 1997, are amended to read as follows:

3 1. "Certificate of limited partnership" means the  
4 certificate referred to in section 487.201, and the  
5 certificate as amended or restated.

6 6. "Limited partner" means a person who has been admitted  
7 to a limited partnership as a limited partner in accordance  
8 with the partnership agreement ~~and named in the certificate of~~  
9 ~~limited partnership as a limited partner~~.

10 Sec. 2. Section 487.101, Code 1997, is amended by adding  
11 the following new subsections:

12 NEW SUBSECTION. 11. "Person" means as defined in section  
13 4.1.

14 NEW SUBSECTION. 12. "State" means a state, territory, or  
15 possession of the United States, the District of Columbia, or  
16 the Commonwealth of Puerto Rico.

17 Sec. 3. Section 487.102, subsection 4, Code 1997, is  
18 amended to read as follows:

19 4. Shall be distinguishable upon the records of the  
20 secretary of state from the name of a corporation, limited  
21 liability company, or limited partnership organized under the  
22 law of this state or licensed or registered as a foreign  
23 corporation, foreign limited liability company, or foreign  
24 limited partnership in this state or a name the exclusive  
25 right to which is, at the time, reserved in the manner  
26 provided in this chapter, without the written consent of the  
27 corporation, limited liability company, or limited  
28 partnership, which consent shall be filed with the secretary  
29 of state, and provided the name is not identical.

30 Sec. 4. Section 487.102, subsection 3, Code 1997, is  
31 amended by striking the subsection.

32 Sec. 5. Section 487.104, subsection 3, Code 1997, is  
33 amended to read as follows:

34 3. An agent for service of process may resign as agent  
35 upon filing and recording in accordance with section 487:206

1 487.108 a written notice of resignation, executed in  
2 duplicate, with the secretary of state. The secretary of  
3 state shall forthwith mail a copy of the resignation to the  
4 limited partnership at its principal place of business. The  
5 appointment of the agent terminates upon the expiration of  
6 thirty days after receipt of the notice by the secretary of  
7 state.

8 Sec. 6. Section 487.105, Code 1997, is amended to read as  
9 follows:

10 487.105 RECORDS TO BE KEPT.

11 A limited partnership shall keep at the office required  
12 under section 487.104, subsection 1, all of the following:

13 1. A current list of the full name and last known business  
14 address of each partner separately identifying the general  
15 partners and the limited partners, each list being in  
16 alphabetical order.

17 2. A copy of the certificate of limited partnership and  
18 all ~~amendments-to-the-certificate~~ certificates of amendment to  
19 the certificate of limited partnership, together with ~~any~~  
20 executed copies of any powers of attorney pursuant to which a  
21 any certificate or-amendment has been executed.

22 3. Copies of the limited partnership's federal, state, and  
23 local income tax returns and reports, if any, for the three  
24 most recent years.

25 4. Copies of any currently effective written partnership  
26 agreements ~~in-effect~~ and of any financial statements of the  
27 limited partnership for the three most recent years.

28 ~~Any-partner-may-inspect-and-copy-the-records-required-to-be~~  
29 ~~kept-under-subsections-1-to-4-provided-that-the-partner's~~  
30 ~~request-to-inspect-and-copy-is-reasonable-and-done-at-the~~  
31 ~~partner's-expense.~~

32 5. Unless contained in a written partnership agreement, a  
33 writing setting out all of the following:

34 a. The amount of cash and a description and statement of  
35 the agreed value of the other property or services contributed

1 by each partner and which each partner has agreed to  
2 contribute.

3 b. The times at which or events on the happening of which  
4 any additional contributions agreed to be made by each partner  
5 are to be made.

6 c. Any right of a partner to receive, or of a general  
7 partner to make, distributions to a partner which include a  
8 return of all or any part of the partner's contribution.

9 d. Any events upon the happening of which the limited  
10 partnership is to be dissolved and its affairs wound up.

11 Records kept under this section are subject to inspection  
12 and copying at the reasonable request and at the expense of  
13 any partner during ordinary business hours.

14 Sec. 7. NEW SECTION. 487.108 FILING REQUIREMENTS.

15 1. A document shall satisfy the requirements of this  
16 section, and of any other section that adds to or varies these  
17 requirements, to be entitled to filing.

18 2. The document shall be filed in the office of the  
19 secretary of state.

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

22 4. The document shall be typewritten or printed. The  
23 typewritten or printed portion shall be black. Manually  
24 signed photocopies, or other reproduced copies, including  
25 facsimiles or other electronically or computer-generated  
26 copies of typewritten or printed documents, may be filed.

27 5. The document shall be in the English language. A  
28 limited partnership name need not be in English if written in  
29 English letters or Arabic or Roman numerals.

30 6. Except as provided in section 487.205, the document  
31 shall be executed by one of the following methods:

32 a. If a domestic limited partnership, the documents shall  
33 be executed by all of its general partners.

34 b. If a foreign limited partnership, the document shall be  
35 subscribed and sworn to by a general partner.

1 c. If the general partner is in the hands of a receiver,  
2 trustee, or other court-appointed fiduciary, by that  
3 fiduciary.

4 7. The person executing the document shall sign it and  
5 state beneath or opposite the person's signature, the person's  
6 name and the capacity in which the person signs. The  
7 secretary of state may accept for filing a document containing  
8 a copy of a signature, however made.

9 8. If, pursuant to any provision of this chapter, the  
10 secretary of state has prescribed a mandatory form for the  
11 document, the document shall be in or on the prescribed form.

12 9. The document shall be delivered to the office of the  
13 secretary of state for filing and shall be accompanied by the  
14 correct filing fee.

15 10. The secretary of state may adopt rules for the  
16 electronic filing of documents and the certification of  
17 electronically filed documents.

18 Sec. 8. NEW SECTION. 487.109 FEES.

19 1. The secretary of state shall collect the following fees  
20 when the documents described in this subsection are delivered  
21 to the secretary's office for filing:

- 22 a. Certificate of limited partnership ..... \$100
- 23 b. Application for registration of foreign limited partner-  
24 ship and also issuance of a certificate of registration to  
25 transact business in this state ..... \$100
- 26 c. Amendment to certificate of limited partnership .... \$ 20
- 27 d. Amendment to application for registration of foreign  
28 limited partnership ..... \$ 20
- 29 e. Cancellation of certificate of limited  
30 partnership ..... \$ 20
- 31 f. Cancellation of registration of foreign limited partner-  
32 ship ..... \$ 20
- 33 g. A consent required to be filed under this chapter .. \$ 20
- 34 h. Application to reserve a limited partnership name .. \$ 10
- 35 i. A notice of transfer of reservation of name ..... \$ 10

1 j. A notice of resignation of agent for service of  
2 process ..... \$ 5  
3 k. Articles of correction ..... \$ 5  
4 l. Application for certificate of existence or regis-  
5 tration ..... \$ 5  
6 m. Any other document required or permitted to be  
7 filed ..... \$ 5

8 2. The secretary of state shall collect a fee of five  
9 dollars each time process is served on the secretary under  
10 this chapter. The party to a proceeding causing service of  
11 process is entitled to recover this fee as costs if the party  
12 prevails in the proceeding.

13 3. The secretary of state shall collect the following fees  
14 for copying and certifying the copy of any filed document  
15 relating to a domestic or foreign corporation:

- 16 a. One dollar per page for copying.
- 17 b. Five dollars for the certificate.

18 Sec. 9. NEW SECTION. 487.110 EFFECTIVE TIME AND DATE OF  
19 DOCUMENTS.

20 1. Except as provided in subsection 2 and section 487.112,  
21 subsection 3, a document accepted for filing is effective at  
22 the later of the following times:

- 23 a. At the time of filing on the date it is filed, as  
24 evidenced by the secretary of state's date and time  
25 endorsement on the original document.
- 26 b. At the time specified in the document as its effective  
27 time on the date it is filed.

28 2. A document may specify a delayed effective time and  
29 date, and if it does so the document becomes effective at the  
30 time and date specified. If a delayed effective date but no  
31 time is specified, the document is effective at the close of  
32 business on that date. A delayed effective date for a  
33 document shall not be later than the ninetieth day after the  
34 date it is filed.

35 Sec. 10. NEW SECTION. 487.111 CORRECTING FILED

1 DOCUMENTS.

2 1. A domestic or foreign limited partnership may correct a  
3 document filed by the secretary of state if the document  
4 satisfies one or both of the following requirements:

- 5 a. Contains an incorrect statement.
- 6 b. Was defectively executed, attested, sealed, verified,  
7 or acknowledged.

8 2. A document is corrected by preparing articles of  
9 correction that satisfy all of the following requirements:

- 10 a. Describe the document, including its filing date, or  
11 attach a copy of it to the articles.
- 12 b. Specify the incorrect statement and the reason it is  
13 incorrect or the manner in which the execution was defective.
- 14 c. Correct the incorrect statement or defective execution.

15 3. Articles of correction are effective on the effective  
16 date of the document they correct except as to persons relying  
17 on the uncorrected document and adversely affected by the  
18 correction. As to those persons, articles of correction are  
19 effective when filed.

20 Sec. 11. NEW SECTION. 487.112 FILING DUTY OF SECRETARY  
21 OF STATE.

22 1. If a document delivered to the office of the secretary  
23 of state for filing satisfies the requirements of section  
24 487.108, the secretary of state shall file it and issue any  
25 necessary certificate.

26 2. The secretary of state files a document by stamping or  
27 otherwise endorsing "filed", together with the secretary's  
28 name and official title and the date and time of receipt, on  
29 both the document and the receipt for the filing fee. After  
30 filing a document, and except as provided in section 487.104A,  
31 subsection 3, and section 487.909, the secretary of state  
32 shall deliver the document, with the filing fee receipt, or  
33 acknowledgment of receipt if no fee is required, attached to  
34 the domestic or foreign limited partnership or its  
35 representative.

1 3. If the secretary of state refuses to file a document,  
2 the secretary of state shall return it to the domestic or  
3 foreign limited partnership or its representative within ten  
4 days after the document was received by the secretary of  
5 state, together with a brief, written explanation of the  
6 reason for the refusal.

7 4. The secretary of state's duty to file documents under  
8 this section is ministerial. Filing or refusing to file a  
9 document does not do any of the following:

10 a. Affect the validity or invalidity of the document in  
11 whole or part.

12 b. Relate to the correctness or incorrectness of  
13 information contained in the document.

14 c. Create a presumption that the document is valid or  
15 invalid or that information contained in the document is  
16 correct or incorrect.

17 Sec. 12. NEW SECTION. 487.113 APPEAL FROM SECRETARY OF  
18 STATE'S REFUSAL TO FILE DOCUMENT.

19 1. If the secretary of state refuses to file a document  
20 delivered to the secretary's office for filing, the domestic  
21 or foreign limited partnership may appeal the refusal, within  
22 thirty days after the return of the document, to the district  
23 court for the county in which the limited partnership's  
24 principal office or, if none in this state, its registered  
25 office is or will be located. The appeal is commenced by  
26 petitioning the court to compel filing the document and by  
27 attaching to the petition the document and the secretary of  
28 state's explanation of the refusal to file.

29 2. The court may summarily order the secretary of state to  
30 file the document or take other action the court considers  
31 appropriate.

32 3. The court's final decision may be appealed as in other  
33 civil proceedings.

34 Sec. 13. NEW SECTION. 487.114 EVIDENTIARY EFFECT OF COPY  
35 OF FILED DOCUMENT.

1 A certificate attached to a copy of a document filed by the  
2 secretary of state, bearing the secretary of state's  
3 signature, which may be in facsimile, and the seal of the  
4 secretary of state, is conclusive evidence that the original  
5 document is on file with the secretary of state.

6 Sec. 14. NEW SECTION. 487.115 CERTIFICATE OF EXISTENCE.

7 1. Anyone may apply to the secretary of state to furnish a  
8 certificate of existence for a domestic limited partnership or  
9 a certificate of registration for a foreign limited  
10 partnership.

11 2. A certificate of existence or a certificate of  
12 registration shall set forth all of the following:

13 a. The domestic limited partnership's name or the foreign  
14 limited partnership's name used in this state.

15 b. That one of the following apply:

16 (1) If it is a domestic limited partnership, that it is  
17 duly organized under the law of this state, the date of its  
18 organization, and the period of its duration.

19 (2) If it is a foreign limited partnership, that it is  
20 authorized to transact business in this state.

21 c. That all fees required by this chapter have been paid.

22 d. That a certificate of cancellation has not been filed.

23 e. Other facts of record in the office of the secretary of  
24 state that may be requested by the applicant.

25 3. Subject to any qualification stated in the certificate,  
26 a certificate of existence or certificate of registration  
27 issued by the secretary of state may be relied upon as  
28 conclusive evidence that the domestic or foreign limited  
29 partnership is in existence or is registered to transact  
30 business in this state.

31 Sec. 15. NEW SECTION. 487.116 PENALTY FOR SIGNING FALSE  
32 DOCUMENT.

33 1. A person commits an offense if that person signs a  
34 document the person knows is false in any material respect  
35 with intent that the document be delivered to the secretary of

1 state for filing.

2 2. An offense under this section is a serious misdemeanor  
3 punishable by a fine of not to exceed one thousand dollars.

4 Sec. 16. NEW SECTION. 487.117 SECRETARY OF STATE --  
5 POWERS.

6 The secretary of state has the power reasonably necessary  
7 to perform the duties required of the secretary of state by  
8 this chapter.

9 Sec. 17. Section 487.201, subsection 1, Code 1997, is  
10 amended to read as follows:

11 1. In order to form a limited partnership, two-or-more  
12 ~~persons-shall-execute~~ a certificate of limited partnership.  
13 ~~The-certificate-shall-be~~ must be executed and filed in the  
14 office of the secretary of state ~~and-set-forth-all-of-the~~  
15 following. The certificate shall set forth all of the  
16 following:

17 a. The name of the limited partnership.

18 ~~b.--The-general-character-of-its-business.~~

19 c. b. The address of the office and the name and address  
20 of the agent for service of process required to be maintained  
21 by section 487.104, subsection 1, ~~and-the-address-of-its~~  
22 ~~principal-place-of-business.~~

23 d. c. The name and the business address of each general  
24 ~~partner,-specifying-separately-the-general-partners-and~~  
25 ~~limited-partners.~~

26 e. ~~The-amount-of-cash-and-a-description-and-statement-of~~  
27 ~~the-agreed-value-of-the-other-property-or-services-contributed~~  
28 ~~by-each-partner-and-which-each-partner-has-agreed-to~~  
29 ~~contribute-in-the-future.~~

30 f. ~~The-times-at-which-or-events-on-the-happening-of-which~~  
31 ~~any-additional-contributions-agreed-to-be-made-by-each-partner~~  
32 ~~are-to-be-made.~~

33 g. ~~A-power-of-a-limited-partner-to-grant-the-right-to~~  
34 ~~become-a-limited-partner-to-an-assignee-of-any-part-of-the~~  
35 ~~partner's-partnership-interest,-and-the-terms-and-conditions~~

1 of-the-power.

2 h.---If-agreed-upon, the-time-at-which-or-the-events-on-the  
3 happening-of-which-a-partner-may-withdraw-from-the-limited  
4 partnership-and-the-amount-of, or-the-method-of-determining  
5 the-amount-of, the-distribution-to-which-the-partner-may-be  
6 entitled-respecting-the-partnership-interest, and-the-terms  
7 and-conditions-of-the-termination-and-distribution.

8 i.---A-right-of-a-partner-to-receive-distributions-of  
9 property, including-cash-from-the-limited-partnership.

10 j.---A-right-of-a-partner-to-receive, or-of-a-general  
11 partner-to-make, distributions-to-a-partner-which-include-a  
12 return-of-all-or-any-part-of-the-partner's-contribution.

13 k.---A-time-at-which, or-an-event-upon-the-happening-of  
14 which,

15 d. The latest date upon which the limited partnership is  
16 to be dissolved and its affairs wound up dissolve.

17 l.---A-right-of-the-remaining-general-partners-to-continue  
18 the-business-on-the-happening-of-an-event-of-withdrawal-of-a  
19 general-partner.

20 m. e. Other Any other matters the general partners  
21 determine to include in the certificate.

22 Sec. 18. Section 487.202, Code 1997, is amended to read as  
23 follows:

24 487.202 AMENDMENT TO CERTIFICATE.

25 1. A certificate of limited partnership is amended by  
26 filing a certificate of amendment to the certificate of  
27 limited partnership in the office of the secretary of state.  
28 The certificate of amendment shall set forth all of the  
29 following:

30 a. The name of the limited partnership.

31 b. The date of filing the certificate of limited  
32 partnership.

33 c. The amendment to the certificate of-limited  
34 partnership.

35 2. Except-as-provided-in-subsection-5, within Within

1 thirty days after the happening of any of the following  
2 events, an amendment to a certificate of limited partnership  
3 reflecting the occurrence of the event shall be filed:

4 ~~a. -- A change in the amount or character of the contribution~~  
5 ~~of a partner, or in a partner's obligation to make a~~  
6 ~~contribution.~~

7 b. a. The admission of a new general partner.

8 b. The withdrawal of a general partner.

9 c. The continuation of the business under section 487.801  
10 after an event of withdrawal of a general partner.

11 3. A general partner who becomes aware that a any  
12 statement in a certificate of limited partnership was false  
13 when made or that any arrangements or other facts described  
14 have changed, making the certificate inaccurate in any  
15 respect, shall promptly amend the certificate. ~~An amendment~~  
16 ~~to show the admission of or a change of address of a limited~~  
17 ~~partner shall be filed within twelve months of the admission~~  
18 ~~or change of address.~~

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

22 ~~5. -- An amendment is not required to reflect distributions~~  
23 ~~made pursuant to rights described in section 487.201,~~  
24 ~~subsection 1, paragraph "j".~~

25 6. 5. A limited partner person is not liable because an  
26 amendment to a certificate of limited partnership has not been  
27 filed to reflect the occurrence of an any event referred to in  
28 subsection 2 if the amendment is filed within the thirty-day  
29 period specified in subsection 2.

30 6. A restated certificate of limited partnership may be  
31 executed and filed in the same manner as a certificate of  
32 amendment. The restated certificate must contain the  
33 information required in section 487.201 and may set forth any  
34 other provision consistent with law.

35 Sec. 19. Section 487.204, subsection 1, Code 1997, is

1 amended to read as follows:

2 1. Each certificate required by this chapter to be filed  
3 in the office of the secretary of state shall be executed in  
4 the following manner:

5 a. ~~An original~~ A certificate of limited partnership shall  
6 be signed by all general partners ~~named-in-the-certificate~~.

7 b. A certificate of amendment shall be signed by at least  
8 one general partner and by each other general partner  
9 designated in the certificate as a new general partner ~~or~~  
10 ~~whose-contribution-is-described-as-having-been-increased~~.

11 c. A certificate of cancellation shall be signed by all  
12 general partners.

13 Sec. 20. Section 487.205, Code 1997, is amended to read as  
14 follows:

15 487.205 AMENDMENT OR CANCELLATION BY JUDICIAL ACT.

16 If a person required by section 487.204 to execute a any  
17 ~~certificate of-amendment-or-cancellation~~ fails or refuses to  
18 do so, any other ~~partner, or any assignee of a partnership~~  
19 ~~interest,~~ person who is adversely affected by the failure or  
20 refusal may petition the Iowa district court for the county in  
21 which the office described in section 487.104 is located to  
22 direct the ~~amendment-or-cancellation~~ execution of the  
23 certificate. If the court finds that ~~the-amendment-or~~  
24 ~~cancellation-is-proper-and-that-a~~ it is proper for the  
25 certificate to be executed and that any person so designated  
26 has failed or refused to execute the certificate, the court  
27 shall order the secretary of state to record accept for filing  
28 an appropriate certificate ~~of-amendment-or-cancellation~~.

29 Sec. 21. Section 487.208, Code 1997, is amended to read as  
30 follows:

31 487.208 SCOPE OF NOTICE.

32 The fact that a certificate of limited partnership is on  
33 file in the office of the secretary of state is notice that  
34 the partnership ~~claims-to-be~~ is a limited partnership and the  
35 persons designated in such certificate as general partners are

1 general partners, but it is not notice of any other fact.

2 Sec. 22. Section 487.301, Code 1997, is amended to read as  
3 follows:

4 487.301 ADMISSION OF NEW LIMITED PARTNERS.

5 1. A person becomes a limited partner at either of the  
6 following times:

7 a. At the time the limited partnership is formed.

8 b. At any later time specified in the records of the  
9 limited partnership for becoming a limited partner.

10 2. After the filing of a limited partnership's original  
11 certificate of limited partnership, a person may be admitted  
12 as a new limited partner under the following conditions:

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

18 b. In the case of an assignee of a partnership interest of  
19 a partner who has the power, as provided in section 487.704 to  
20 grant the assignee the right to become a limited partner, upon  
21 the exercise of that power and compliance with any conditions  
22 limiting the grant or exercise of the power.

23 ~~2.---Under-both-paragraphs-"a"--and-"b"--of-subsection-17-the~~  
24 ~~person-acquiring-the-partnership-interest-becomes-a-limited~~  
25 ~~partner-at-the-time-specified-in-the-certificate-of-limited~~  
26 ~~partnership-or,-if-a-time-is-not-specified,-upon-amendment-of~~  
27 ~~the-certificate-of-limited-partnership-to-show-the-partnership~~  
28 ~~interest.~~

29 Sec. 23. Section 487.303, Code 1997, is amended to read as  
30 follows:

31 487.303 LIABILITY TO THIRD PARTIES.

32 1. Except as provided in subsection 4, a limited partner  
33 is not liable for the obligations of a limited partnership  
34 unless the limited partner is also a general partner or, in  
35 addition to the exercise of the limited partner's rights and

1 powers as a limited partner, the limited partner takes-part  
2 participates in the control of the business. However, if the  
3 limited partner's-participation partner participates in the  
4 control of the business is-not-substantially-the-same-as-the  
5 exercise-of-the-powers-of-a-general-partner, the limited  
6 partner is liable only to persons who transact business with  
7 the limited partnership with-actual-knowledge-of-the-limited  
8 partner's-participation-in-control reasonably believing, based  
9 upon the limited partner's conduct, that the limited partner  
10 is a general partner.

11 2. A limited partner does not participate in the control  
12 of the business within the meaning of subsection 1 solely by  
13 doing one or more of the following:

14 a. Being a contractor for or an agent or employee of the  
15 limited partnership.

16 b. Being a contractor for or an agent, employee, manager,  
17 member, director, officer, or shareholder of or a limited  
18 partner of a general partner, or a partner in a limited  
19 liability partnership that is a general partner.

20 c. Consulting with and advising a general partner with  
21 respect to the business of the limited partnership.

22 d. Acting as surety for the limited partnership or  
23 guaranteeing or assuming one or more specific obligations of  
24 the limited partnership.

25 e. Approving-or-disapproving-an-amendment-to-the  
26 partnership-agreement. Taking any action required or  
27 permitted by law to bring or pursue a derivative action in the  
28 right of the limited partnership.

29 f. Voting-on Requesting or attending a meeting of  
30 partners.

31 g. Proposing, approving, or disapproving, by voting or  
32 otherwise, one or more of the following matters:

33 (1) The dissolution and winding up of the limited  
34 partnership.

35 (2) The sale, exchange, lease, mortgage, pledge, or other

1 transfer of all or substantially all the assets of the limited  
2 partnership ~~other than in the ordinary course of its business.~~

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

5 (4) A change in the nature of the business.

6 (5) The admission or removal of a general partner.

7 (6) The admission or removal of a limited partner.

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

11 (8) An amendment to the partnership agreement or  
12 certificate of limited partnership.

13 (9) Matters related to the business of the limited  
14 partnership not otherwise enumerated in this subsection, which  
15 the partnership agreement states in writing may be subject to  
16 the approval or disapproval of limited partners.

17 h. Winding up the limited partnership pursuant to section  
18 487.803.

19 i. Exercising any right or power permitted to limited  
20 partners under this chapter and not specifically enumerated in  
21 this subsection.

22 3. The enumeration in subsection 2 does not mean that the  
23 possession or exercise of any other powers by a limited  
24 partner constitutes participation by the limited partner in  
25 the business of the limited partnership.

26 4. A limited partner who knowingly permits the limited  
27 partner's name to be used in the name of the limited  
28 partnership, except under circumstances permitted by section  
29 487.102, subsection 2, ~~paragraph "a"~~, is liable to creditors  
30 who extend credit to the limited partnership without actual  
31 knowledge that the limited partner is not a general partner.

32 Sec. 24. Section 487.304, Code 1997, is amended to read as  
33 follows:

34 487.304 PERSON ERRONEOUSLY BELIEVING SELF TO BE A LIMITED  
35 PARTNER.

1 1. Except as provided in subsection 2, a person who makes  
2 a contribution to a business enterprise and erroneously but in  
3 good faith believes that the person has become a limited  
4 partner in the enterprise is not a general partner in the  
5 enterprise and is not bound by its obligations by reason of  
6 making the contribution, receiving distributions from the  
7 enterprise, or exercising any rights of a limited partner, if,  
8 on ascertaining the mistake, the person does either of the  
9 following:

10 a. Causes an appropriate certificate of limited  
11 partnership or a certificate of amendment to be executed and  
12 filed; ~~or.~~

13 b. Withdraws from future equity participation in the  
14 enterprise by executing and filing in the office of the  
15 secretary of state a certificate declaring withdrawal under  
16 this section.

17 2. A person who makes a contribution of the kind described  
18 in subsection 1 is liable as a general partner to a third  
19 party who, ~~believing the person to be a general partner,~~  
20 transacts business with the enterprise ~~before an appropriate~~  
21 ~~certificate is filed and~~ before either of the following:

22 a. The person withdraws and an appropriate certificate is  
23 filed to show the withdrawal.

24 b. An appropriate certificate is filed to show the  
25 ~~person's status as a limited partner and, in the case of an~~  
26 ~~amendment, after expiration of the period for filing the~~  
27 ~~amendment relating to the person as a limited partner under~~  
28 section-487-202 that the person is not a general partner.

29 However, in either case referred to in paragraph "a" or  
30 "b", the person is liable as a general partner only if the  
31 third party actually believed in good faith that the person  
32 was a general partner at the time of the transaction.

33 Sec. 25. Section 487.401, Code 1997, is amended to read as  
34 follows:

35 487.401 ADMISSION OF ADDITIONAL GENERAL PARTNERS.

1 After the filing of a limited partnership's original  
2 certificate of limited partnership, additional general  
3 partners ~~shall be admitted only with the specific written~~  
4 ~~consent of each partner. -- However, if the certificate of~~  
5 ~~limited partnership or~~ may be admitted as provided in writing  
6 in the partnership agreement names a person to be admitted as  
7 a general partner upon the occurrence of a specified  
8 circumstance or at a specified time, the consent required is  
9 deemed to have been given or, if the partnership agreement  
10 does not provide in writing for the admission of additional  
11 general partners, with the written consent of all partners.

12 Sec. 26. Section 487.402, Code 1997, is amended to read as  
13 follows:

14 487.402 EVENTS OF WITHDRAWAL.

15 Except as ~~otherwise agreed in writing by~~ approved by the  
16 specific written consent of all partners at the time of the  
17 event, a person ceases to be a general partner of a limited  
18 partnership upon the happening of any of the following events:

19 1. The general partner withdraws from the limited  
20 partnership as provided in section 487.602.

21 2. The general partner ceases to be a member of the  
22 limited partnership as provided in section 487.702.

23 ~~2.~~ 3. The general partner is removed as a general partner  
24 in accordance with the partnership agreement.

25 ~~3.~~ 4. Unless otherwise provided in ~~the certificate of~~  
26 ~~limited writing in the partnership agreement~~, the general  
27 partner does any of the following:

28 a. Makes an assignment for the benefit of creditors.

29 b. Files a voluntary petition in bankruptcy.

30 c. Is adjudicated a bankrupt or insolvent.

31 d. Files a petition or answer seeking for the general  
32 partner reorganization, arrangement, composition,  
33 readjustment, liquidation, dissolution, or similar relief  
34 under any statute, law, or regulation.

35 e. Files an answer or other pleading admitting or failing

1 to contest material allegations of a petition filed against  
2 the general partner in a proceeding of a nature specified in  
3 paragraph "d".

4 f. Seeks, consents to, or acquiesces in the appointment of  
5 a trustee, receiver, or liquidator of the general partner or  
6 of all or a substantial part of the general partner's  
7 properties.

8 ~~4~~ 5. Unless otherwise provided in ~~the certificate of~~  
9 ~~limited writing in the~~ partnership agreement, upon the  
10 expiration of the following time periods:

11 a. One hundred twenty days after the commencement of a  
12 proceeding against the general partner seeking reorganization,  
13 arrangement, composition, readjustment, liquidation,  
14 dissolution, or similar relief, under any statute, law, or  
15 regulation, if the proceeding has not been dismissed within  
16 that time.

17 b. Ninety days after the appointment without the general  
18 partner's consent or acquiescence of a trustee, receiver, or  
19 liquidator of the general partner or of all or a substantial  
20 part of the general partner's properties, if the appointment  
21 is not vacated or stayed within that time.

22 c. If an appointment of the nature specified in paragraph  
23 "b" is stayed and if the appointment is not then vacated,  
24 ninety days after the expiration of the stay.

25 ~~5~~ 6. If the general partner is a natural person when  
26 either of the following occur:

27 a. The general partner dies.

28 b. The district court finds the general partner incapable  
29 of managing the general partner's person or property.

30 ~~6~~ 7. If the general partner is acting as a general  
31 partner by virtue of being a trustee of a trust, when the  
32 trust terminates. Substitution of a new trustee is not  
33 termination of the trust.

34 ~~7~~ 8. If the general partner is a separate partnership,  
35 the dissolution and commencement of winding up of the separate

1 partnership.

2 8- 9. If the general partner is a corporation, the filing  
3 of a certificate of dissolution, or its equivalent, for the  
4 corporation or revocation of the corporation's charter.

5 10. If the general partner is a limited liability company,  
6 the filing of a certificate of dissolution, or its equivalent,  
7 for the limited liability company or revocation of the limited  
8 liability company's charter.

9 9- 11. In the case of an estate, the distribution by the  
10 fiduciary of the estate's entire interest in the partnership.

11 Sec. 27. Section 487.403, Code 1997, is amended to read as  
12 follows:

13 487.403 GENERAL POWERS AND LIABILITIES.

14 1. Except as provided in this chapter or in the  
15 partnership agreement, a general partner of a limited  
16 partnership has the rights and powers and is subject to the  
17 restrictions ~~and-liabilities~~ of a general partner in a  
18 partnership without limited partners.

19 2. Except as provided in this chapter, a general partner  
20 of a limited partnership has the liabilities of a partner in a  
21 partnership without limited partners to persons other than the  
22 partnership and the other partners. Except as provided in  
23 this chapter or in the partnership agreement, a general  
24 partner of a limited partnership has the liabilities of a  
25 partner in a partnership without limited partners to the  
26 partnership and to the other partners.

27 Sec. 28. Section 487.405, Code 1997, is amended to read as  
28 follows:

29 487.405 VOTING.

30 The partnership agreement may grant to all or certain  
31 identified general partners the right to vote on a per capita  
32 or any other basis, separately or with all or any class of the  
33 limited partners, on any matter.

34 Sec. 29. Section 487.502, Code 1997, is amended to read as  
35 follows:

1 487.502 LIABILITY FOR CONTRIBUTION.

2 1. A promise by a limited partner to contribute to the  
3 limited partnership is not enforceable unless set out in a  
4 writing signed by the limited partner.

5 2. Except as provided in the certificate-of-limited  
6 partnership agreement, a partner is obligated to the limited  
7 partnership to perform a any enforceable promise to contribute  
8 cash or property or to perform services even if the partner is  
9 unable to perform because of death, disability, or any other  
10 reason. If the a partner does not make the required  
11 contribution of property or services, the partner is obligated  
12 at the option of the limited partnership may-require-the  
13 partner to contribute cash equal to that portion of the value,  
14 as stated in the certificate-of-limited-partnership,  
15 partnership records required to be kept pursuant to section  
16 487.105, of the stated contribution that which has not been  
17 made.

18 3. Unless otherwise provided in the partnership agreement,  
19 the obligation of a partner to make a contribution or return  
20 money or other property paid or distributed in violation of  
21 this chapter may be compromised only by consent of all  
22 partners. Notwithstanding the compromise, a creditor of a  
23 limited partnership who extends credit or otherwise acts in  
24 reliance on that obligation after the partner signs a writing  
25 which reflects the obligation and before the amendment or  
26 cancellation of such obligation to reflect the compromise may  
27 enforce the original obligation.

28 Sec. 30. Section 487.503, Code 1997, is amended to read as  
29 follows:

30 487.503 SHARING OF PROFITS AND LOSSES.

31 The profits and losses of a limited partnership shall be  
32 allocated among the partners, and among classes of partners,  
33 in the manner provided in writing in the partnership  
34 agreement. If the partnership agreement does not so provide  
35 in writing, profits and losses shall be allocated on the basis

1 of the value, as stated in the ~~certificate-of-limited~~  
2 partnership records required to be kept pursuant to section  
3 487.105, of the contributions made by each partner to the  
4 extent the contributions have been received by the partnership  
5 and have not been returned.

6 Sec. 31. Section 487.504, Code 1997, is amended to read as  
7 follows:

8 487.504 SHARING OF DISTRIBUTIONS.

9 Distributions of cash or other assets of a limited  
10 partnership shall be allocated among the partners, and among  
11 classes of partners, in the manner provided in writing in the  
12 partnership agreement. If the partnership agreement does not  
13 so provide in writing, distributions shall be made on the  
14 basis of the value, as stated in the ~~certificate-of-limited~~  
15 partnership records required to be kept pursuant to section  
16 487.105, of the contributions made by each partner to the  
17 extent the contributions have been received by the partnership  
18 and have not been returned.

19 Sec. 32. Section 487.601, Code 1997, is amended to read as  
20 follows:

21 487.601 INTERIM DISTRIBUTIONS.

22 Except as provided in this article, a partner is entitled  
23 to receive distributions from a limited partnership before the  
24 partner's withdrawal from the limited partnership and before  
25 the dissolution and winding up of the partnership ~~subject-to~~  
26 ~~the-following-conditions:~~

27 ~~1.--To~~ to the extent and at the times or upon the happening  
28 of the events specified in the partnership agreement.

29 ~~2.--If-a-distribution-is-a-return-of-part-of-the-partner's~~  
30 ~~contribution-under-section-487.608,subsection-2,-to-the~~  
31 ~~extent-and-at-the-times-or-upon-the-happening-of-the-events~~  
32 ~~specified-in-the-certificate-of-limited-partnership.~~

33 Sec. 33. Section 487.603, Code 1997, is amended to read as  
34 follows:

35 487.603 WITHDRAWAL OF LIMITED PARTNER.

1 A limited partner may withdraw from a limited partnership  
2 only at the time or upon the happening of events specified in  
3 ~~the certificate of limited partnership and in accordance with~~  
4 writing in the partnership agreement. ~~if the certificate does~~  
5 ~~not specify the time or the events upon the happening of which~~  
6 ~~a limited partner may withdraw or a time for the dissolution~~  
7 ~~and winding up of the limited partnership, a limited partner~~  
8 ~~may withdraw upon not less than six months prior written~~  
9 ~~notice directed or delivered to the partnership or to each~~  
10 ~~general partner at the partner's address on the books of the~~  
11 ~~limited partnership at its office in this state.~~

12 Sec. 34. Section 487.605, Code 1997, is amended to read as  
13 follows:

14 487.605 DISTRIBUTION IN KIND.

15 Except as provided in ~~the certificate of limited~~ writing in  
16 the partnership agreement, a partner, regardless of the nature  
17 of the partner's contribution, has no right to demand and  
18 receive any distribution from a limited partnership in any  
19 form other than cash. Except as provided in writing in the  
20 partnership agreement, a partner shall not be compelled to  
21 accept a distribution of any asset in kind from a limited  
22 partnership to the extent that the percentage of the asset  
23 distributed to the partner exceeds a percentage of that asset  
24 which is equal to the percentage in which the partner shares  
25 in distributions from the limited partnership.

26 Sec. 35. Section 487.607, Code 1997, is amended to read as  
27 follows:

28 487.607 LIMITATIONS ON DISTRIBUTION.

29 A partner shall not receive a distribution ~~if, after~~ from a  
30 limited partnership to the extent that, after giving effect to  
31 the distribution, all liabilities of the limited partnership,  
32 other than liabilities to partners on account of their  
33 partnership interests, will exceed the fair value of the  
34 partnership assets.

35 Sec. 36. Section 487.608, subsection 3, Code 1997, is

1 amended to read as follows:

2 3. A partner receives a return of the partner's  
3 contribution ~~only~~ to the extent that a distribution to the  
4 partner reduces the partner's share of the fair value, ~~as~~  
5 ~~specified-in-the-certificate~~ of the net assets of the limited  
6 partnership below the value, as set forth in the partnership  
7 records required to be kept pursuant to section 487.105, of  
8 the partner's contribution which has not been distributed to  
9 the partner.

10 Sec. 37. Section 487.702, Code 1997, is amended to read as  
11 follows:

12 487.702 ASSIGNMENT OF PARTNERSHIP INTEREST.

13 Except as provided in the partnership agreement, a  
14 partnership interest is assignable in whole or in part. An  
15 assignment of a partnership interest does not dissolve a  
16 limited partnership or entitle the assignee to become or to  
17 exercise any rights of a partner. An assignment entitles the  
18 assignee to receive, to the extent assigned, only the  
19 distribution to which the assignor would be entitled. Except  
20 as provided in the partnership agreement, a partner ceases to  
21 be a partner upon assignment of all the partner's partnership  
22 interest.

23 Sec. 38. Section 487.704, Code 1997, is amended to read as  
24 follows:

25 487.704 RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.

26 1. An assignee of a partnership interest, including an  
27 assignee of a general partner, may become a limited partner  
28 under-any-of-the-following-conditions if and to the extent  
29 that either of the following applies:

30 a. ~~When-the-certificate-of-limited-partnership-so~~  
31 ~~provides,-if-the~~ The assignor gives the assignee ~~the-right-to~~  
32 ~~become-a-limited-partner-in-the-manner-specified-in-the~~  
33 ~~agreement.~~ that right in accordance with authority described  
34 in

35 b. ~~When the partnership agreement so-provides,-if-persons~~

1 ~~required-to-consent-to-the-assignee-becoming-a-limited-partner~~  
2 ~~consent-in-the-manner-specified-in-the-agreement.~~

3 ~~c. b.~~ All other partners ~~other-than-the-assignor-of-the~~  
4 ~~interest~~ consent to the assignee becoming a limited partner.

5 2. An assignee who has become a limited partner has, to  
6 the extent assigned, the rights and powers, and is subject to  
7 the restrictions and liabilities, of a limited partner under  
8 the partnership agreement and this chapter. An assignee who  
9 becomes a limited partner also is liable for the obligations  
10 of the assignor to make and return contributions as provided  
11 in ~~artiele~~ articles 5 and 6 of this chapter. However, the  
12 assignee is not obligated for liabilities unknown to the  
13 assignee at the time the assignee became a limited partner and  
14 ~~which-could-not-be-ascertained-from-the-certificate-of-limited~~  
15 ~~partnership.~~

16 3. The fact that an assignee of a partnership interest has  
17 become a limited partner does not release the assignor from  
18 the assignor's liability to the limited partnership under  
19 sections 487.207 and 487.502.

20 Sec. 39. Section 487.801, subsection 1, Code 1997, is  
21 amended to read as follows:

22 1. A limited partnership is dissolved and its affairs  
23 shall be wound up when any of the following occur:

24 a. When events specified in the certificate of limited  
25 partnership occur.

26 b. When events specified in the partnership agreement  
27 occur.

28 c. When all partners consent in writing to the  
29 dissolution.

30 ~~c. d.~~ When a general partner withdraws unless at the time  
31 there is at least one other general partner and the  
32 certificate provisions of limited the partnership permits  
33 agreement permit the business of the limited partnership to be  
34 carried on by the remaining general partner and the remaining  
35 partner does so.

1 ~~d.~~ e. When a decree of judicial dissolution is entered  
2 under section 487.802.

3 Sec. 40. Section 487.902, subsections 3 and 7, Code 1997,  
4 are amended by striking the subsections.

5 Sec. 41. Section 487.902, Code 1997, is amended by adding  
6 the following new subsections:

7 NEW SUBSECTION. 6A. The name and business address of each  
8 general partner.

9 NEW SUBSECTION. 6B. The address of the office at which is  
10 kept a list of the names and addresses of the limited partners  
11 and their capital contributions, together with an undertaking  
12 by the foreign limited partnership to keep those records until  
13 the foreign limited partnership's registration in this state  
14 is canceled or withdrawn.

15 Sec. 42. Section 487.1002, Code 1997, is amended to read  
16 as follows:

17 487.1002 PROPER PLAINTIFF.

18 In a derivative action, the plaintiff ~~shall~~ must be a  
19 partner at the time of bringing the action and either ~~shall~~  
20 must have been a partner at the time ~~the-cause-of-action-arose~~  
21 ~~or-shall~~ of the transaction of which the partner complains or  
22 must have acquired the status of partner by operation of law  
23 or pursuant to the terms of the partnership agreement from a  
24 person who was a partner at the time ~~the-cause-of-action-arose~~  
25 of the transaction of which the partner complains.

26 Sec. 43. Section 487.1104, Code 1997, is amended to read  
27 as follows:

28 487.1104 EFFECT ON EXISTING LIMITED PARTNERSHIPS.

29 ~~This-chapter~~ Except as specifically provided in this  
30 section, this chapter applies to all limited partnerships in  
31 existence on July 1, 1997, and does not invalidate provisions  
32 in limited partnership agreements or certificates executed  
33 prior to July 1, 1982 1997. Unless otherwise agreed to by the  
34 partners, the applicable provisions of existing law, in effect  
35 prior to July 1, 1997, governing events of withdrawal,

1 withdrawal of a limited partner, and assignment of a  
2 partnership interest, govern limited partnerships formed  
3 before July 1, 1997.

4 Sec. 44. NEW SECTION. 487.1106 SAVINGS CLAUSE.

5 The repeal of any statutory provision effective July 1,  
6 1997, does not impair or otherwise affect the organization or  
7 the continued existence of a limited partnership existing on  
8 July 1, 1997, nor does the repeal of any existing statutory  
9 provision effective July 1, 1997, impair any contract or any  
10 right accrued before July 1, 1997.

11 Sec. 45. Sections 487.206 and 487.1105, Code 1997, are  
12 repealed.

13 EXPLANATION

14 This bill rewrites provisions of the uniform limited  
15 partnership law contained in Code chapter 487. Generally, the  
16 bill amends provisions allowing a limited partner to  
17 contribute services to the limited partnership in lieu of  
18 property or other valuable obligations, allowing limited  
19 partners to be granted voting rights in the partnership  
20 agreement, granting limited partners access to partnership  
21 records, authorizing a derivative action by limited partners  
22 against the partnership, and providing for the registration of  
23 foreign limited partnerships.

24 The bill refocuses the chapter on the limited partnership  
25 agreement as the primary governing document, as opposed to the  
26 certificate of limited partnership, and provides that unless  
27 contained in a written limited partnership agreement, the  
28 partnership must keep at its office a writing containing  
29 amounts contributed by each partner, times or events  
30 triggering additional contributions, the right of a partner to  
31 receive a distribution of assets, and events triggering  
32 dissolution of the limited partnership.

33 The bill creates new Code sections rewriting provisions  
34 relating to filing requirements, fees to be charged by the  
35 secretary of state related to such filings, the effective time

1 and date of documents filed, procedures and duties of the  
2 secretary of state with respect to such filings, the  
3 evidentiary effect of a copy of a filed document, the creation  
4 of a certificate of existence, penalties for signing false  
5 documents, and powers of the secretary of state.

6 The bill strikes items currently required to be contained  
7 in the certificate of limited partnership and provides for the  
8 inclusion of those items in the partnership agreement or other  
9 writing.

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Redfern, chair  
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SSB-209

Judiciary

Succeeded By

SE/HF 491

SENATE FILE  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON MCKEAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to limited partnerships and the rights and duties  
2 of limited partners, partnership agreements, duties of the  
3 secretary of state with respect to limited partnerships, and  
4 other related matters affecting foreign and domestic limited  
5 partnerships, and establishing fees and penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 487.101, subsections 1 and 6, Code  
2 1997, are amended to read as follows:

3 1. "Certificate of limited partnership" means the  
4 certificate referred to in section 487.201, and the  
5 certificate as amended or restated.

6 6. "Limited partner" means a person who has been admitted  
7 to a limited partnership as a limited partner in accordance  
8 with the partnership agreement ~~and named in the certificate of~~  
9 ~~limited partnership as a limited partner~~.

10 Sec. 2. Section 487.101, Code 1997, is amended by adding  
11 the following new subsections:

12 NEW SUBSECTION. 11. "Person" means as defined in section  
13 4.1.

14 NEW SUBSECTION. 12. "State" means a state, territory, or  
15 possession of the United States, the District of Columbia, or  
16 the Commonwealth of Puerto Rico.

17 Sec. 3. Section 487.102, subsection 4, Code 1997, is  
18 amended to read as follows:

19 4. Shall be distinguishable upon the records of the  
20 secretary of state from the name of a corporation, limited  
21 liability company, or limited partnership organized under the  
22 law of this state or licensed or registered as a foreign  
23 corporation, foreign limited liability company, or foreign  
24 limited partnership in this state or a name the exclusive  
25 right to which is, at the time, reserved in the manner  
26 provided in this chapter, without the written consent of the  
27 corporation, limited liability company, or limited  
28 partnership, which consent shall be filed with the secretary  
29 of state, and provided the name is not identical.

30 Sec. 4. Section 487.102, subsection 3, Code 1997, is  
31 amended by striking the subsection.

32 Sec. 5. Section 487.104, subsection 3, Code 1997, is  
33 amended to read as follows:

34 3. An agent for service of process may resign as agent  
35 upon filing and recording in accordance with section 487-206

1 487.108 a written notice of resignation, executed in  
2 duplicate, with the secretary of state. The secretary of  
3 state shall forthwith mail a copy of the resignation to the  
4 limited partnership at its principal place of business. The  
5 appointment of the agent terminates upon the expiration of  
6 thirty days after receipt of the notice by the secretary of  
7 state.

8 Sec. 6. Section 487.105, Code 1997, is amended to read as  
9 follows:

10 487.105 RECORDS TO BE KEPT.

11 A limited partnership shall keep at the office required  
12 under section 487.104, subsection 1, all of the following:

13 1. A current list of the full name and last known business  
14 address of each partner separately identifying the general  
15 partners and the limited partners, each list being in  
16 alphabetical order.

17 2. A copy of the certificate of limited partnership and  
18 ~~all amendments-to-the-certificate~~ certificates of amendment to  
19 the certificate of limited partnership, together with any  
20 executed copies of any powers of attorney pursuant to which a  
21 any certificate or-amendment has been executed.

22 3. Copies of the limited partnership's federal, state, and  
23 local income tax returns and reports, if any, for the three  
24 most recent years.

25 4. Copies of any currently effective written partnership  
26 agreements ~~in-effect~~ and of any financial statements of the  
27 limited partnership for the three most recent years.

28 ~~Any-partner-may-inspect-and-copy-the-records-required-to-be~~  
29 ~~kept-under-subsections-1-to-4-provided-that-the-partner's~~  
30 ~~request-to-inspect-and-copy-is-reasonable-and-done-at-the~~  
31 ~~partner's-expense-~~

32 5. Unless contained in a written partnership agreement, a  
33 writing setting out all of the following:

34 a. The amount of cash and a description and statement of  
35 the agreed value of the other property or services contributed

1 by each partner and which each partner has agreed to  
2 contribute.

3 b. The times at which or events on the happening of which  
4 any additional contributions agreed to be made by each partner  
5 are to be made.

6 c. Any right of a partner to receive, or of a general  
7 partner to make, distributions to a partner which include a  
8 return of all or any part of the partner's contribution.

9 d. Any events upon the happening of which the limited  
10 partnership is to be dissolved and its affairs wound up.

11 Records kept under this section are subject to inspection  
12 and copying at the reasonable request and at the expense of  
13 any partner during ordinary business hours.

14 Sec. 7. NEW SECTION. 487.108 FILING REQUIREMENTS.

15 1. A document shall satisfy the requirements of this  
16 section, and of any other section that adds to or varies these  
17 requirements, to be entitled to filing.

18 2. The document shall be filed in the office of the  
19 secretary of state.

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

22 4. The document shall be typewritten or printed. The  
23 typewritten or printed portion shall be black. Manually  
24 signed photocopies, or other reproduced copies, including  
25 facsimiles or other electronically or computer-generated  
26 copies of typewritten or printed documents, may be filed.

27 5. The document shall be in the English language. A  
28 limited partnership name need not be in English if written in  
29 English letters or Arabic or Roman numerals.

30 6. Except as provided in section 487.205, the document  
31 shall be executed by one of the following methods:

32 a. If a domestic limited partnership, the documents shall  
33 be executed by all of its general partners.

34 b. If a foreign limited partnership, the document shall be  
35 subscribed and sworn to by a general partner.

1 c. If the general partner is in the hands of a receiver,  
2 trustee, or other court-appointed fiduciary, by that  
3 fiduciary.

4 7. The person executing the document shall sign it and  
5 state beneath or opposite the person's signature, the person's  
6 name and the capacity in which the person signs. The  
7 secretary of state may accept for filing a document containing  
8 a copy of a signature, however made.

9 8. If, pursuant to any provision of this chapter, the  
10 secretary of state has prescribed a mandatory form for the  
11 document, the document shall be in or on the prescribed form.

12 9. The document shall be delivered to the office of the  
13 secretary of state for filing and shall be accompanied by the  
14 correct filing fee.

15 10. The secretary of state may adopt rules for the  
16 electronic filing of documents and the certification of  
17 electronically filed documents.

18 Sec. 8. NEW SECTION. 487.109 FEES.

19 1. The secretary of state shall collect the following fees  
20 when the documents described in this subsection are delivered  
21 to the secretary's office for filing:

- 22 a. Certificate of limited partnership ..... \$100
- 23 b. Application for registration of foreign limited partner-  
24 ship and also issuance of a certificate of registration to  
25 transact business in this state ..... \$100
- 26 c. Amendment to certificate of limited partnership .... \$ 20
- 27 d. Amendment to application for registration of foreign  
28 limited partnership ..... \$ 20
- 29 e. Cancellation of certificate of limited  
30 partnership ..... \$ 20
- 31 f. Cancellation of registration of foreign limited partner-  
32 ship ..... \$ 20
- 33 g. A consent required to be filed under this chapter .. \$ 20
- 34 h. Application to reserve a limited partnership name .. \$ 10
- 35 i. A notice of transfer of reservation of name ..... \$ 10

1 j. A notice of resignation of agent for service of  
2 process ..... \$ 5  
3 k. Articles of correction ..... \$ 5  
4 l. Application for certificate of existence or regis-  
5 tration ..... \$ 5  
6 m. Any other document required or permitted to be  
7 filed ..... \$ 5  
8 2. The secretary of state shall collect a fee of five  
9 dollars each time process is served on the secretary under  
10 this chapter. The party to a proceeding causing service of  
11 process is entitled to recover this fee as costs if the party  
12 prevails in the proceeding.  
13 3. The secretary of state shall collect the following fees  
14 for copying and certifying the copy of any filed document  
15 relating to a domestic or foreign corporation:  
16 a. One dollar per page for copying.  
17 b. Five dollars for the certificate.  
18 Sec. 9. NEW SECTION. 487.110 EFFECTIVE TIME AND DATE OF  
19 DOCUMENTS.  
20 1. Except as provided in subsection 2 and section 487.112,  
21 subsection 3, a document accepted for filing is effective at  
22 the later of the following times:  
23 a. At the time of filing on the date it is filed, as  
24 evidenced by the secretary of state's date and time  
25 endorsement on the original document.  
26 b. At the time specified in the document as its effective  
27 time on the date it is filed.  
28 2. A document may specify a delayed effective time and  
29 date, and if it does so the document becomes effective at the  
30 time and date specified. If a delayed effective date but no  
31 time is specified, the document is effective at the close of  
32 business on that date. A delayed effective date for a  
33 document shall not be later than the ninetieth day after the  
34 date it is filed.  
35 Sec. 10. NEW SECTION. 487.111 CORRECTING FILED

1 DOCUMENTS.

2 1. A domestic or foreign limited partnership may correct a  
3 document filed by the secretary of state if the document  
4 satisfies one or both of the following requirements:

- 5 a. Contains an incorrect statement.
- 6 b. Was defectively executed, attested, sealed, verified,  
7 or acknowledged.

8 2. A document is corrected by preparing articles of  
9 correction that satisfy all of the following requirements:

- 10 a. Describe the document, including its filing date, or  
11 attach a copy of it to the articles.
- 12 b. Specify the incorrect statement and the reason it is  
13 incorrect or the manner in which the execution was defective.
- 14 c. Correct the incorrect statement or defective execution.

15 3. Articles of correction are effective on the effective  
16 date of the document they correct except as to persons relying  
17 on the uncorrected document and adversely affected by the  
18 correction. As to those persons, articles of correction are  
19 effective when filed.

20 Sec. 11. NEW SECTION. 487.112 FILING DUTY OF SECRETARY  
21 OF STATE.

22 1. If a document delivered to the office of the secretary  
23 of state for filing satisfies the requirements of section  
24 487.108, the secretary of state shall file it and issue any  
25 necessary certificate.

26 2. The secretary of state files a document-by stamping or  
27 otherwise endorsing "filed", together with the secretary's  
28 name and official title and the date and time of receipt, on  
29 both the document and the receipt for the filing fee. After  
30 filing a document, and except as provided in section 487.104A,  
31 subsection 3, and section 487.909, the secretary of state  
32 shall deliver the document, with the filing fee receipt, or  
33 acknowledgment of receipt if no fee is required, attached to  
34 the domestic or foreign limited partnership or its  
35 representative.

1 3. If the secretary of state refuses to file a document,  
2 the secretary of state shall return it to the domestic or  
3 foreign limited partnership or its representative within ten  
4 days after the document was received by the secretary of  
5 state, together with a brief, written explanation of the  
6 reason for the refusal.

7 4. The secretary of state's duty to file documents under  
8 this section is ministerial. Filing or refusing to file a  
9 document does not do any of the following:

10 a. Affect the validity or invalidity of the document in  
11 whole or part.

12 b. Relate to the correctness or incorrectness of  
13 information contained in the document.

14 c. Create a presumption that the document is valid or  
15 invalid or that information contained in the document is  
16 correct or incorrect.

17 Sec. 12. NEW SECTION. 487.113 APPEAL FROM SECRETARY OF  
18 STATE'S REFUSAL TO FILE DOCUMENT.

19 1. If the secretary of state refuses to file a document  
20 delivered to the secretary's office for filing, the domestic  
21 or foreign limited partnership may appeal the refusal, within  
22 thirty days after the return of the document, to the district  
23 court for the county in which the limited partnership's  
24 principal office or, if none in this state, its registered  
25 office is or will be located. The appeal is commenced by  
26 petitioning the court to compel filing the document and by  
27 attaching to the petition the document and the secretary of  
28 state's explanation of the refusal to file.

29 2. The court may summarily order the secretary of state to  
30 file the document or take other action the court considers  
31 appropriate.

32 3. The court's final decision may be appealed as in other  
33 civil proceedings.

34 Sec. 13. NEW SECTION. 487.114 EVIDENTIARY EFFECT OF COPY  
35 OF FILED DOCUMENT.

1 A certificate attached to a copy of a document filed by the  
2 secretary of state, bearing the secretary of state's  
3 signature, which may be in facsimile, and the seal of the  
4 secretary of state, is conclusive evidence that the original  
5 document is on file with the secretary of state.

6 Sec. 14. NEW SECTION. 487.115 CERTIFICATE OF EXISTENCE.

7 1. Anyone may apply to the secretary of state to furnish a  
8 certificate of existence for a domestic limited partnership or  
9 a certificate of registration for a foreign limited  
10 partnership.

11 2. A certificate of existence or a certificate of  
12 registration shall set forth all of the following:

13 a. The domestic limited partnership's name or the foreign  
14 limited partnership's name used in this state.

15 b. That one of the following apply:

16 (1) If it is a domestic limited partnership, that it is  
17 duly organized under the law of this state, the date of its  
18 organization, and the period of its duration.

19 (2) If it is a foreign limited partnership, that it is  
20 authorized to transact business in this state.

21 c. That all fees required by this chapter have been paid.

22 d. That a certificate of cancellation has not been filed.

23 e. Other facts of record in the office of the secretary of  
24 state that may be requested by the applicant.

25 3. Subject to any qualification stated in the certificate,  
26 a certificate of existence or certificate of registration  
27 issued by the secretary of state may be relied upon as  
28 conclusive evidence that the domestic or foreign limited  
29 partnership is in existence or is registered to transact  
30 business in this state.

31 Sec. 15. NEW SECTION. 487.116 PENALTY FOR SIGNING FALSE  
32 DOCUMENT.

33 1. A person commits an offense if that person signs a  
34 document the person knows is false in any material respect  
35 with intent that the document be delivered to the secretary of

1 state for filing.

2 2. An offense under this section is a serious misdemeanor  
3 punishable by a fine of not to exceed one thousand dollars.

4 Sec. 16. NEW SECTION. 487.117 SECRETARY OF STATE --  
5 POWERS.

6 The secretary of state has the power reasonably necessary  
7 to perform the duties required of the secretary of state by  
8 this chapter.

9 Sec. 17. Section 487.201, subsection 1, Code 1997, is  
10 amended to read as follows:

11 1. In order to form a limited partnership, ~~two or more~~  
12 ~~persons shall execute~~ a certificate of limited partnership.  
13 ~~The certificate shall be~~ must be executed and filed in the  
14 office of the secretary of state ~~and set forth all of the~~  
15 following. The certificate shall set forth all of the  
16 following:

17 a. The name of the limited partnership.

18 ~~b. The general character of its business.~~

19 c. b. The address of the office and the name and address  
20 of the agent for service of process required to be maintained  
21 by section 487.104, subsection 1, ~~and the address of its~~  
22 ~~principal place of business.~~

23 d. c. The name and the business address of each general  
24 partner, specifying separately the general partners and  
25 limited partners.

26 ~~e. The amount of cash and a description and statement of~~  
27 ~~the agreed value of the other property or services contributed~~  
28 ~~by each partner and which each partner has agreed to~~  
29 ~~contribute in the future.~~

30 ~~f. The times at which or events on the happening of which~~  
31 ~~any additional contributions agreed to be made by each partner~~  
32 ~~are to be made.~~

33 ~~g. A power of a limited partner to grant the right to~~  
34 ~~become a limited partner to an assignee of any part of the~~  
35 ~~partner's partnership interest, and the terms and conditions~~

1 of-the-power;

2 h---if-agreed-upon,-the-time-at-which-or-the-events-on-the  
3 happening-of-which-a-partner-may-withdraw-from-the-limited  
4 partnership-and-the-amount-of,-or-the-method-of-determining  
5 the-amount-of,-the-distribution-to-which-the-partner-may-be  
6 entitled-respecting-the-partnership-interest,-and-the-terms  
7 and-conditions-of-the-termination-and-distribution.

8 i---A-right-of-a-partner-to-receive-distributions-of  
9 property,-including-cash-from-the-limited-partnership.

10 j---A-right-of-a-partner-to-receive,-or-of-a-general  
11 partner-to-make,-distributions-to-a-partner-which-include-a  
12 return-of-all-or-any-part-of-the-partner's-contribution.

13 k---A-time-at-which,-or-an-event-upon-the-happening-of  
14 which,

15 d. The latest date upon which the limited partnership is  
16 to be dissolved and its affairs wound up dissolve.

17 l---A-right-of-the-remaining-general-partners-to-continue  
18 the-business-on-the-happening-of-an-event-of-withdrawal-of-a  
19 general-partner.

20 m- e. Other Any other matters the general partners  
21 determine to include in the certificate.

22 Sec. 18. Section 487.202, Code 1997, is amended to read as  
23 follows:

24 487.202 AMENDMENT TO CERTIFICATE.

25 1. A certificate of limited partnership is amended by  
26 filing a certificate of amendment to the certificate of  
27 limited partnership in the office of the secretary of state.  
28 The certificate of amendment shall set forth all of the  
29 following:

30 a. The name of the limited partnership.

31 b. The date of filing the certificate of limited  
32 partnership.

33 c. The amendment to the certificate of limited  
34 partnership.

35 2. ~~Except as provided in subsection 5, within~~ Within

1 thirty days after the happening of any of the following  
2 events, an amendment to a certificate of limited partnership  
3 reflecting the occurrence of the event shall be filed:

4 ~~a. A change in the amount or character of the contribution~~  
5 ~~of a partner, or in a partner's obligation to make a~~  
6 ~~contribution.~~

7 ~~b. a.~~ The admission of a new general partner.

8 ~~b.~~ The withdrawal of a general partner.

9 ~~c.~~ The continuation of the business under section 487.801  
10 after an event of withdrawal of a general partner.

11 3. A general partner who becomes aware that a any  
12 statement in a certificate of limited partnership was false  
13 when made or that any arrangements or other facts described  
14 have changed, making the certificate inaccurate in any  
15 respect, shall promptly amend the certificate. ~~An amendment~~  
16 ~~to show the admission of or a change of address of a limited~~  
17 ~~partner shall be filed within twelve months of the admission~~  
18 ~~or change of address.~~

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

22 ~~5. An amendment is not required to reflect distributions~~  
23 ~~made pursuant to rights described in section 487.201,~~  
24 ~~subsection 17, paragraph "j".~~

25 6. 5. A limited partner person is not liable because an  
26 amendment to a certificate of limited partnership has not been  
27 filed to reflect the occurrence of an any event referred to in  
28 subsection 2 if the amendment is filed within the thirty-day  
29 period specified in subsection 2.

30 6. A restated certificate of limited partnership may be  
31 executed and filed in the same manner as a certificate of  
32 amendment. The restated certificate must contain the  
33 information required in section 487.201 and may set forth any  
34 other provision consistent with law.

35 Sec. 19. Section 487.204, subsection 1, Code 1997, is

1 amended to read as follows:

2 1. Each certificate required by this chapter to be filed  
3 in the office of the secretary of state shall be executed in  
4 the following manner:

5 a. ~~An original~~ A certificate of limited partnership shall  
6 be signed by all general partners ~~named in the certificate.~~

7 b. A certificate of amendment shall be signed by at least  
8 one general partner and by each other general partner  
9 designated in the certificate as a new general partner or  
10 ~~whose contribution is described as having been increased.~~

11 c. A certificate of cancellation shall be signed by all  
12 general partners.

13 Sec. 20. Section 487.205, Code 1997, is amended to read as  
14 follows:

15 487.205 AMENDMENT OR CANCELLATION BY JUDICIAL ACT.

16 If a person required by section 487.204 to execute a any  
17 ~~certificate of amendment or cancellation~~ fails or refuses to  
18 do so, any other ~~partner, or any assignee of a partnership~~  
19 ~~interest,~~ person who is adversely affected by the failure or  
20 refusal may petition the Iowa district court for the county in  
21 which the office described in section 487.104 is located to  
22 direct the ~~amendment or cancellation~~ execution of the  
23 certificate. If the court finds that ~~the amendment or~~  
24 ~~cancellation is proper and that a~~ it is proper for the  
25 certificate to be executed and that any person so designated  
26 has failed or refused to execute the certificate, the court  
27 shall order the secretary of state to record accept for filing  
28 an appropriate certificate ~~of amendment or cancellation.~~

29 Sec. 21. Section 487.208, Code 1997, is amended to read as  
30 follows:

31 487.208 SCOPE OF NOTICE.

32 The fact that a certificate of limited partnership is on  
33 file in the office of the secretary of state is notice that  
34 the partnership ~~claims to be~~ is a limited partnership and the  
35 persons designated in such certificate as general partners are

1 general partners, but it is not notice of any other fact.

2 Sec. 22. Section 487.301, Code 1997, is amended to read as  
3 follows:

4 487.301 ADMISSION OF NEW LIMITED PARTNERS.

5 1. A person becomes a limited partner at either of the  
6 following times:

7 a. At the time the limited partnership is formed.

8 b. At any later time specified in the records of the  
9 limited partnership for becoming a limited partner.

10 2. After the filing of a limited partnership's original  
11 certificate of limited partnership, a person may be admitted  
12 as a new limited partner under the following conditions:

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

18 b. In the case of an assignee of a partnership interest of  
19 a partner who has the power, as provided in section 487.704 to  
20 grant the assignee the right to become a limited partner, upon  
21 the exercise of that power and compliance with any conditions  
22 limiting the grant or exercise of the power.

23 ~~2.--Under-both-paragraphs-"a"-and-"b"-of-subsection-1,-the~~  
24 ~~person-acquiring-the-partnership-interest-becomes-a-limited~~  
25 ~~partner-at-the-time-specified-in-the-certificate-of-limited~~  
26 ~~partnership-or,-if-a-time-is-not-specified,-upon-amendment-of~~  
27 ~~the-certificate-of-limited-partnership-to-show-the-partnership~~  
28 ~~interest.~~

29 Sec. 23. Section 487.303, Code 1997, is amended to read as  
30 follows:

31 487.303 LIABILITY TO THIRD PARTIES.

32 1. Except as provided in subsection 4, a limited partner  
33 is not liable for the obligations of a limited partnership  
34 unless the limited partner is also a general partner or, in  
35 addition to the exercise of the limited partner's rights and

1 powers as a limited partner, the limited partner ~~takes-part~~  
 2 participates in the control of the business. However, if the  
 3 ~~limited partner's-participation~~ partner participates in the  
 4 control of the business ~~is-not-substantially-the-same-as-the~~  
 5 ~~exercise-of-the-powers-of-a-general-partner~~, the limited  
 6 partner is liable only to persons who transact business with  
 7 the limited partnership ~~with-actual-knowledge-of-the-limited~~  
 8 ~~partner's-participation-in-control~~ reasonably believing, based  
 9 upon the limited partner's conduct, that the limited partner  
 10 is a general partner.

11 2. A limited partner does not participate in the control  
 12 of the business within the meaning of subsection 1 solely by  
 13 doing one or more of the following:

14 a. Being a contractor for or an agent or employee of the  
 15 limited partnership.

16 b. Being a contractor for or an agent, employee, manager,  
 17 member, director, officer, or shareholder of or a limited  
 18 partner of a general partner, or a partner in a limited  
 19 liability partnership that is a general partner.

20 c. Consulting with and advising a general partner with  
 21 respect to the business of the limited partnership.

22 d. Acting as surety for the limited partnership or  
 23 guaranteeing or assuming one or more specific obligations of  
 24 the limited partnership.

25 e. ~~Approving-or-disapproving-an-amendment-to-the~~  
 26 ~~partnership-agreement-~~ Taking any action required or  
 27 permitted by law to bring or pursue a derivative action in the  
 28 right of the limited partnership.

29 f. ~~Voting-on~~ Requesting or attending a meeting of  
 30 partners.

31 g. Proposing, approving, or disapproving, by voting or  
 32 otherwise, one or more of the following matters:

33 (1) The dissolution and winding up of the limited  
 34 partnership.

35 (2) The sale, exchange, lease, mortgage, pledge, or other

1 transfer of all or substantially all the assets of the limited  
2 partnership ~~other than in the ordinary course of its business.~~

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

5 (4) A change in the nature of the business.

6 (5) The admission or removal of a general partner.

7 (6) The admission or removal of a limited partner.

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

11 (8) An amendment to the partnership agreement or  
12 certificate of limited partnership.

13 (9) Matters related to the business of the limited  
14 partnership not otherwise enumerated in this subsection, which  
15 the partnership agreement states in writing may be subject to  
16 the approval or disapproval of limited partners.

17 h. Winding up the limited partnership pursuant to section  
18 487.803.

19 i. Exercising any right or power permitted to limited  
20 partners under this chapter and not specifically enumerated in  
21 this subsection.

22 3. The enumeration in subsection 2 does not mean that the  
23 possession or exercise of any other powers by a limited  
24 partner constitutes participation by the limited partner in  
25 the business of the limited partnership.

26 4. A limited partner who knowingly permits the limited  
27 partner's name to be used in the name of the limited  
28 partnership, except under circumstances permitted by section  
29 487.102, subsection 2, paragraph "a", is liable to creditors  
30 who extend credit to the limited partnership without actual  
31 knowledge that the limited partner is not a general partner.

32 Sec. 24. Section 487.304, Code 1997, is amended to read as  
33 follows:

34 487.304 PERSON ERRONEOUSLY BELIEVING SELF TO BE A LIMITED  
35 PARTNER.

1 1. Except as provided in subsection 2, a person who makes  
 2 a contribution to a business enterprise and erroneously but in  
 3 good faith believes that the person has become a limited  
 4 partner in the enterprise is not a general partner in the  
 5 enterprise and is not bound by its obligations by reason of  
 6 making the contribution, receiving distributions from the  
 7 enterprise, or exercising any rights of a limited partner, if,  
 8 on ascertaining the mistake, the person does either of the  
 9 following:

10 a. Causes an appropriate certificate of limited  
 11 partnership or a certificate of amendment to be executed and  
 12 filed; ~~or.~~

13 b. Withdraws from future equity participation in the  
 14 enterprise by executing and filing in the office of the  
 15 secretary of state a certificate declaring withdrawal under  
 16 this section.

17 2. A person who makes a contribution of the kind described  
 18 in subsection 1 is liable as a general partner to a third  
 19 party who, ~~believing the person to be a general partner,~~  
 20 transacts business with the enterprise ~~before an appropriate~~  
 21 ~~certificate is filed and~~ before either of the following:

22 a. The person withdraws and an appropriate certificate is  
 23 filed to show the withdrawal.

24 b. An appropriate certificate is filed to show the  
 25 ~~person's status as a limited partner and, in the case of an~~  
 26 ~~amendment, after expiration of the period for filing the~~  
 27 ~~amendment relating to the person as a limited partner under~~  
 28 ~~section 487:202~~ that the person is not a general partner.

29 However, in either case referred to in paragraph "a" or  
 30 "b", the person is liable as a general partner only if the  
 31 third party actually believed in good faith that the person  
 32 was a general partner at the time of the transaction.

33 Sec. 25. Section 487.401, Code 1997, is amended to read as  
 34 follows:

35 487.401 ADMISSION OF ADDITIONAL GENERAL PARTNERS.

1 After the filing of a limited partnership's original  
2 certificate of limited partnership, additional general  
3 partners ~~shall be admitted only with the specific written~~  
4 ~~consent of each partner.~~ ~~However, if the certificate of~~  
5 ~~limited partnership or~~ may be admitted as provided in writing  
6 in the partnership agreement names a person to be admitted as  
7 a general partner upon the occurrence of a specified  
8 circumstance or at a specified time, the consent required is  
9 deemed to have been given or, if the partnership agreement  
10 does not provide in writing for the admission of additional  
11 general partners, with the written consent of all partners.

12 Sec. 26. Section 487.402, Code 1997, is amended to read as  
13 follows:

14 487.402 EVENTS OF WITHDRAWAL.

15 Except as ~~otherwise agreed in writing by~~ approved by the  
16 specific written consent of all partners at the time of the  
17 event, a person ceases to be a general partner of a limited  
18 partnership upon the happening of any of the following events:

19 1. The general partner withdraws from the limited  
20 partnership as provided in section 487.602.

21 2. The general partner ceases to be a member of the  
22 limited partnership as provided in section 487.702.

23 ~~2-~~ 3. The general partner is removed as a general partner  
24 in accordance with the partnership agreement.

25 ~~3-~~ 4. Unless otherwise provided in ~~the certificate of~~  
26 ~~limited~~ writing in the partnership agreement, the general  
27 partner does any of the following:

28 a. Makes an assignment for the benefit of creditors.

29 b. Files a voluntary petition in bankruptcy.

30 c. Is adjudicated a bankrupt or insolvent.

31 d. Files a petition or answer seeking for the general  
32 partner reorganization, arrangement, composition,

33 readjustment, liquidation, dissolution, or similar relief  
34 under any statute, law, or regulation.

35 e. Files an answer or other pleading admitting or failing

1 to contest material allegations of a petition filed against  
2 the general partner in a proceeding of a nature specified in  
3 paragraph "d".

4 f. Seeks, consents to, or acquiesces in the appointment of  
5 a trustee, receiver, or liquidator of the general partner or  
6 of all or a substantial part of the general partner's  
7 properties.

8 4: 5. Unless otherwise provided in the ~~certificate of~~  
9 ~~limited writing in the partnership agreement~~, upon the  
10 expiration of the following time periods:

11 a. One hundred twenty days after the commencement of a  
12 proceeding against the general partner seeking reorganization,  
13 arrangement, composition, readjustment, liquidation,  
14 dissolution, or similar relief, under any statute, law, or  
15 regulation, if the proceeding has not been dismissed within  
16 that time.

17 b. Ninety days after the appointment without the general  
18 partner's consent or acquiescence of a trustee, receiver, or  
19 liquidator of the general partner or of all or a substantial  
20 part of the general partner's properties, if the appointment  
21 is not vacated or stayed within that time.

22 c. If an appointment of the nature specified in paragraph  
23 "b" is stayed and if the appointment is not then vacated,  
24 ninety days after the expiration of the stay.

25 5: 6. If the general partner is a natural person when  
26 either of the following occur: --

- 27 a. The general partner dies.
- 28 b. The district court finds the general partner incapable  
29 of managing the general partner's person or property.

30 6: 7. If the general partner is acting as a general  
31 partner by virtue of being a trustee of a trust, when the  
32 trust terminates. Substitution of a new trustee is not  
33 termination of the trust.

34 7: 8. If the general partner is a separate partnership,  
35 the dissolution and commencement of winding up of the separate

1 partnership.

2 ~~8~~ 9. If the general partner is a corporation, the filing  
3 of a certificate of dissolution, or its equivalent, for the  
4 corporation or revocation of the corporation's charter.

5 10. If the general partner is a limited liability company,  
6 the filing of a certificate of dissolution, or its equivalent,  
7 for the limited liability company or revocation of the limited  
8 liability company's charter.

9 ~~9~~ 11. In the case of an estate, the distribution by the  
10 fiduciary of the estate's entire interest in the partnership.

11 Sec. 27. Section 487.403, Code 1997, is amended to read as  
12 follows:

13 487.403 GENERAL POWERS AND LIABILITIES.

14 1. Except as provided in this chapter or in the  
15 partnership agreement, a general partner of a limited  
16 partnership has the rights and powers and is subject to the  
17 restrictions ~~and liabilities~~ of a general partner in a  
18 partnership without limited partners.

19 2. Except as provided in this chapter, a general partner  
20 of a limited partnership has the liabilities of a partner in a  
21 partnership without limited partners to persons other than the  
22 partnership and the other partners. Except as provided in  
23 this chapter or in the partnership agreement, a general  
24 partner of a limited partnership has the liabilities of a  
25 partner in a partnership without limited partners to the  
26 partnership and to the other partners.

27 Sec. 28. Section 487.405, Code 1997, is amended to read as  
28 follows:

29 487.405 VOTING.

30 The partnership agreement may grant to all or certain  
31 identified general partners the right to vote on a per capita  
32 or any other basis, separately or with all or any class of the  
33 limited partners, on any matter.

34 Sec. 29. Section 487.502, Code 1997, is amended to read as  
35 follows:

1 487.502 LIABILITY FOR CONTRIBUTION.

2 1. A promise by a limited partner to contribute to the  
3 limited partnership is not enforceable unless set out in a  
4 writing signed by the limited partner.

5 2. Except as provided in the ~~certificate-of-limited~~  
6 partnership agreement, a partner is obligated to the limited  
7 partnership to perform a any enforceable promise to contribute  
8 cash or property or to perform services even if the partner is  
9 unable to perform because of death, disability, or any other  
10 reason. If the a partner does not make the required  
11 contribution of property or services, the partner is obligated  
12 at the option of the limited partnership ~~may-require-the~~  
13 ~~partner~~ to contribute cash equal to that portion of the value,  
14 as stated in the ~~certificate-of-limited-partnership,~~  
15 partnership records required to be kept pursuant to section  
16 487.105, of the stated contribution that which has not been  
17 made.

18 3. Unless otherwise provided in the partnership agreement,  
19 the obligation of a partner to make a contribution or return  
20 money or other property paid or distributed in violation of  
21 this chapter may be compromised only by consent of all  
22 partners. Notwithstanding the compromise, a creditor of a  
23 limited partnership who extends credit or otherwise acts in  
24 reliance on that obligation after the partner signs a writing  
25 which reflects the obligation and before the amendment or  
26 cancellation of such obligation to reflect the-compromise may  
27 enforce the original obligation.

28 Sec. 30. Section 487.503, Code 1997, is amended to read as  
29 follows:

30 487.503 SHARING OF PROFITS AND LOSSES.

31 The profits and losses of a limited partnership shall be  
32 allocated among the partners, and among classes of partners,  
33 in the manner provided in writing in the partnership  
34 agreement. If the partnership agreement does not so provide  
35 in writing, profits and losses shall be allocated on the basis

1 of the value, as stated in the ~~certificate-of-limited~~  
2 partnership records required to be kept pursuant to section  
3 487.105, of the contributions made by each partner to the  
4 extent the contributions have been received by the partnership  
5 and have not been returned.

6 Sec. 31. Section 487.504, Code 1997, is amended to read as  
7 follows:

8 487.504 SHARING OF DISTRIBUTIONS.

9 Distributions of cash or other assets of a limited  
10 partnership shall be allocated among the partners, and among  
11 classes of partners, in the manner provided in writing in the  
12 partnership agreement. If the partnership agreement does not  
13 so provide in writing, distributions shall be made on the  
14 basis of the value, as stated in the ~~certificate-of-limited~~  
15 partnership records required to be kept pursuant to section  
16 487.105, of the contributions made by each partner to the  
17 extent the contributions have been received by the partnership  
18 and have not been returned.

19 Sec. 32. Section 487.601, Code 1997, is amended to read as  
20 follows:

21 487.601 INTERIM DISTRIBUTIONS.

22 Except as provided in this article, a partner is entitled  
23 to receive distributions from a limited partnership before the  
24 partner's withdrawal from the limited partnership and before  
25 the dissolution and winding up of the partnership ~~subject-to~~  
26 ~~the-following-conditions:~~

27 ~~1. To~~ to the extent and at the times or upon the happening  
28 of the events specified in the partnership agreement.

29 ~~2. If a distribution is a return of part of the partner's~~  
30 ~~contribution under section 487.608, subsection 2, to the~~  
31 ~~extent and at the times or upon the happening of the events~~  
32 ~~specified in the certificate-of-limited-partnership.~~

33 Sec. 33. Section 487.603, Code 1997, is amended to read as  
34 follows:

35 487.603 WITHDRAWAL OF LIMITED PARTNER.

1 A limited partner may withdraw from a limited partnership  
 2 only at the time or upon the happening of events specified in  
 3 ~~the certificate of limited partnership and in accordance with~~  
 4 writing in the partnership agreement. ~~If the certificate does~~  
 5 ~~not specify the time or the events upon the happening of which~~  
 6 ~~a limited partner may withdraw or a time for the dissolution~~  
 7 ~~and winding up of the limited partnership, a limited partner~~  
 8 ~~may withdraw upon not less than six months prior written~~  
 9 ~~notice directed or delivered to the partnership or to each~~  
 10 ~~general partner at the partner's address on the books of the~~  
 11 ~~limited partnership at its office in this state.~~

12 Sec. 34. Section 487.605, Code 1997, is amended to read as  
 13 follows:

14 487.605 DISTRIBUTION IN KIND.

15 Except as provided in ~~the certificate of limited~~ writing in  
 16 the partnership agreement, a partner, regardless of the nature  
 17 of the partner's contribution, has no right to demand and  
 18 receive any distribution from a limited partnership in any  
 19 form other than cash. Except as provided in writing in the  
 20 partnership agreement, a partner shall not be compelled to  
 21 accept a distribution of any asset in kind from a limited  
 22 partnership to the extent that the percentage of the asset  
 23 distributed to the partner exceeds a percentage of that asset  
 24 which is equal to the percentage in which the partner shares  
 25 in distributions from the limited partnership.

26 Sec. 35. Section 487.607, Code 1997, is amended to read as  
 27 follows:

28 487.607 LIMITATIONS ON DISTRIBUTION.

29 A partner shall not receive a distribution ~~if~~ after from a  
 30 limited partnership to the extent that, after giving effect to  
 31 the distribution, all liabilities of the limited partnership,  
 32 other than liabilities to partners on account of their  
 33 partnership interests, will exceed the fair value of the  
 34 partnership assets.

35 Sec. 36. Section 487.608, subsection 3, Code 1997, is

1 amended to read as follows:

2 3. A partner receives a return of the partner's  
3 contribution only to the extent that a distribution to the  
4 partner reduces the partner's share of the fair value ~~as~~  
5 ~~specified in the certificate~~ of the net assets of the limited  
6 partnership below the value, as set forth in the partnership  
7 records required to be kept pursuant to section 487.105, of  
8 the partner's contribution which has not been distributed to  
9 the partner.

10 Sec. 37. Section 487.702, Code 1997, is amended to read as  
11 follows:

12 487.702 ASSIGNMENT OF PARTNERSHIP INTEREST.

13 Except as provided in the partnership agreement, a  
14 partnership interest is assignable in whole or in part. An  
15 assignment of a partnership interest does not dissolve a  
16 limited partnership or entitle the assignee to become or to  
17 exercise any rights of a partner. An assignment entitles the  
18 assignee to receive, to the extent assigned, only the  
19 distribution to which the assignor would be entitled. Except  
20 as provided in the partnership agreement, a partner ceases to  
21 be a partner upon assignment of all the partner's partnership  
22 interest.

23 Sec. 38. Section 487.704, Code 1997, is amended to read as  
24 follows:

25 487.704 RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.

26 1. An assignee of a partnership interest, including an  
27 assignee of a general partner, may become a limited partner  
28 under any of the following conditions if and to the extent  
29 that either of the following applies:

30 a. ~~When the certificate of limited partnership so~~  
31 ~~provides, if the~~ The assignor gives the assignee the right to  
32 ~~become a limited partner in the manner specified in the~~  
33 ~~agreement; that right in accordance with authority described~~  
34 in

35 ~~or--When the partnership agreement so provides, if persons~~

1 required-to-consent-to-the-assignee-becoming-a-limited-partner  
2 consent-in-the-manner-specified-in-the-agreement.

3 e- b. All other partners other-than-the-assignor-of-the  
4 interest consent to-the-assignee-becoming-a-limited-partner.

5 2. An assignee who has become a limited partner has, to  
6 the extent assigned, the rights and powers, and is subject to  
7 the restrictions and liabilities, of a limited partner under  
8 the partnership agreement and this chapter. An assignee who  
9 becomes a limited partner also is liable for the obligations  
10 of the assignor to make and return contributions as provided  
11 in ~~article~~ articles 5 and 6 of this chapter. However, the  
12 assignee is not obligated for liabilities unknown to the  
13 assignee at the time the assignee became a limited partner and  
14 ~~which-could-not-be-ascertained-from-the-certificate-of-limited~~  
15 ~~partnership.~~

16 3. The fact that an assignee of a partnership interest has  
17 become a limited partner does not release the assignor from  
18 the assignor's liability to the limited partnership under  
19 sections 487.207 and 487.502.

20 Sec. 39. Section 487.801, subsection 1, Code 1997, is  
21 amended to read as follows:

22 1. A limited partnership is dissolved and its affairs  
23 shall be wound up when any of the following occur:

24 a. When events specified in the certificate of limited  
25 partnership occur.

26 b. When events specified in the partnership agreement  
27 occur.

28 c. When all partners consent in writing to the  
29 dissolution.

30 e- d. When a general partner withdraws unless at the time  
31 there is at least one other general partner and the  
32 certificate provisions of limited the partnership permits  
33 agreement permit the business of the limited partnership to be  
34 carried on by the remaining general partner and the remaining  
35 partner does so.

1 ~~d-~~ e. When a decree of judicial dissolution is entered  
2 under section 487.802.

3 Sec. 40. Section 487.902, subsections 3 and 7, Code 1997,  
4 are amended by striking the subsections.

5 Sec. 41. Section 487.902, Code 1997, is amended by adding  
6 the following new subsections:

7 NEW SUBSECTION. 6A. The name and business address of each  
8 general partner.

9 NEW SUBSECTION. 6B. The address of the office at which is  
10 kept a list of the names and addresses of the limited partners  
11 and their capital contributions, together with an undertaking  
12 by the foreign limited partnership to keep those records until  
13 the foreign limited partnership's registration in this state  
14 is canceled or withdrawn.

15 Sec. 42. Section 487.1002, Code 1997, is amended to read  
16 as follows:

17 487.1002 PROPER PLAINTIFF.

18 In a derivative action, the plaintiff ~~shall~~ must be a  
19 partner at the time of bringing the action and either ~~shall~~  
20 must have been a partner at the time ~~the-cause-of-action-arose~~  
21 ~~or-shall~~ of the transaction of which the partner complains or  
22 must have acquired the status of partner by operation of law  
23 or pursuant to the terms of the partnership agreement from a  
24 person who was a partner at the time ~~the-cause-of-action-arose~~  
25 of the transaction of which the partner complains.

26 Sec. 43. Section 487.1104, Code 1997, is amended to read  
27 as follows:

28 487.1104 EFFECT ON EXISTING LIMITED PARTNERSHIPS.

29 ~~This chapter~~ Except as specifically provided in this  
30 section, this chapter applies to all limited partnerships in  
31 existence on July 1, 1997, and does not invalidate provisions  
32 in limited partnership agreements or certificates executed  
33 prior to July 1, 1982 1997. Unless otherwise agreed to by the  
34 partners, the applicable provisions of existing law, in effect  
35 prior to July 1, 1997, governing events of withdrawal,

1 withdrawal of a limited partner, and assignment of a  
2 partnership interest, govern limited partnerships formed  
3 before July 1, 1997.

4 Sec. 44. NEW SECTION. 487.1106 SAVINGS CLAUSE.

5 The repeal of any statutory provision effective July 1,  
6 1997, does not impair or otherwise affect the organization or  
7 the continued existence of a limited partnership existing on  
8 July 1, 1997, nor does the repeal of any existing statutory  
9 provision effective July 1, 1997, impair any contract or any  
10 right accrued before July 1, 1997.

11 Sec. 45. Sections 487.206 and 487.1105, Code 1997, are  
12 repealed.

13 EXPLANATION

14 This bill rewrites provisions of the uniform limited  
15 partnership law contained in Code chapter 487. Generally, the  
16 bill amends provisions allowing a limited partner to  
17 contribute services to the limited partnership in lieu of  
18 property or other valuable obligations, allowing limited  
19 partners to be granted voting rights in the partnership  
20 agreement, granting limited partners access to partnership  
21 records, authorizing a derivative action by limited partners  
22 against the partnership, and providing for the registration of  
23 foreign limited partnerships.

24 The bill refocuses the chapter on the limited partnership  
25 agreement as the primary governing document, as opposed to the  
26 certificate of limited partnership, and provides that unless  
27 contained in a written limited partnership agreement, the  
28 partnership must keep at its office a writing containing  
29 amounts contributed by each partner, times or events  
30 triggering additional contributions, the right of a partner to  
31 receive a distribution of assets, and events triggering  
32 dissolution of the limited partnership.

33 The bill creates new Code sections rewriting provisions  
34 relating to filing requirements, fees to be charged by the  
35 secretary of state related to such filings, the effective time

1 and date of documents filed, procedures and duties of the  
2 secretary of state with respect to such filings, the  
3 evidentiary effect of a copy of a filed document, the creation  
4 of a certificate of existence, penalties for signing false  
5 documents, and powers of the secretary of state.

6 The bill strikes items currently required to be contained  
7 in the certificate of limited partnership and provides for the  
8 inclusion of those items in the partnership agreement or other  
9 writing.

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