

IC 23-16

ARTICLE 16. LIMITED PARTNERSHIPS

IC 23-16-1

Chapter 1. Definitions

IC 23-16-1-1

Applicability of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-2

Certificate of limited partnership

Sec. 2. "Certificate of limited partnership" means a certificate described in IC 23-16-3-2 and such a certificate as amended or restated.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-3

Contribution

Sec. 3. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to transfer cash or property or to perform services, that a partner transfers to a limited partnership in the capacity of partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-4

Effective date

Sec. 4. "Effective date" means a date specified in a certificate filed with the secretary of state declaring when the certificate becomes effective.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-5

Event of withdrawal of a general partner

Sec. 5. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in IC 23-16-5-2.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-6

Foreign limited partnership

Sec. 6. "Foreign limited partnership" means a partnership formed under the laws of any jurisdiction other than Indiana, including a foreign country or other foreign jurisdiction in which the partnership formed has as partners one (1) or more general partners and one (1) or more limited partners.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-7**General partner**

Sec. 7. "General partner" means a person who has been admitted to a limited partnership or a foreign limited partnership as a general partner in accordance with the partnership agreement and is named in the certificate of limited partnership or similar instrument under which the limited partnership is organized, if so required.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-8**Limited partner**

Sec. 8. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the laws of Indiana or, in the case of a foreign limited partnership, in accordance with the laws of the state, foreign country, or other foreign jurisdiction under which the foreign limited partnership is organized.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-9**Limited partnership; domestic limited partnership**

Sec. 9. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two (2) or more persons under the laws of Indiana that has one (1) or more general partners and one (1) or more limited partners.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-10**Partner**

Sec. 10. "Partner" means a limited or general partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-11**Partnership agreement**

Sec. 11. "Partnership agreement" means a written agreement of the partners as to the affairs of a limited partnership and the conduct of its business.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-12**Partnership interest**

Sec. 12. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

As added by P.L.147-1988, SEC.1.

IC 23-16-1-13**Person**

Sec. 13. "Person" means an individual, partnership, limited liability company, domestic limited partnership, foreign limited

partnership, trust, estate, association, corporation, or any other individual or entity whether acting in its own capacity or in any representative capacity.

As added by P.L.147-1988, SEC.1. Amended by P.L.8-1993, SEC.330.

IC 23-16-1-14

State

Sec. 14. "State" means the District of Columbia, the Commonwealth of Puerto Rico, or any state, territory, possession, or other jurisdiction of the United States.

As added by P.L.147-1988, SEC.1.

IC 23-16-2

Chapter 2. General Provisions

IC 23-16-2-1

Name

Sec. 1. (a) The name of each limited partnership as set forth in its certificate of limited partnership:

(1) must contain the words "limited partnership" or the abbreviation "L.P.";

(2) may not contain the name of a limited partner unless:

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

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

(3) may not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its partnership agreement; and

(4) except as provided in subsection (b), must be such as to distinguish it upon the records in the office of the secretary of state from the name of any limited partnership or other business entity reserved, registered, or organized under the laws of Indiana or qualified to do business or registered as a foreign limited partnership in Indiana.

(b) A limited partnership may apply to the secretary of state to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (a). The secretary of state shall authorize use of the name applied for if:

- (1) the other domestic or foreign limited partnership or other business entity files its written consent to the use of its name, signed by any current general partner of the other limited partnership and verified subject to the penalties for perjury; or
- (2) the applicant delivers to the secretary of state a certified copy of a final court judgment establishing the applicant's right to use the name applied for in Indiana.

As added by P.L.147-1988, SEC.1. Amended by P.L.178-2002, SEC.103.

IC 23-16-2-2

Reservation of name

Sec. 2. (a) A person may reserve the exclusive right to the use of a name, including a fictitious name by a foreign limited partnership whose name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the name is available, the secretary of state shall reserve the name for the exclusive use of the applicant for renewable one hundred twenty (120) day periods.

(b) The owner of a reserved name may transfer to another person

by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

As added by P.L.147-1988, SEC.1. Amended by P.L.277-2001, SEC.14.

IC 23-16-2-2.5

Foreign limited partnerships; registration of name

Sec. 2.5. (a) A foreign limited partnership may register its name, or its name with any addition required by section 1 of this chapter, if the name is distinguishable upon the records of the secretary of state as provided in section 1 of this chapter.

(b) A foreign limited partnership registers its name, or its name with any addition required by section 1 of this chapter, by delivering to the secretary of state for filing an application setting forth:

(1) its name, or its name with any addition required by section 1 of this chapter; and

(2) the state or country and date of its formation.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application.

(d) A foreign limited partnership whose registration is effective may renew the registration for successive years by delivering to the secretary of state for filing a renewal application that complies with subsection (b). The renewal application must be filed between October 1 and December 31 of the preceding year. The filing of the renewal application renews the registration for the following calendar year.

(e) A foreign limited partnership whose registration is effective may thereafter register as a foreign limited partnership under that name or consent in writing to the use of that name by a limited partnership thereafter formed under this article or by another foreign limited partnership thereafter authorized to transact business in Indiana. The registration terminates when the domestic limited partnership is formed or the foreign limited partnership registers or consents to the registration of another foreign limited partnership under the registered name.

As added by P.L.277-2001, SEC.15.

IC 23-16-2-3

Specified office and agent; changes

Sec. 3. (a) Each limited partnership shall have and continuously maintain:

(1) an office at an address set forth in the certificate of limited partnership that:

(A) may be (but need not be) a place of its business in Indiana; and

(B) must be the repository for the records required to be maintained by section 6 of this chapter; and

(2) a registered agent whose business address is in Indiana, for service of process on the limited partnership, which agent must be:

- (A) an individual resident of Indiana; or
- (B) a domestic corporation or a foreign corporation authorized to do business in Indiana.

(b) A limited partnership may change its registered agent by delivering to the secretary of state for filing a statement containing the following:

- (1) The name of the limited partnership.
- (2) The name of its current registered agent.
- (3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).

(c) If a registered agent changes the address of the registered agent's business office, the registered agent must notify the limited partnership in writing of the change, and sign and deliver to the secretary of state for filing a statement that complies with the requirements of subsection (b) and recites that the limited partnership has been notified of the change.

As added by P.L.147-1988, SEC.1.

IC 23-16-2-4

Resignation of registered agent; effective date of agency termination

Sec. 4. (a) A registered agent may resign the agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation.

(b) After filing the statement, the secretary of state shall mail one (1) copy to the limited partnership at the office referred to in section 3(a)(1) of this chapter.

(c) The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

As added by P.L.147-1988, SEC.1.

IC 23-16-2-5

Service of process on limited partnership

Sec. 5. (a) A limited partnership's registered agent is the limited partnership's agent for service of process, notice, or demand required or permitted by law to be served on the limited partnership.

(b) If a limited partnership does not have a registered agent, or if the limited partnership's agent cannot with reasonable diligence be served, the limited partnership may be served by registered or certified mail, return receipt requested, addressed to the general partner of the limited partnership (as the term "general partner" is used in Trial Rule 4.6(a)(2) of the Indiana Rules of Trial Procedure) at the address of the general partner as shown in the certificate of limited partnership. Service is perfected under this subsection upon the earliest of:

- (1) the date the partnership receives the mail;
- (2) the date shown on the return receipt, if signed on behalf of the partnership; or

(3) five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed.

(c) This section does not prescribe the only means, or necessarily the required means, of serving a limited partnership.

As added by P.L.147-1988, SEC.1. Amended by P.L.226-1989, SEC.24.

IC 23-16-2-6

Records to be kept

Sec. 6. (a) Each limited partnership shall keep at the office required under section 3(a) of this chapter the following:

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

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

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

(4) Copies of the partnership agreement, any amendments to the partnership agreement, any amended and restated partnership agreements, and any financial statements of the limited partnership for the three (3) most recent years.

(5) Unless contained in a partnership agreement:

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

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

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

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

(b) Records kept under this section are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

As added by P.L.147-1988, SEC.1.

IC 23-16-2-7

Nature of business

Sec. 7. A limited partnership may carry on any business that a partnership without limited partners may carry on. This article does not authorize a limited partnership to make insurance within the meaning of IC 27-1.

As added by P.L.147-1988, SEC.1.

IC 23-16-2-8

Business transactions of partner with partnership

Sec. 8. (a) Except as provided in the partnership agreement, a partner may:

- (1) lend money to;
- (2) borrow money from;
- (3) act as guarantor or surety for;
- (4) provide collateral for the obligations of; and
- (5) transact other business;

with the limited partnership.

(b) Except as provided in the partnership agreement, and subject to other applicable law, a partner has the same rights and obligations with respect to the limited partnership as a person who is not a partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-2-9

Indemnification of partners, employees, officers, or agents

Sec. 9. (a) A domestic or foreign limited partnership may indemnify a person made a party to an action because the person is or was a partner, employee, officer, or agent of the partnership against liability incurred in the action if:

- (1) the person's conduct was in good faith; and
- (2) the person reasonably believed:
 - (A) in the case of conduct in the person's capacity as a partner, that the person's conduct was in the best interests of the partnership; and
 - (B) in all other cases that the person's conduct was at least not opposed to the best interests of the limited partnership or foreign limited partnership; and
- (3) in the case of any criminal action, the person either:
 - (A) had reasonable cause to believe the person's conduct was lawful; or
 - (B) had no reasonable cause to believe the person's conduct was unlawful.

(b) The indemnification provided for in subsection (a) does not exclude any other rights to indemnification that a partner, employee, officer, or agent of the domestic or foreign limited partnership may have under the partnership agreement or with the written consent of all partners.

As added by P.L.147-1988, SEC.1.

IC 23-16-3

Chapter 3. Formation and Certificate of Limited Partnership

IC 23-16-3-1

Partnership agreement

Sec. 1. (a) A limited partnership must have a partnership agreement. Except as provided in IC 23-16-8-2 and IC 23-16-8-4, a person has the rights, and is subject to the liabilities, of a general partner only if the person has signed a partnership agreement in person or by an attorney-in-fact.

(b) The partnership agreement of a limited partnership may be amended from time to time. Unless the partnership agreement provides otherwise, an amendment of the partnership agreement may be made only with the written consent of each limited partner who may be adversely affected by an amendment that would accomplish any of the following:

- (1) Increase the obligations of any limited partner to make contributions.
- (2) Alter the allocation for tax purposes of any items of income, gain, loss, deduction, or credit.
- (3) Alter the manner of computing the distributions of any partner.
- (4) Alter, except as provided in IC 23-16-4-2(a), the voting or other rights of any limited partner.
- (5) Allow the obligation of a partner to make a contribution to be compromised by written consent of fewer than all partners.
- (6) Alter the procedures for amendment of the partnership agreement.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-2

Certificate of limited partnership

Sec. 2. (a) To form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the secretary of state. The certificate must include the following:

- (1) The name of the limited partnership.
- (2) The address of the office and the name and address of the agent for service of process required to be maintained by IC 23-16-2-3.
- (3) The name and the business address of each general partner.
- (4) The latest date upon which the limited partnership is to dissolve.
- (5) Any other matters the general partners agree to include.

(b) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. Unless the certificate specifies an effective date that is different from the filing date, the time and date of the filing of the certificate is conclusive evidence as to when

a limited partnership is formed.
As added by P.L.147-1988, SEC.1.

IC 23-16-3-3

Amendment to certificate

Sec. 3. (a) A certificate of limited partnership is amended by filing a certificate of amendment in the office of the secretary of state. The certificate of amendment must include the following:

(1) The name of the limited partnership.

(2) The amendment to the certificate of limited partnership.

(b) Within sixty (60) days after any of the following events occurs, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed:

(1) The admission of a new general partner.

(2) The withdrawal of a general partner.

(3) The continuation of the business under IC 23-16-9-1 after an event of withdrawal of a general partner.

(4) The discovery by a general partner that any statement in the certificate of limited partnership was false when made.

(5) The discovery by a general partner that any facts or arrangements described in the certificate of limited partnership have changed, making the certificate inaccurate in any respect.

(c) The filing of an amendment reflecting the occurrence of an event referred to in subsection (b) within the time required under subsection (b) absolves a person from any liability that might arise because the certificate did not reflect the occurrence of that event before the filing of the amendment.

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

As added by P.L.147-1988, SEC.1.

IC 23-16-3-4

Cancellation of certificate

Sec. 4. A certificate of limited partnership shall be cancelled by filing a certificate of cancellation upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the secretary of state and must include the following:

(1) The name of the limited partnership.

(2) The date of filing of its certificate of limited partnership.

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

(4) The effective date or time (which must be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate.

(5) Any other information the person filing the certificate of cancellation determines.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-5

Execution of certificates

Sec. 5. (a) Each certificate required or permitted to be filed in the office of the secretary of state under this article shall be executed in the following manner:

- (1) An initial certificate of limited partnership must be signed by all general partners.
- (2) A certificate of amendment or restatement must be signed by at least one (1) general partner and by each other general partner designated in the certificate as a new general partner; however, if there are no general partners a certificate of amendment or restatement must be signed by each new general partner as designated in the certificate.
- (3) A certificate of cancellation must be signed by all general partners; however, if there is no general partner, a certificate of cancellation must be signed by a majority in interest of the limited partners.

(b) Any person may sign a certificate, a partnership agreement, or an amendment to a certificate or partnership agreement by an attorney in fact. Powers of attorney relating to the signing of a certificate, a partnership agreement, or an amendment to a certificate or partnership agreement by an attorney in fact need not be sworn to, verified, acknowledged, or signed in the presence of a notary public, and need not be filed with the secretary of state, but must be retained among the records of the partnership. A power of attorney may be included in the partnership agreement and need not be a separate document.

(c) The execution of a certificate by any person constitutes an oath or affirmation under the penalties of perjury that to the best of the person's knowledge and belief the statements made in the certificate are true.

As added by P.L.147-1988, SEC.1. Amended by P.L.130-2006, SEC.22.

IC 23-16-3-6

Execution by judicial act

Sec. 6. If a person required to execute any certificate under section 5 of this chapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the circuit or superior court of the county in which the office described in IC 23-16-2-3 is located to direct the execution of the certificate. If the office referred to in IC 23-16-2-3 is not within Indiana, the petition may be made to the circuit or superior court of the county in which the business address of the registered agent referred to in IC 23-16-2-3 is located. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to file a certificate in form and substance as directed by the court.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-7

Filing in office of secretary of state

Sec. 7. (a) The original signed copy (together with a duplicate copy, which may be either a signed or conformed copy) of the certificate of limited partnership, of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation), and of any restated certificate shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing. Unless the secretary of state finds that a certificate does not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

- (1) endorse on the original and each copy the word "filed" and the date and time of the filing;
- (2) file the original certificate; and
- (3) return the copy to the person who filed it or to that person's representative.

(b) In the absence of fraud an endorsement by the secretary of state under subsection (a) is conclusive evidence of the date and time of the filing of the certificate.

(c) Upon the filing of a certificate of amendment (or judicial decree of amendment) or a restated certificate in the office of the secretary of state, or upon the effective date or time provided for in a certificate of amendment (or judicial decree of amendment) or a restated certificate, the certificate of limited partnership is amended or restated as set forth in the certificate of amendment or restated certificate. Upon the filing of a certificate of cancellation (or a judicial decree of cancellation), or upon the effective date or time of a certificate of cancellation (or a judicial decree thereof), the certificate of limited partnership is cancelled.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-8

Liability for false statement in certificate

Sec. 8. (a) Except as provided in subsection (b), if any certificate of limited partnership or certificate of amendment or cancellation contains a materially false statement, a person who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

- (1) any person who executed the certificate, or caused another to execute the certificate on that person's behalf, and who knew the statement to be false at the time the certificate was executed;
- (2) any general partner who knew or should have known the statement to be false at the time the certificate was executed; and
- (3) any general partner who:
 - (A) after the execution of the certificate, but at least sixty (60) days before the statement was reasonably relied upon, knew or should have known that any arrangement or other

fact described in a statement in the certificate had changed, making the statement inaccurate; and

(B) failed to cancel or amend the certificate or to file a petition for the cancellation or amendment of the certificate under section 6 of this chapter before the statement was reasonably relied upon.

(b) A general partner is not liable for failing to cancel or amend a certificate or for failing to file a petition for the amendment or cancellation of a certificate under subsection (a)(2) if a certificate of amendment, certificate of cancellation, or petition for amendment or cancellation is filed within sixty (60) days after the general partner knew or should have known to the extent provided in subsection (a) that the statement in the certificate was false in any material respect.
As added by P.L.147-1988, SEC.1.

IC 23-16-3-9

Scope of notice

Sec. 9. The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and is notice of all other facts that are required to be set forth in a certificate of limited partnership under section 2 of this chapter and that are set forth in the certificate.
As added by P.L.147-1988, SEC.1.

IC 23-16-3-10

Delivery of certificates to limited partners

Sec. 10. Upon the return by the secretary of state of a certificate marked "Filed" under section 7 of this chapter, the general partners shall promptly deliver or mail a copy of the certificate to each limited partner, unless the partnership agreement provides otherwise.
As added by P.L.147-1988, SEC.1.

IC 23-16-3-11

Integration and restatement of certificate

Sec. 11. (a) Whenever it so desires, a limited partnership may integrate into a single instrument all of the provisions of its certificate of limited partnership that are in effect and operative as a result of the previous filing with the secretary of state of one (1) or more certificates or other instruments under this article by filing a restated certificate of limited partnership specifically designated as a "Restated Certificate of Partnership", and stating in its heading or in a separate paragraph that there is no discrepancy between the provisions of the original certificate of limited partnership with its amendments and the restated certificate. If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership, as previously amended or supplemented, it must bear a heading with the words "Amended and Restated Certificate of Limited Partnership" together with such other words as the partnership considers appropriate, it must be executed by at least one (1) general partner and by each other general partner

designated in the amended and restated certificate of limited partnership as a new general partner, and it must be filed under section 7 of this chapter in the office of the secretary of state.

(b) A restated or amended and restated certificate of limited partnership must state, either in its heading or in an introductory paragraph, the limited partnership's present name (and, if it has been changed, the name under which the limited partnership was originally filed), the date of filing of the original certificate of limited partnership with the secretary of state, and the effective date or time (which must be a date or time certain) of the restated or amended and restated certificate, if it is not to be effective upon the filing of the restated or amended and restated certificate. A restated or amended and restated certificate must also state that it was duly executed and is being filed in accordance with this section.

(c) Upon the filing of the restated certificate of limited partnership with the secretary of state, or upon the effective date or time provided for in the restated certificate of limited partnership, the initial certificate of limited partnership, as previously amended or supplemented, is superseded. After that filing, the restated certificate of limited partnership, including any further amendment or changes made by the restated certificate, is the certificate of limited partnership, but the original effective date of formation of the limited partnership remains unchanged.

(d) Any amendment or change effected in connection with the restatement and integration of the certificate of limited partnership under this section is subject to any other provision of this article that is not inconsistent with this section and that would apply if a separate certificate of amendment were filed to effect the amendment or change.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-12

Mergers

Sec. 12. (a) A domestic limited partnership may merge with or into one (1) or more domestic limited partnerships or foreign limited partnerships formed under the laws of another state, with one (1) partnership, as provided in the merger agreement, being the surviving partnership.

(b) A domestic limited partnership that is not the surviving partnership in the merger shall file a certificate of cancellation, which must have an effective date not later than the effective date of the merger.

(c) If, following a merger of one (1) or more domestic limited partnerships and one (1) or more foreign limited partnerships formed under the laws of another state, the surviving partnership is not a domestic limited partnership, the surviving partnership shall execute a certificate, which must be attached to the certificate of cancellation filed for each domestic limited partnership under section 4 of this chapter, that states that it agrees that it may be served with process in Indiana in any action for the enforcement of any obligation of the

domestic limited partnership, that irrevocably appoints the secretary of state as its agent to accept service of process in any such action, and that specifies the address to which the secretary of state may mail a copy of process served in any such action. If there is service of process on the secretary of state under this subsection, the plaintiff in any such action shall furnish the secretary of state with the address specified in the certificate provided for in this section and any other address that the plaintiff may elect to furnish, and the secretary of state shall notify the surviving partnership at all such addresses furnished by the plaintiff in accordance with this section.

(d) When the certificate of cancellation required by section 4 of this chapter becomes effective, for all purposes of the laws of Indiana, all of the rights, privileges, and powers of each of the partnerships that have merged, and all real property, personal property, and mixed property and all debts due to any of the partnerships, as well as all other things and causes of action belonging to each of the partnerships, shall be vested in the surviving partnership and become the property of the surviving partnership as they were of each of the partnerships that have merged. The title to any real property vested by deed or otherwise under the laws of Indiana in any of the partnerships does not revert and is not impaired by reason of this chapter. However, all rights of creditors and all liens upon any property of any of the partnerships are preserved unimpaired, and all debts, liabilities, and duties of each of the partnerships that have merged attach to the surviving partnership and may be enforced against it to the same extent as if those debts, liabilities, and duties had been incurred or contracted by it.

As added by P.L.147-1988, SEC.1.

IC 23-16-3-13

Requirements for merger of domestic limited partnership with other business entity; plan of merger

Sec. 13. (a) As used in this section, "other business entity" means a corporation, limited liability company, limited liability partnership, limited partnership, business trust, real estate investment trust, or any other entity that is formed under the requirements of applicable law.

(b) As used in this section, "surviving entity" means the corporation, limited liability company, limited liability partnership, limited partnership, business trust, real estate investment trust, or any other entity that is in existence immediately after consummation of a merger under this section.

(c) One (1) or more domestic limited partnerships may merge with or into one (1) or more other business entities formed, organized, or incorporated under the laws of Indiana or any other state, the United States, a foreign country, or a foreign jurisdiction if the following requirements are met:

(1) Each domestic limited partnership corporation that is a party to the merger complies with the applicable provisions of this chapter.

(2) Each domestic other business entity that is a party to the

merger complies with the requirements of applicable law.

(3) The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed, organized, or incorporated, and each other business entity complies with the laws in effecting the merger.

(4) The merging entities approve a plan of merger that sets forth the following:

(A) The name of each domestic limited partnership and the name and jurisdiction of formation, organization, or incorporation of each other business entity planning to merge, and the name of the surviving or resulting domestic corporation or other business entity into which each other domestic corporation or other business entity plans to merge.

(B) The terms and conditions of the merger.

(C) The manner and basis of converting the limited partnership shares of each domestic limited partnership that is a party to the merger and the partnership interests, shares, obligations, or other securities of each other business entity that is a party to the merger into partnership interests, interests, shares, obligations, or other securities of the surviving entity or any other domestic corporation or other business entity or, in whole or in part, into cash or other property, and the manner and basis of converting rights to acquire the shares of each domestic corporation that is a party to the merger and rights to acquire partnership interests, interests, shares, obligations, or other securities of each other business entity that is a party to the merger into rights to acquire partnership interests, interests, shares, obligations, or other securities of the surviving entity or any other domestic corporation or other business entity or, in whole or in part, into cash or other property.

(D) If a partnership is to be the surviving entity, the names and business addresses of the general partners of the surviving entity.

(E) If a limited liability company is to be the surviving entity and management of the limited liability company is vested in one (1) or more managers, the names and business addresses of the managers.

(F) All statements required to be set forth in the plan of merger by the laws under which each other business entity that is a party to the merger is formed, organized, or incorporated.

(5) The plan of merger may set forth the following:

(A) If a domestic corporation is to be the surviving entity, any amendments to, or a restatement of, the articles of incorporation of the surviving entity, and the amendments or restatement will be effective at the effective date of the merger.

(B) Any other provisions relating to the merger.

(d) The plan of merger required by subsection (c)(4) will be adopted and approved by each domestic corporation that is a party to the merger in the same manner as is provided in this chapter.

(e) Notwithstanding subsection (c)(4), if the surviving entity is a partnership, a shareholder of a domestic corporation that is a party to the merger does not, as a result of the merger, become a general partner of the surviving entity and the merger does not become effective under this chapter, unless:

(1) the shareholder specifically consents in writing to become a general partner of the surviving entity; and

(2) written consent is obtained from each shareholder who, as a result of the merger, would become a general partner of the surviving entity;

A shareholder providing written consent under this subsection is considered to have voted in favor of the plan of merger for purposes of this chapter.

(e) This section, to the extent applicable, applies to the merger of one (1) or more domestic limited partnerships with or into one (1) or more other business entities.

(f) Notwithstanding any other law, a merger consisting solely of the merger of one (1) or more domestic limited partnerships with or into one (1) or more foreign corporations must be made solely according to the requirements of this section.

As added by P.L.178-2002, SEC.104.

IC 23-16-3-14

Entity conversion

Sec. 14. (a) As used in this section, "other entity" has the meaning set forth in IC 23-1-38.5-1.

(b) A domestic corporation, domestic other entity, foreign corporation, or foreign other entity may convert to a domestic limited partnership under IC 23-1-38.5.

(c) A domestic limited partnership may convert to a domestic corporation, domestic other entity, foreign corporation, or foreign other entity under IC 23-1-38.5.

As added by P.L.130-2006, SEC.23.

IC 23-16-4

Chapter 4. Limited Partners

IC 23-16-4-1

Additional limited partners

Sec. 1. After the formation of a limited partnership, a person may be admitted as an additional limited partner:

- (1) in the case of a person acquiring a partnership interest directly from the limited partnership, upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and
- (2) in the case of an assignee of a partnership interest, as provided in IC 23-16-8-4.

As added by P.L.147-1988, SEC.1.

IC 23-16-4-2

Classes or groups of limited partners; rights, powers, and duties; voting

Sec. 2. (a) A partnership agreement may provide for classes or groups of limited partners having such relative rights, powers, and duties as the partnership agreement may provide, and may make provision for the future creation, in the manner provided in the partnership agreement, of additional classes or groups of limited partners having such relative rights, powers, and duties as may from time to time be established (including rights, powers, and duties senior to existing classes and groups of limited partners).

(b) Subject to section 3 of this chapter, the partnership agreement may grant to all the limited partners, to certain identified limited partners, or to a specified class or group of the limited partners the right to vote (on a per capita or other basis), separately or with all or any class or group of the limited partners or the general partners, on any matter.

(c) A partnership agreement that grants a right to vote may set forth provisions relating to the following:

- (1) Notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any limited partners.
- (2) Waiver of the notice described in subdivision (1).
- (3) Action by written consent without a meeting.
- (4) The establishment of a record date.
- (5) Quorum requirements.
- (6) Voting in person or by proxy.
- (7) Any other matter concerning the exercise of a right to vote under the partnership agreement.

As added by P.L.147-1988, SEC.1.

IC 23-16-4-3

Liability to third parties

Sec. 3. (a) Except as provided in subsection (d), a limited partner is not liable for the obligations of a limited partnership unless:

- (1) the limited partner is also a general partner; or

(2) the limited partner, in addition to exercising the rights and powers of a limited partner, participates in the control of the business.

However, a limited partner who participates in the control of the business is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

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

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

(2) Consulting with or advising a general partner with respect to any matter, including the business of the limited partnership.

(3) Acting as surety, guarantor, or endorser for the limited partnership, guaranteeing or assuming one (1) or more specific obligations of the limited partnership, or providing collateral for the limited partnership.

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

(5) Calling, requesting, attending, or participating in a meeting of the partners or the limited partners.

(6) Proposing, approving, or disapproving, by voting or otherwise, one (1) or more of the following matters:

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

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

(C) The incurring, renewal, refinancing, or payment or other discharge of indebtedness by the limited partnership other than in the ordinary course of its business.

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

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

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

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

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

(I) Matters related to the business of the limited partnership not otherwise enumerated in this subsection which the partnership agreement states may be subject to the approval or disapproval of limited partners.

(J) The merger of the limited partnership.

(7) Winding up the limited partnership under IC 23-16-9-3.

(8) Serving on a committee of the limited partnership or the

limited partners.

(9) Exercising any right or power permitted to limited partners under this article and not specifically enumerated in this subsection.

(c) The enumeration of certain powers in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by that limited partner in the control of the business of the limited partnership.

(d) A limited partner who knowingly permits the partner's name to be used in the name of the limited partnership, except under circumstances permitted under IC 23-16-2-1(a)(2), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-4-4

Person erroneously believing to be limited partner

Sec. 4. (a) Except as provided in subsection (b), a person who makes a contribution to a partnership and erroneously but in good faith believes that the person has become a limited partner in the partnership is not a general partner in the partnership, and is not bound by its obligations by reason of making the contribution, receiving distributions from the partnership, or exercising any rights of a limited partner, if, within sixty (60) days after ascertaining the mistake, that person:

(1) in the case of a person who wishes to be a limited partner, causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(2) in the case of a person who wishes to withdraw from the partnership, takes such action as may be necessary to withdraw.

(b) A person who makes a contribution under the circumstances described in subsection (a) is liable as a general partner to any third party who transacts business with the partnership before the occurrence of either of the events referred to in subsection (a) if the third party:

(1) actually believed in good faith that the person was a general partner at the time of the transaction;

(2) acted in reasonable reliance on that belief; and

(3) extended credit to the partnership in reasonable reliance on the credit of that person.

As added by P.L.147-1988, SEC.1.

IC 23-16-4-5

Access to information by limited partner

Sec. 5. Each limited partner has the right to inspect and copy any of the partnership records required to be maintained by IC 23-16-2-6 and to obtain from the general partners, from time to time, upon reasonable demand the following:

(1) True and full information regarding the state of the business and financial condition of the limited partnership.

(2) Promptly after becoming available, copies of the limited partnership's federal, state, and local income tax returns for each year.

(3) Other information regarding the affairs of the limited partnership as is just and reasonable.

As added by P.L.147-1988, SEC.1.

IC 23-16-4-6

Admission of limited partners

Sec. 6. A person acquiring a partnership interest is admitted as a limited partner when the latter of the following occurs:

(1) The formation of the limited partnership.

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

As added by P.L.147-1988, SEC.1.

IC 23-16-5

Chapter 5. General Partners

IC 23-16-5-1

Admission of additional general partners

Sec. 1. After the filing of a limited partnership's initial certificate of limited partnership, unless otherwise provided in the partnership agreement, additional general partners may be admitted only with the specific written consent of each partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-5-2

Events of withdrawal

Sec. 2. A person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in IC 23-16-7-2.

(2) The general partner ceases to be a member of the limited partnership as provided in IC 23-16-8-2.

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

(4) Unless otherwise provided in the partnership agreement, or with the specific written consent of all partners, the general partner:

(A) makes an assignment for the benefit of creditors;

(B) files a voluntary petition in bankruptcy;

(C) is adjudged a bankrupt or an insolvent, or an order of relief is entered against the general partner in any bankruptcy or insolvency proceeding;

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

(E) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the general partner in any proceeding described in clause (D); or

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

(5) Unless otherwise provided in the partnership agreement, or with the specific written consent of all partners:

(A) in the case of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, rule, or regulation, the continuation of the proceeding, without dismissal, one hundred twenty (120) days after the proceeding was commenced; or

(B) in the case of the appointment, without the general partner's consent or acquiescence, of a trustee, receiver, or liquidator of the general partner or of all or any substantial

part of the general partner's properties, the absence of any order vacating or staying the appointment within ninety (90) days after the appointment, or, if the appointment is stayed, the absence of any order vacating the appointment within ninety (90) days after the stay expires.

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

(A) the general partner dies; or

(B) an order is entered by a court adjudicating the general partner incompetent to manage the general partner's own person or property.

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

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

(9) In the case of a general partner that is a corporation, a certificate of dissolution, or its equivalent, is filed for the corporation or the corporation's charter is revoked.

(10) In the case of a general partner that is an estate, the fiduciary distributes the estate's entire interest in the limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-5-3

General powers and liabilities

Sec. 3. (a) Except as provided in this article or in the partnership agreement, a general partner of a limited partnership has the rights and powers of, and is subject to the restrictions of, a partner in a partnership without limited partners.

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

(c) Except as provided in this article or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

As added by P.L.147-1988, SEC.1.

IC 23-16-5-4

Contributions by general partner

Sec. 4. (a) A general partner of a limited partnership may make contributions to the partnership, share in the profits and losses of the partnership, and share in distributions from the limited partnership as a general partner. A general partner also may make contributions and share in profits, losses, and distributions as a limited partner.

(b) A person who is both a general partner and a limited partner has the rights and powers of a general partner and is subject to the restrictions and liabilities of a general partner and, except as

provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of the person's participation in the partnership as a limited partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-5-5

Classes or groups of general partners; rights, powers, and duties; voting

Sec. 5. (a) A partnership agreement may provide for classes or groups of general partners having such relative rights, powers, and duties as the partnership agreement may provide, and may make provision for the future creation, in the manner provided in the partnership agreement, of additional classes or groups of general partners having such relative rights, powers, and duties as may from time to time be established (including rights, powers, and duties senior to existing classes and groups of general partners).

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

(c) A partnership agreement that grants a right to vote may set forth provisions relating to the following:

- (1) Notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any general partners.
- (2) Waiver of the notice described in subdivision (1).
- (3) Action by written consent without a meeting.
- (4) The establishment of a record date.
- (5) Quorum requirements.
- (6) Voting in person or by proxy.
- (7) Any other matter concerning the exercise of a right to vote under the partnership agreement.

As added by P.L.147-1988, SEC.1.

IC 23-16-6

Chapter 6. Finance

IC 23-16-6-1

Form of contribution

Sec. 1. The contribution of a partner may be:

- (1) in cash, property, or services rendered; or
- (2) a promissory note or other obligation to contribute cash or property or to perform services.

As added by P.L.147-1988, SEC.1.

IC 23-16-6-2

Liability for contribution

Sec. 2. (a) A promise by a limited partner to contribute to the limited partnership is not enforceable unless set out in a writing signed by the limited partner.

(b) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even if the partner is unable to perform because of death, disability, or any other reason. If a partner does not make a required contribution of property or services, the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the agreed value (as stated in the partnership records of the limited partnership) of the contribution that has not been made. The option provided under this subsection is in addition to, and is not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against such a partner under the partnership agreement or applicable law.

(c) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or to return money or other property paid or distributed in violation of this article may be compromised only by written consent of all the partners. Notwithstanding any such compromise, a creditor of a limited partnership who extends credit or otherwise acts in reliance on that obligation after the partner signs a writing (including the partnership agreement and any amendment to the partnership agreement) that reflects the obligation and before the amendment or cancellation of the partnership agreement to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution.

(d) A partnership agreement may provide that the interest of any partner who fails to make any contribution that the partner is obligated to make is subject to specified penalties for, or specified consequences of, the failure. Penalties or consequences provided for in the partnership agreement may include the following:

- (1) Reducing the defaulting partner's proportionate interest in the limited partnership.
- (2) Subordinating the defaulting partner's partnership interest to

that of nondefaulting partners.

(3) A forced sale of the partner's partnership interest.

(4) Forfeiture of the partner's partnership interest.

(5) The lending by other partners of the amount necessary to meet the defaulting partner's commitment.

(6) A fixing of the value of the defaulting partner's partnership interest by appraisal or by formula and the redemption or sale of the defaulting partner's partnership interest at the fixed value.

(7) Any other penalty or consequence.

As added by P.L.147-1988, SEC.1.

IC 23-16-6-3

Sharing of profits and losses

Sec. 3. The profits and losses of a limited partnership shall be allocated among the partners, and among classes or groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

As added by P.L.147-1988, SEC.1.

IC 23-16-6-4

Sharing of distributions

Sec. 4. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes and groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

As added by P.L.147-1988, SEC.1.

IC 23-16-7

Chapter 7. Distributions and Withdrawals

IC 23-16-7-1

Interim distributions

Sec. 1. Except as provided in this chapter, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up of the limited partnership to the extent and at the times or upon the happening of the events specified in the partnership agreement.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-2

Withdrawal of general partner

Sec. 2. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners. However, if the general partner's withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and may offset the damages against the amount otherwise distributable to the withdrawing general partner in addition to any remedies otherwise available under applicable law.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-3

Withdrawal of limited partner

Sec. 3. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement. If the partnership agreement does not specify in writing:

- (1) the time or the events upon the happening of which a limited partner may withdraw; or
- (2) a definite time for the dissolution and winding up of the limited partnership;

a limited partner may withdraw upon not less than six (6) months prior written notice to each general partner at the general partner's address as set forth in the certificate of limited partnership filed in the office of the secretary of state.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-4

Distribution upon withdrawal

Sec. 4. Except as provided in this chapter, upon withdrawal any withdrawing partner is entitled to receive any distribution to which the withdrawing partner is entitled under the partnership agreement and, if not otherwise provided in the partnership agreement, the withdrawing partner is entitled to receive, within a reasonable time after withdrawal, the fair value of the withdrawing partner's interest in the limited partnership as of the date of withdrawal based upon the

withdrawing partner's right to share in distributions from the limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-5

Distribution in kind

Sec. 5. (a) Except as provided in the partnership agreement, a partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash.

(b) Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset that is equal to the percentage in which the partner shares in distributions from the limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-6

Right to distribution

Sec. 6. At the time a partner becomes entitled to receive a distribution, the partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-7

Limitations on distribution

Sec. 7. A partner may not receive a distribution from a limited partnership to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, would exceed the fair value of the partnership assets.

As added by P.L.147-1988, SEC.1.

IC 23-16-7-8

Liability upon return of contribution

Sec. 8. (a) If a partner has received the return of any part of the partner's contribution without violation of the partnership agreement or this article, the partner is liable to the limited partnership for a period of one (1) year after receiving the return of contribution for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a partner has received the return of any part of the partner's contribution in violation of the partnership agreement or this article, the partner is liable to the limited partnership for a period of six (6) years after receiving the return of contribution for the amount of the

contribution wrongfully returned.

(c) A partner receives a return of the partner's contribution to the extent that a distribution to the partner reduces the partner's share of the fair value of the net assets of the limited partnership below the agreed value (as stated in the records of the limited partnership) of the partner's contribution that has not been distributed to the partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-8

Chapter 8. Assignment of Partnership Interests

IC 23-16-8-1

Nature of partnership interest

Sec. 1. A partnership interest is personal property. A partner has no interest in specific limited partnership property.

As added by P.L.147-1988, SEC.1.

IC 23-16-8-2

Assignment of partnership interest

Sec. 2. Unless otherwise provided in the partnership agreement:

- (1) a partnership interest is assignable in whole or in part;
- (2) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become a partner or to exercise any rights or powers of a partner;
- (3) an assignment entitles the assignee to share in the profits and losses, to receive the distribution or distributions, and to receive the allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and
- (4) a partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all of the partner's partnership interest.

As added by P.L.147-1988, SEC.1.

IC 23-16-8-3

Rights of creditor

Sec. 3. On application to a court by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment, with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This article does not deprive any partner of the benefit of any exemption laws applicable to the partner's partnership interest.

As added by P.L.147-1988, SEC.1.

IC 23-16-8-4

Right of assignee to become limited partner

Sec. 4. (a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner, if and to the extent that:

- (1) the partnership agreement so provides; or
- (2) all other partners consent in writing.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this article. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make contributions as provided in IC 23-16-6-2. However, the assignee is

not obligated for liabilities that were unknown to the assignee at the time the assignee became a limited partner and that could not be ascertained from the partnership agreement. Additionally, the assignee is not liable for any accrued liabilities of the assignor at the time of such assignment unless the assignee specifically assumes such liabilities.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from the assignor's liabilities to the limited partnership under IC 23-16-3-8, IC 23-16-6, and IC 23-16-7, unless such liabilities are specifically assumed by the assignee under subsection (b).

As added by P.L.147-1988, SEC.1.

IC 23-16-8-5

Power of estate of deceased or incompetent partner

Sec. 5. (a) If a partner who is an individual dies or a court adjudges the partner to be mentally incompetent, the partner's personal representative, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner had to give an assignee the right to become a limited partner.

(b) If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by the partner's legal representative or successor.

As added by P.L.147-1988, SEC.1. Amended by P.L.33-1989, SEC.22.

IC 23-16-9

Chapter 9. Dissolution

IC 23-16-9-1

Nonjudicial dissolution

Sec. 1. (a) A limited partnership is dissolved and its affairs shall be wound up upon the occurrence of the first of the following:

(1) At the time specified in the certificate of limited partnership.

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

(3) Subject to a requirement in the partnership agreement requiring the approval by a greater or lesser percentage of limited partners and general partners, upon the written consent of all general partners and the affirmative vote of two-thirds (2/3) in interest of each class of limited partners.

(4) Except as provided in subsection (b), an event of withdrawal of a general partner, unless:

(A) at the time there is at least one (1) other general partner;

(B) the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner; and

(C) the remaining general partner carries on the business of the limited partnership.

(5) The entry of a decree of judicial dissolution under section 2 of this chapter.

(b) A limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal of a general partner if, within ninety (90) days after the withdrawal, all partners (or such lesser percentage as may be provided in the partnership agreement) agree in writing to continue the business of the limited partnership and agree in writing to the appointment of one (1) or more additional general partners if necessary or desired.

As added by P.L.147-1988, SEC.1.

IC 23-16-9-2

Judicial dissolution

Sec. 2. On application by or for a partner, the circuit or superior court of the county in which the office of the limited partnership referred to in IC 23-16-2-3 is located may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement. If the office referred to in IC 23-16-2-3 is not within Indiana, the application may be made to the circuit or superior court of the county in which the registered agent referred to in IC 23-16-2-3 is located.

As added by P.L.147-1988, SEC.1.

IC 23-16-9-3

Winding up

Sec. 3. (a) Unless otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved

a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs. However, the circuit or superior court of the county in which the office of the limited partnership referred to in IC 23-16-2-3 is located, or if the office referred to in IC 23-16-2-3 is not within Indiana, the circuit or superior court of the county in which the business address of the registered agent referred to in IC 23-16-2-3 is located, may wind up the limited partnership's affairs upon application of any partner or of any partner's legal representative or assignee, and in connection with the winding up, may appoint a liquidating trustee.

(b) Upon the dissolution of a limited partnership, the persons winding up the affairs of a limited partnership may, in the name of the limited partnership and for and on behalf of the limited partnership, prosecute and defend civil, criminal, and administrative proceedings, settle and close the limited partnership's business, dispose of and convey the limited partnership's property, discharge the limited partnership's liabilities, and distribute to the partners any remaining assets of the limited partnership, all without affecting the liability of limited partners.

As added by P.L.147-1988, SEC.1.

IC 23-16-9-4

Distribution of assets

Sec. 4. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

- (1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership (whether by payment or by establishment of adequate reserves) other than liabilities for distributions to partners under IC 23-16-7-1 and IC 23-16-7-4.
- (2) Unless otherwise provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under IC 23-16-7-1 and IC 23-16-7-4.
- (3) Unless otherwise provided in the partnership agreement, to partners first for the return of their contributions and second respecting their partnership interests, in the proportions in which the partners share in distributions.

As added by P.L.147-1988, SEC.1.

IC 23-16-10

Chapter 10. Foreign Limited Partnerships

IC 23-16-10-1

Law governing

Sec. 1. (a) Subject to the Constitution of the State of Indiana:

(1) the laws of the state or other jurisdiction or country under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

(2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of Indiana.

(b) A foreign limited partnership is subject to IC 23-16-2-7. IC 23-16-3-5 and IC 23-16-3-8 apply to foreign limited partnerships as though they were domestic limited partnerships.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-2

Registration

Sec. 2. (a) Before transacting business in Indiana, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership must submit to the secretary of state an original copy executed by a general partner, together with a duplicate copy, of an application for registration as a foreign limited partnership, signed and sworn to under penalties for perjury by a general partner. The application must set forth the following:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in Indiana.

(2) The state, territory, possession, foreign country, or other jurisdiction where the limited partnership was organized, the date of its formation and a statement signed by a general partner that, as of the date of filing, the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of its organization.

(3) The nature of the business or purpose to be promoted in Indiana.

(4) The name and address of the registered agent for service of process required under section 4 of this chapter.

(5) The name and business address, residence address, or mailing address of each general partner.

(6) The date on which the foreign limited partnership first transacted, or intends to transact, business in Indiana.

(7) The address of the office at which is kept a list of the names and addresses of the limited partners and the capital contributions of each, together with a statement by the foreign limited partnership that it will keep those records until the foreign limited partnership's registration in Indiana is cancelled.

(b) The following activities, among others, do not constitute

transacting business within the meaning of subsection (a):

- (1) Maintaining, defending, or settling any proceeding.
- (2) Holding meetings of the partners or carrying on other activities concerning internal partnership affairs.
- (3) Maintaining bank accounts.
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositaries with respect to those securities.
- (5) Selling through independent contractors.
- (6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside Indiana before they become contracts.
- (7) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.
- (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
- (9) Owning, without more, real or personal property.
- (10) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) of a course of repeated transactions of a like nature.
- (11) Transacting business in interstate commerce.

(c) Service of legal process upon any foreign limited partnership shall be made as provided in IC 23-16-2-3, except the secretary of state is the agent for service of process for a foreign limited partnership transacting business in Indiana without registration.

As added by P.L.147-1988, SEC.1. Amended by P.L.226-1989, SEC.25.

IC 23-16-10-3

Issuance of registration

Sec. 3. (a) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary of state shall do the following:

- (1) Endorse on the application the word "filed", and the date and time of the filing. This endorsement is conclusive evidence of the date and time of its filing in the absence of fraud.
- (2) File the original application.
- (3) Issue a certificate of registration to transact business in Indiana.

(b) The certificate of registration, together with a copy of the application, shall be returned to the person who filed the application or to that person's representative.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-4

Name; specified office and agent; change of agent; change of address of business office of agent; resignation of agent

Sec. 4. (a) Except as provided in subsection (b), a foreign limited partnership may register with the secretary of state under any name

(whether or not it is the name under which it is registered in the jurisdiction of its organization) that:

(1) includes the words "limited partnership" or the abbreviation "L.P."; and

(2) could be registered by a domestic limited partnership.

(b) A foreign limited partnership may apply to the secretary of state to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (a). The secretary of state shall authorize use of the name applied for if:

(1) the other domestic or foreign limited partnership files its written consent to the use of its name, signed by any current general partner of the other limited partnership and verified subject to the penalties for perjury; or

(2) the applicant delivers to the secretary of state a certified copy of a final court judgment establishing the applicant's right to use the name applied for in Indiana.

(c) Each foreign limited partnership shall have and maintain:

(1) an office, which may be (but need not be) a place of its business in Indiana; and

(2) a registered agent whose business address is in Indiana for service of process on the foreign limited partnership, which may be:

(A) an individual resident of Indiana; or

(B) a domestic corporation or a foreign corporation authorized to transact business in Indiana.

(d) A foreign limited partnership may change its registered agent by delivering to the secretary of state for filing a statement containing the following:

(1) The name of the foreign limited partnership.

(2) The name of its current registered agent.

(3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).

(e) If a registered agent changes the address of the registered agent's business office, the registered agent must notify the foreign limited partnership in writing of the change, and sign and deliver to the secretary of state for filing a statement that complies with the requirements of subsection (d) and recites that the foreign limited partnership has been notified of the change.

(f) A registered agent may resign the agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. After filing the statement, the secretary of state shall mail one (1) copy to the partnership at the office referred to in subsection (c)(1). The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

As added by P.L.147-1988, SEC.1.

Service of process on registered agent

Sec. 5. (a) A foreign limited partnership's registered agent is the foreign limited partnership's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited partnership.

(b) This section does not prescribe the only means, or necessarily the required means, of serving a foreign limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-6**Changes in and amendments to statements in application for registration**

Sec. 6. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described in the application have changed, making the application false in any respect, the foreign limited partnership shall, within sixty (60) days after such a change, file in the office of the secretary of state a certificate, signed and sworn to under penalties for perjury by a general partner, correcting the statement.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-7**Cancellation of registration**

Sec. 7. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to under penalties for perjury by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in Indiana.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-8**Transaction of business without registration**

Sec. 8. (a) A foreign limited partnership transacting business in Indiana may not maintain any action in any court of Indiana until it has registered in Indiana under this chapter and paid to the state all fees and penalties for the years during which it did business in Indiana without having registered.

(b) The failure of a foreign limited partnership to register in Indiana does not:

- (1) impair the validity of any contract or act of the foreign limited partnership;
- (2) impair the right of any other party to a contract with the foreign limited partnership to maintain any action on the contract; or
- (3) prevent the foreign limited partnership from defending any action in any court of Indiana.

(c) A limited partner of a foreign limited partnership is not liable

as a general partner of the foreign limited partnership solely by reason of having transacted business in Indiana without registration.

(d) A foreign limited partnership, by transacting business in Indiana without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in Indiana.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-9

Action by attorney general

Sec. 9. The attorney general may bring an action to restrain a foreign limited partnership from transacting business in Indiana in violation of this article, and the circuit or superior court in any county in which the foreign limited partnership is transacting business without registration may enjoin any foreign limited partnership or agent thereof from doing business in Indiana if it has failed to register or if its registration has been procured on the basis of false or misleading representations.

As added by P.L.147-1988, SEC.1.

IC 23-16-10.1

Repealed

(Repealed by P.L.8-1993, SEC.523.)

IC 23-16-11

Chapter 11. Derivative Actions

IC 23-16-11-1

Right of action

Sec. 1. A limited partner may bring an action in the right of a limited partnership to recover a judgment in favor of the limited partnership if:

- (1) general partners with authority to bring such an action have refused to bring the action; or
- (2) an effort to cause those general partners to bring the action is not likely to succeed.

As added by P.L.147-1988, SEC.1.

IC 23-16-11-2

Proper plaintiff

Sec. 2. In a derivative action under this chapter, the plaintiff must be a partner at the time of bringing the action, and:

- (1) the plaintiff must have been a partner at the time of the transaction of which the plaintiff complains in the action; or
- (2) the status of the plaintiff as a partner must have devolved upon the plaintiff, by operation of law or under the terms of the partnership agreement, from a person who was a partner at the time of the transaction.

As added by P.L.147-1988, SEC.1.

IC 23-16-11-3

Pleading

Sec. 3. In a derivative action under this chapter, the complaint must set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort to secure initiation of the action by a general partner.

As added by P.L.147-1988, SEC.1.

IC 23-16-11-4

Expenses

Sec. 4. (a) If a derivative action under this chapter is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by the plaintiff.

(b) If the plaintiff is awarded damages in an action under this chapter, the court shall make the award of reasonable expenses payable out of the plaintiff's total award and direct the plaintiff to remit the balance of the total award to the limited partnership. However, if the damages awarded to the plaintiff are insufficient to reimburse the plaintiff's reasonable expenses, the court may direct

that part or all of the plaintiff's award of reasonable expenses be paid
by the limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-12

Chapter 12. Miscellaneous

IC 23-16-12-1

Construction and application of article

Sec. 1. (a) This article shall be applied and construed to effectuate its general purpose.

(b) The rule that statutes in derogation of the common law are to be strictly construed does not apply to this article.

As added by P.L.147-1988, SEC.1.

IC 23-16-12-2

Applicability of article to domestic and foreign limited partnerships after effective date and after repeal of antecedent provisions

Sec. 2. (a) After July 1, 1988, this article applies to all domestic and foreign limited partnerships, except as provided in this section.

(b) IC 23-16-6-1, IC 23-16-6-2, and IC 23-16-7-8 apply only to contributions and distributions made after July 1, 1988.

(c) IC 23-16-8-4 applies only to assignments made after July 1, 1988.

(d) IC 23-16-10 does not apply before January 1, 1989.

(e) Unless agreed otherwise by all of the partners, the applicable provisions of IC 23-4-2 (repealed effective July 1, 1993) governing allocation of profits and losses (rather than the provisions of IC 23-16-6-3), distributions to a withdrawing partner (rather than the provisions of IC 23-16-7-4), and distribution of assets upon the winding up of a limited partnership (rather than the provisions of IC 23-16-9-4) govern limited partnerships formed before July 1, 1988.

(f) A limited partnership existing under IC 23-4-2 before July 1, 1988, is not required to file a certificate of limited partnership complying with IC 23-16-3 with the secretary of state, and is not subject to or governed by IC 23-16-3-2, until the earlier of the following:

(1) The voluntary filing by the limited partnership of a certificate of limited partnership with the secretary of state in the manner required by this article.

(2) July 1, 1993.

(g) Until July 1, 1993, a limited partnership existing under IC 23-4-2 before July 1, 1988, that does not file a certificate of limited partnership in accordance with subsection (f)(1) is governed by IC 23-4-2.

(h) If a limited partnership existing under IC 23-4-2 before July 1, 1988, does not file a certificate of limited partnership or a certificate of amendment with the secretary of state by July 1, 1993, and no event has occurred that, under this article, requires the filing of a certificate of amendment, then:

(1) the limited partnership continues to exist as a limited partnership under this article, and the failure to file a certificate

with the secretary of state does not impair the validity of any contract or act of the limited partnership nor prevent the limited partnership from defending any action in any court in Indiana;
 (2) a limited partner of the limited partnership is not liable as a general partner solely by reason of the failure to file a certificate with the secretary of state; and
 (3) the limited partnership may not maintain an action in any court of Indiana until it has filed a certificate with the secretary of state in compliance with this article.

As added by P.L.147-1988, SEC.1. Amended by P.L.226-1989, SEC.26; P.L.3-1990, SEC.83.

IC 23-16-12-3

Rules for cases not provided for in this article

Sec. 3. In any case not provided for in this article, the provisions of IC 23-4-1 govern.

As added by P.L.147-1988, SEC.1.

IC 23-16-12-4

Fees

Sec. 4. (a) The secretary of state shall collect the following fees when the documents described in this section are delivered by a domestic or foreign limited partnership to the secretary of state for filing:

Document	Electronic Filing Fee	Filing Fee (Other than electronic filing)
(1) Application for reservation of name	\$10	\$20
(2) Application for use of indistinguishable name	\$10	\$20
(3) Application for renewal of reservation	\$10	\$20
(4) Notice of transfer of reserved name	\$10	\$20
(5) Application of registered name	\$20	\$30
(6) Application for renewal of registered name	\$20	\$30
(7) Certificate of change of registered agent's business address	No fee	No fee
(8) Certificate of resignation of agent	No fee	No fee
(9) Certificate of limited partnership	\$75	\$90
(10) Certificate of amendment	\$20	\$30
(11) Certificate of cancellation	\$75	\$90
(12) Restated certificate of limited partnership or registration	\$20	\$30
(13) Restated certificate of limited partnership or registration with amendments	\$20	\$30

(14) Application for registration	\$75	\$90
(15) Certificate of change of application	\$20	\$30
(16) Certificate of cancellation of registration	\$20	\$30
(17) Certificate of change of registered agent	No fee	No fee
(18) Application for certificate of existence or authorization	\$15	\$15
(19) Any other document required or permitted to be filed under this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings)	\$20	\$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The secretary of state shall collect a fee of ten dollars (\$10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited partnership:

- (1) Per page for copying \$ 1
- (2) For a certification stamp \$15

As added by P.L.147-1988, SEC.1. Amended by P.L.226-1989, SEC.27; P.L.75-1990, SEC.14; P.L.277-2001, SEC.16; P.L.60-2007, SEC.4; P.L.106-2008, SEC.51.

IC 23-16-12-5

Requirements for filing documents; filing fee

Sec. 5. (a) A document must satisfy the requirements of this article to be entitled to filing by the secretary of state.

(b) The document must contain the information required by this article. It may contain other information as well.

(c) The document must be typewritten or printed.

(d) The document must be legible and otherwise suitable for filing.

(e) The document must be in the English language. A limited partnership name need not be in English if written in English letters or Arabic or Roman numerals.

(f) Every person executing the document shall sign it and state beneath or opposite the signature the person's name and the capacity

in which the person signs. A signature on a document authorized to be filed under this article may be a facsimile. A signature on a document under this subsection that is transmitted and filed electronically is sufficient if the person transmitting and filing the document:

- (1) has the intent to file the document as evidenced by a symbol executed or adopted by a party with present intention to authenticate the filing; and

- (2) enters the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.

- (g) The document must be delivered to the office of the secretary of state as required by section 5.1 of this chapter, and the correct filing fee must be paid in the manner and form required by the secretary of state.

- (h) The secretary of state may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However, if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the secretary of state receives payment or credit from the institution responsible for making the payment or credit. The secretary of state may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the secretary of state or charged directly to the secretary of state's account, the secretary of state or the credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the secretary of state by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

As added by P.L.147-1988, SEC.1. Amended by P.L.228-1995, SEC.18; P.L.11-1996, SEC.23; P.L.277-2001, SEC.17.

IC 23-16-12-5.1

Copies of documents delivered for filing

Sec. 5.1. (a) For purposes of this article, a document is delivered for filing if the document is transferred to the secretary of state by hand, mail, telecopy, facsimile, or other form of electronic transmission meeting the requirements established by the secretary of state.

- (b) If a document is delivered for filing by hand or mail, the document must be accompanied by:

- (1) two (2) exact or conformed copies of a document filed under IC 23-16-2-4 or IC 23-16-10-4; or

- (2) one (1) exact or conformed copy of any other document filed under this article.

- (c) The office of the secretary of state shall create any copies of a document delivered by telecopy, facsimile, or other form of

electronic transmission that are required for distribution under this article.

As added by P.L.228-1995, SEC.19.

IC 23-16-12-6

Effective date of documents

Sec. 6. (a) A document accepted for filing is effective:

(1) at the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document; or

(2) at such later time as is specified in the document as provided in subsection (b).

(b) A document may specify a delayed effective time on the date filed, or a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than ninety (90) days after the date it is filed.

As added by P.L.147-1988, SEC.1.