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Short Title: Ltd. Ptnersp./Prof. Liability Changes.

(Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES REGARDING LIMITED PARTNERSHIPS AND THE NORTH CAROLINA REVISED UNIFORM LIMITED PARTNERSHIP ACT, TO CLARIFY THE LIMIT OF LIABILITY IN PROFESSIONAL ORGANIZATIONS, TO PROVIDE FOR THE REGISTRATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS, AND TO REQUIRE ANNUAL REPORTS BY LIMITED LIABILITY PARTNERSHIPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-79 reads as rewritten:

"§ 1-79. ~~Domestic corporations.~~ corporations, limited partnerships, limited liability companies, and registered limited liability partnerships.

(a) For the purpose of suing and being sued the residence of a domestic ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is as follows:

(1) Where the registered or principal office of the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is located, or

1           (2) Where the ~~corporation~~ corporation, limited partnership, limited liability  
2           company, or registered limited liability partnership maintains a place of  
3           ~~business.~~ business, or

4           (3) If no registered or principal office is in existence, and no place of  
5           business is currently maintained or can reasonably be found, the term  
6           'residence' shall include any place where the ~~corporation~~ corporation,  
7           limited partnership, limited liability company, or registered limited  
8           liability partnership is regularly engaged in carrying on business.

9           (b) For purposes of this section, the term 'domestic' when applied to an entity  
10          means:

11           (1) An entity formed under the laws of this State, or

12           (2) An entity that (i) is formed under the laws of any jurisdiction other than  
13           this State, and (ii) maintains a registered office in this State pursuant to  
14           a certificate of authority from the Secretary of State."

15          Section 2. G.S. 55B-9(b) reads as rewritten:

16          "(b) Liability. – A shareholder, a director, or an officer of a professional  
17          corporation is not individually ~~liable~~ liable, directly or indirectly, including by  
18          indemnification, contribution, assessment, or otherwise, for the obligations of debts,  
19          obligations, and liabilities of, or chargeable to, the professional corporation arising that  
20          arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance  
21          ~~committed in the course of the professional corporation's business by another shareholder,~~  
22          ~~director, or officer, or by a representative of the professional corporation not working under the~~  
23          ~~supervision or direction of the first shareholder, director, or officer at the time the errors,~~  
24          ~~omissions, negligence, incompetence, or malfeasance occurred, unless the first shareholder,~~  
25          ~~director, or officer was directly involved in the specific activity in which the errors, omissions,~~  
26          ~~negligence, incompetence, or malfeasance were committed by the other shareholder, director, or~~  
27          ~~officer or by the representative.~~ malfeasance committed by another shareholder, director, or  
28          officer or by a representative of the professional corporation; provided, however, nothing  
29          in this Chapter shall affect the liability of a shareholder, director, or officer of a  
30          professional corporation for his or her own errors, omissions, negligence, malpractice,  
31          incompetence, or malfeasance committed in the rendering of professional services. This  
32          subsection does not affect the joint and several liability of a shareholder, a director, or an  
33          officer of a professional corporation for any taxes owed by the professional corporation  
34          under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General  
35          Statutes."

36          Section 3. G.S. 57C-2-01(c) reads as rewritten:

37          "(c) Subsections (a) and (b) of this section to the contrary notwithstanding and  
38          except as set forth in this subsection, a domestic or foreign limited liability company shall  
39          engage in rendering professional services only to the extent that a professional  
40          corporation acting pursuant to Chapter 55B of the General Statutes or a corporation  
41          acting pursuant to Chapter 55 of the General Statutes may engage in rendering  
42          professional services under the conditions and limitations imposed by an applicable  
43          licensing statute. Chapter 55B of the General Statutes and each applicable licensing

1 statute are deemed amended to provide that professionals licensed under the applicable  
2 licensing statute may render professional services through a domestic or foreign limited  
3 liability company. For purposes of applying the provisions, conditions, and limitations of  
4 Chapter 55B of the General Statutes and the applicable licensing statute to domestic and  
5 foreign limited liability companies that engage in rendering professional services, (i)  
6 unless the context clearly requires otherwise, references to Chapter 55 of the General  
7 Statutes (the North Carolina Business Corporation Act) shall be treated as references to  
8 this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as  
9 references to a limited liability company or foreign limited liability company,  
10 respectively, (ii) members shall be treated in the same manner as shareholders of a  
11 professional corporation, (iii) managers shall be treated in the same manner as directors  
12 of a professional corporation, (iv) the persons signing the articles of organization of a  
13 limited liability company shall be treated in the same manner as the incorporators of a  
14 professional corporation, and (v) the name of a domestic or foreign limited liability  
15 company so engaged shall comply with G.S. 57C-2-30 or G.S. 57C-7-06 and, in addition,  
16 shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For  
17 purposes of this subsection, "applicable licensing statute" shall mean those provisions of  
18 the General Statutes referred to in G.S. 55B-2(6).

19 Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter  
20 the law in this State applicable to the professional relationship and liabilities between the  
21 individual furnishing the professional services and the person receiving the professional  
22 services, ~~or the standards of professional conduct applicable to the rendering of the~~  
23 ~~services, or any~~ This Chapter does not relieve individuals of responsibilities,  
24 obligations, or the imposition of sanctions imposed under applicable licensing statutes, even  
25 if the sanctions are imposed for the conduct of other members of a limited liability company.  
26 statutes. A member or manager of a professional limited liability company is not  
27 individually liable for debts and obligations of liable, directly or indirectly, including by  
28 indemnification, contribution, assessment, or otherwise, for debts, obligations, and  
29 liabilities of, or chargeable to, the professional limited liability company arising that arise  
30 from errors, omissions, negligence, malpractice, incompetence, or malfeasance  
31 committed in the course of the professional limited liability company's business by another  
32 member or manager or a representative of the professional limited liability company not working  
33 under the supervision or direction of the first member or manager at the time the errors,  
34 omissions, negligence, incompetence, or malfeasance occurred, unless the first member or  
35 manager was directly involved in the specific activity in which the errors, omissions, negligence,  
36 incompetence, or malfeasance were committed by the other member or manager or  
37 representative by another member, manager, employee, agent, or other representative of  
38 the professional limited liability company; provided, however, nothing in this Chapter  
39 shall affect the liability of a member or manager of a professional limited liability  
40 company for his or her own errors, omissions, negligence, malpractice, incompetence, or  
41 malfeasance committed in the rendering of professional services."

42 Section 4. G.S. 59-32 reads as rewritten:

43 "§ 59-32. Definition of terms.

1 ~~In this Article:~~ As used in this Chapter, except as otherwise defined in Article 5 of this  
2 Chapter for purposes of that Article, unless the context otherwise requires:

- 3 (1) 'Bankrupt' ~~includes~~ means bankrupt under the Federal Bankruptcy Act or  
4 insolvent under any State insolvent act.
- 5 (2) 'Business' ~~includes~~ means every trade, occupation, or profession.
- 6 (3) 'Conveyance' ~~includes~~ means every assignment, lease, mortgage, or  
7 encumbrance.
- 8 (4) 'Court' ~~includes~~ means every court and judge having jurisdiction in the  
9 case.
- 10 (4a) 'Foreign limited liability partnership' means a partnership that (i) is  
11 formed under laws other than the laws of this State, and (ii) has the  
12 status of a limited liability partnership or registered limited liability  
13 partnership under those laws.
- 14 (5) 'Person' ~~includes~~ means individuals, partnerships, corporations, limited  
15 liability companies, and other associations.
- 16 (6) 'Real property' ~~includes~~ means land and any interest or estate in land.
- 17 (7) 'Registered limited liability partnership' means a partnership that is  
18 registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

19 Section 5. G. S. 59-45 reads as rewritten:

20 **"§ 59-45. Nature of partner's liability in ordinary partnerships and in registered**  
21 **limited liability partnerships.**

22 (a) Except as provided by ~~subsection~~ subsections (a1) and (b) of this section, all  
23 partners are jointly and severally liable for the acts and obligations of the partnership.

24 (a1) Except as provided in subsection (b) of this section, a partner in a registered  
25 limited liability partnership is not individually liable for debts and obligations of the  
26 partnership incurred while it is a registered limited liability partnership solely by reason  
27 of being a partner and does not become liable by participating, in whatever capacity, in  
28 the management or control of the business of the partnership.

29 (b) Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit,  
30 or alter the law in this State applicable to the professional relationship and liabilities  
31 between the individual furnishing the professional services and the person receiving the  
32 professional services, the standards of professional conduct applicable to the rendering of  
33 the services, or any responsibilities, obligations, or sanctions imposed under applicable  
34 licensing statutes. A partner in a registered limited liability partnership is not  
35 individually ~~liable~~ liable, directly or indirectly, including by indemnification,  
36 contribution, assessment, or otherwise, for ~~debts and obligations of the debts, obligations,~~  
37 and liabilities of, or chargeable to, the registered limited liability partnership ~~arising that~~  
38 arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance  
39 committed by another partner or by an employee, agent, or other representative of the  
40 partnership; provided, however, nothing in this Chapter shall affect the liability of a  
41 partner of a professional registered limited liability partnership for his or her own errors,  
42 omissions, negligence, malpractice, incompetence, or malfeasance committed in the  
43 rendering of professional services. ~~committed in the course of the partnership business by~~

1 another partner or representative of the partnership not working under the supervision or  
2 direction of the first partner at the time the errors, omissions, negligence, incompetence, or  
3 malfeasance occurred, unless the first partner was directly involved in the specific activity in  
4 which the errors, omissions, negligence, incompetence, or malfeasance were committed by the  
5 other partner or representative.

6 (e) Subsection (b) of this section does not affect any of the following:

7 (1) The joint and several liability of a partner for debts and obligations of  
8 the partnership arising from any cause other than those specified in  
9 subsection (b) of this section.

10 (2) The joint and several liability of a partner for any taxes owed by the  
11 partnership under Chapter 105 of the General Statutes or Article 3 of  
12 Chapter 119 of the General Statutes.

13 (3) The liability of partnership assets for partnership debts and obligations.

14 (d) A partner in a registered limited liability partnership is not a proper party to  
15 proceedings by or against a limited liability partnership, except where the object of the  
16 proceeding is to enforce a partner's right against or liability to the limited liability  
17 partnership.

18 (e) The liability of partners of a registered limited liability partnership formed and  
19 existing under this Chapter shall at all times be determined solely and exclusively by this  
20 Chapter and the laws of this State.

21 (f) If a conflict arises between the laws of this State and the laws of any other  
22 jurisdiction with regard to the liability of a partner of a registered limited liability  
23 partnership formed and existing under this Chapter for the debts, obligations, and  
24 liabilities of the registered limited liability partnership, this Chapter and the laws of this  
25 State shall govern in determining the liability."

26 Section 6. Chapter 59 of the General Statutes is amended by adding a new  
27 Article 3B to read as follows and to include current G.S. 59-84.2 and G.S. 59-84.3 as the  
28 first and second sections in Article 3B:

### 29 "ARTICLE 3B.

#### 30 "REGISTERED LIMITED LIABILITY PARTNERSHIPS."

31 Section 7. G.S. 59-84.2 reads as rewritten:

32 **"§ 59-84.2. Registered limited liability partnerships.**

33 (a) To become a registered limited liability partnership, a partnership must file  
34 with the Secretary of State an application ~~stating~~ stating:

35 (1) ~~the~~ The name of the partnership, ~~partnership.~~

36 (2) ~~the~~ The street address of its principal office, ~~office.~~

37 (3) The name and street address, and the mailing address if different from  
38 the street address, for the partnership's registered agent and registered  
39 office for service of process.

40 (4) The county in which the registered office is located.

41 (5) ~~the number of partners, and a~~ A ~~brief statement of the business in which~~  
42 ~~the partnership engages.~~

43 (6) A deferred effective date, if any.

1           (7)    The fiscal year end of the partnership.

2 ~~A registration as a registered limited liability partnership must be renewed annually.~~

3           (a1) The terms and conditions on which a partnership becomes a limited liability  
4 partnership must be approved by the vote necessary to amend the partnership agreement  
5 except, in the case of a partnership agreement that expressly considers obligations to  
6 contribute to the partnership, the vote necessary to amend those provisions.

7           (b)    An application for registration as a registered limited liability partnership must  
8 be executed by a majority in interest of the partners or by one or more partners authorized by a  
9 majority in interest of the partners.

10          (c)    An application for registration as a registered limited liability partnership ~~or for~~  
11 ~~renewal of a registration~~ must be accompanied by a fee of one hundred twenty-five dollars  
12 ~~(\$100.00).~~ (\$125.00).

13          (d)    The Secretary of State shall register ~~or renew the registration of~~ a partnership that  
14 submits a completed application with the required fee.

15          (e)    A registration is effective ~~for one year after~~ on the later of the date the  
16 registration is ~~filed,~~ filed or the date specified in the application for registration, unless it  
17 is voluntarily withdrawn ~~before then~~ by filing with the Secretary of State a written  
18 withdrawal notice executed by a majority in interest of the partners ~~or by one or more~~  
19 ~~partners authorized by a majority in interest of the partners.~~ of the partners, or is revoked  
20 pursuant to G.S. 59-84.4(f).

21          (f)    The Secretary of State may provide forms for applications for ~~registration or~~  
22 ~~renewal of a registration.~~

23          (g)    The status of a registered limited liability partnership and the liability of its  
24 partners is not affected by errors or later changes in the information required to be  
25 contained in the application for registration.

26          (h)    An amendment or withdrawal of a registration is effective on the later of the  
27 date it is filed or a deferred effective date specified in the amendment or withdrawal."

28           Section 8. G. S. 59-84.3 reads as rewritten:

29 **"§ 59-84.3. Name of registered limited liability partnerships.**

30           A registered limited liability partnership's name must contain the words 'registered  
31 limited liability partnership' or 'limited liability partnership' or the abbreviation  
32 "L.L.P." "L.L.P.", 'R.L.L.P.', 'LLP' or 'RLLP' as the last words or letters of its name."

33           Section 9. Article 3B of Chapter 59, as created by Section 6 of this act, is  
34 amended by adding a new section to read:

35 **"§ 59-84.4. Annual report for Secretary of State.**

36           (a)    Each registered limited liability partnership and each foreign limited liability  
37 partnership authorized to transact business in this State shall deliver to the Secretary of  
38 State for filing an annual report, in a form prescribed by the Secretary of State, that sets  
39 forth all of the following:

40           (1)    The name of the registered limited liability partnership or foreign  
41 limited liability partnership and the state or country under whose law it  
42 is formed.

1           (2) The street address, and the mailing address if different from the street  
2           address, of the registered office, the county in which the registered  
3           office is located, and the name of its registered agent at that office in  
4           this State, and a statement of any change of the registered office or  
5           registered agent, or both.

6           (3) The street address and telephone number of its principal office.

7           (4) A brief description of the nature of its business.

8           (5) The fiscal year end of the partnership.

9 If the information contained in the most recently filed annual report has not changed, a  
10 certification to that effect may be made instead of setting forth the information required  
11 by subdivisions (2) through (4) of this subsection. The Secretary of State shall make  
12 available the form required to file an annual report.

13       (b) Information in the annual report must be current as of the date the annual  
14 report is executed on behalf of the registered limited liability partnership or the foreign  
15 limited liability partnership.

16       (c) The annual report shall be delivered to the Secretary of State by the fifteenth  
17 day of the fourth month following the close of the registered or foreign limited liability  
18 partnership's fiscal year. The annual report must be accompanied by a fee of two hundred  
19 dollars (\$200.00).

20       (d) If an annual report does not contain the information required by this section,  
21 the Secretary of State shall promptly notify the reporting registered or foreign limited  
22 liability partnership in writing and return the report to it for correction. If the report is  
23 corrected to contain the information required by this section and delivered to the  
24 Secretary of State within 30 days after the effective date of notice, it is deemed to be  
25 timely filed.

26       (e) Amendments to any previously filed annual report may be filed with the  
27 Secretary of State at any time for the purpose of correcting, updating, or augmenting the  
28 information contained in the annual report.

29       (f) The Secretary of State may revoke the registration of a registered limited  
30 liability partnership or foreign limited liability partnership if the Secretary of State  
31 determines that:

32           (1) The registered limited liability partnership or foreign limited liability  
33 partnership has not paid, within 60 days after they are due, any  
34 penalties, fees, or other payments due under this Chapter;

35           (2) The registered limited liability partnership or foreign limited liability  
36 partnership does not deliver its annual report to the Secretary of State on  
37 or before the date it is due;

38           (3) The registered limited liability partnership or foreign limited liability  
39 partnership has been without a registered agent or registered office in  
40 this State for 60 days or more; or

41           (4) The registered limited liability partnership or foreign limited liability  
42 partnership does not notify the Secretary of State within 60 days of the  
43 change, resignation, or discontinuance that its registered agent or

1 registered office has been changed, that its registered agent has  
2 resigned, or that its registered office has been discontinued.

3 (g) If the Secretary of State determines that one or more grounds exist under  
4 subsection (f) of this section for revoking the registration of the registered limited  
5 liability partnership or foreign limited liability partnership, the Secretary of State shall  
6 mail the registered limited liability partnership or foreign limited liability partnership  
7 written notice of that determination. If, within 60 days after the notice is mailed, the  
8 registered limited liability partnership or foreign limited liability partnership does not  
9 correct each ground for revocation or demonstrate to the reasonable satisfaction of the  
10 Secretary of State that each ground does not exist, the Secretary of State shall revoke the  
11 registration of a registered limited liability partnership or foreign limited liability  
12 partnership by signing a certificate of revocation that recites the ground or grounds for  
13 revocation and its effective date. The Secretary of State shall file the original certificate  
14 of revocation and mail a copy to the registered limited liability partnership or foreign  
15 limited liability partnership.

16 (h) A registered limited liability partnership or foreign limited liability partnership  
17 whose registration is revoked under this section may apply to the Secretary of State for  
18 reinstatement not later than five years after the effective date of the revocation. The  
19 procedures for reinstatement and for the appeal of any denial of the registered limited  
20 liability partnership or foreign limited liability partnership's application for reinstatement  
21 shall be the same procedures applicable to business corporations under G.S. 55-14-22,  
22 55-14-23, and 55-14-24."

23 Section 10. Chapter 59 of the General Statutes is amended by adding a new  
24 Article to read:

25 **"ARTICLE 4A.**

26 **"FOREIGN LIMITED LIABILITY PARTNERSHIPS.**

27 **"§ 59-90. Law governing foreign limited liability partnership.**

28 (a) The law of the state or jurisdiction under which a foreign limited liability  
29 partnership is formed governs relations among the partners and between the partners and  
30 the partnership and the liability of partners for obligations of the partnership.

31 (b) A foreign limited liability partnership may not be denied a statement of foreign  
32 registration by reason of any difference between the law under which the partnership was  
33 formed and the law of this State.

34 (c) A statement of foreign registration does not authorize a foreign limited liability  
35 partnership to engage in any business or exercise any power that a partnership may not  
36 engage in or exercise in this State as a registered limited liability partnership.

37 **"§ 59-91. Statement of foreign registration.**

38 (a) Before transacting business in this State, a foreign limited liability partnership  
39 must file an application for registration as a foreign limited liability partnership. The  
40 application must contain:

41 (1) The name of the foreign limited liability partnership that satisfies the  
42 requirements of the State or other jurisdiction under whose law it is  
43 formed and ends with the words "registered limited liability



1 partnership" or "limited liability partnership" or the abbreviation  
2 "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

3 (2) The street address of the partnership's principal office.

4 (3) The name and street address, and the mailing address if different from  
5 the street address, for the partnership's registered agent and registered  
6 office for service of process, and the county in which the registered  
7 office is located.

8 (4) A brief statement of the business in which the partnership is engaged.

9 (5) A deferred effective date, if any.

10 (6) The fiscal year end of the partnership.

11 The foreign limited liability partnership shall deliver with the completed application a  
12 certificate of existence, or a document with similar import, duly authenticated by the  
13 secretary of state or other official having custody of the records of registered limited  
14 liability partnerships in the state or country under whose law it is registered.

15 (b) The registered agent of a foreign limited liability partnership for service of  
16 process must be (i) an individual who is a resident of this State and whose business office  
17 is identical with the registered office; (ii) a domestic corporation, nonprofit corporation,  
18 or limited liability company whose business office is identical with the registered office;  
19 or (iii) a foreign corporation, nonprofit corporation, or limited liability company  
20 authorized to transact business in this State whose business office is identical with the  
21 registered office. The sole duty of the registered agent to the foreign limited liability  
22 partnership is to forward to the foreign limited liability partnership at its last known  
23 address any notice, process, or demand that is served on the registered agent.

24 (c) An application for registration as a foreign limited liability partnership must  
25 be accompanied by a fee of one hundred twenty-five dollars (\$125.00).

26 (d) The Secretary of State shall register a partnership that submits a completed  
27 application for registration as a foreign limited liability partnership with the required fee.

28 (e) The status of a partnership as a foreign limited liability partnership is effective  
29 on the later of the date the registration is filed or a date specified in the statement. The  
30 status remains effective, regardless of changes in the partnership, until it is voluntarily  
31 withdrawn by filing with the Secretary of State a written withdrawal notice executed by  
32 one or more partners or revoked pursuant to G.S. 59-84.4(f).

33 (f) An amendment or withdrawal of a registration is effective on the later of the  
34 date it is filed or a deferred effective date specified in the amendment or withdrawal.

35 (g) An application for registration as a foreign limited liability partnership must be  
36 executed by one or more partners.

37 (h) A foreign limited liability partnership authorized to transact business in this  
38 State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and  
39 revocation of registration.

40 **"§ 59-92. Effect of failure to register.**

41 (a) A foreign limited liability partnership transacting business in this State may not  
42 maintain an action or proceeding in this State unless it has in effect a registration as a  
43 foreign limited liability partnership.

1       (b) The failure of a foreign limited liability partnership to have in effect a  
2 registration as a foreign limited liability partnership does not impair the validity of a  
3 contract or act of the foreign limited liability partnership or preclude it from defending an  
4 action or proceeding in this State.

5       (c) A limitation on personal liability of a partner is not waived solely by  
6 transacting business in this State without a registration as a foreign limited liability  
7 partnership.

8       (d) A foreign limited liability partnership failing to register as a foreign limited  
9 liability partnership as required by this Article shall be liable to the State for the years or  
10 parts thereof during which it transacted business in this State without having registered in  
11 an amount equal to all fees and taxes which would have been imposed by law upon the  
12 foreign limited liability partnership had it duly applied for and received such permission,  
13 plus interest and all penalties imposed by law for failure to pay such fees and taxes. In  
14 addition, the foreign limited liability partnership shall be liable for a civil penalty of ten  
15 dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000)  
16 for each year or part thereof, it transacts business in this State without having registered.  
17 The Attorney General may bring actions to recover all amounts due the State under the  
18 provisions of this subsection.

19 **"§ 59-93. Activities not constituting transacting business.**

20       (a) Without excluding other activities that may not constitute transacting business  
21 in this State, a foreign limited liability partnership shall not be considered to be  
22 transacting business in this State for the purposes of this Article by reason of carrying on  
23 in this State any one or more of the following activities:

- 24           (1) Maintaining or defending any action or suit or any administrative or  
25 arbitration proceeding or effecting the settlement thereof or the  
26 settlement of claims or disputes;
- 27           (2) Holding meetings of its partners or carrying on other activities  
28 concerning its internal affairs;
- 29           (3) Maintaining bank accounts or borrowing money in this State, with or  
30 without security, even if such borrowings are repeated and continuous  
31 transactions;
- 32           (4) Maintaining offices or agencies for the transfer, exchange, and  
33 registration of the partnership's own securities, or appointing and  
34 maintaining trustees or depositories with relation to those securities;
- 35           (5) Soliciting or procuring orders, whether by mail or through employees or  
36 agents or otherwise, where the orders require acceptance without this  
37 State before becoming binding contracts;
- 38           (6) Making or investing in loans with or without security including  
39 servicing of mortgages or deeds of trust through independent agencies  
40 within the State, the conducting of foreclosure proceedings and sales,  
41 the acquiring of property at foreclosure sale, and the management and  
42 rental of such property for a reasonable time while liquidating its

1 investment, provided no office or agency therefor is maintained in this  
2 State;

3 (7) Taking security for or collecting debts due to it or enforcing any rights  
4 in property securing the same;

5 (8) Transacting business in interstate commerce;

6 (9) Conducting an isolated transaction completed within a period of six  
7 months and not in the course of a number of repeated transactions of  
8 like nature;

9 (10) Selling through independent contractors; and

10 (11) Owning, without more, real or personal property.

11 (b) This section does not apply in determining the contacts or activities that may  
12 subject a foreign limited liability partnership to service of process, taxation, or regulation  
13 under any other law of this State.

14 **"§ 59-94. Action by Attorney General.**

15 The Attorney General may maintain an action to restrain a foreign limited liability  
16 partnership from transacting business in this State in violation of this Article."

17 Section 11. G.S. 59-102 reads as rewritten:

18 **"§ 59-102. Definitions.**

19 As used in this Article, unless the context otherwise requires:

20 (1) 'Business' means any lawful trade, investment, or other purpose or  
21 activity, whether or not the trade, investment, purpose, or activity is  
22 carried on for profit.

23 ~~(4)~~(1a) 'Certificate of limited partnership' means the certificate referred to in  
24 G.S. 59-201, and the certificate as amended.

25 (2) 'Conformed copy' shall include a photostatic or other photographic copy  
26 of the original document.

27 (3) 'Contribution' means any cash, property, services rendered, or a  
28 promissory note or other binding obligation to contribute cash or  
29 property or to perform services, which a partner contributes to a limited  
30 partnership in his capacity as a partner.

31 (4) 'Event of withdrawal of a general partner' means an event that causes a  
32 person to cease to be a general partner as provided in G.S. 59-402.

33 (5) 'Foreign limited partnership' means a partnership formed under the laws  
34 of any state, province, country, or other jurisdiction other than this State  
35 and having as partners one or more general partners and one or more  
36 limited partners.

37 (6) 'General partner' means a person who has been admitted to a limited  
38 partnership as a general partner in accordance with the partnership  
39 agreement and named in the certificate of limited partnership as a  
40 general partner.

41 (7) 'Limited partner' means a person who has been admitted to a limited  
42 partnership as a limited partner in accordance with the partnership  
43 agreement.

- 1 (8) 'Limited partnership' and 'domestic limited partnership' mean a  
2 partnership formed by two or more persons under the laws of this State  
3 and having one or more general partners and one or more limited  
4 partners.
- 5 (9) 'Partner' means a limited or general partner.
- 6 (10) 'Partnership agreement' means any valid ~~agreement, written or oral,~~  
7 agreement of the partners as to the affairs of a limited ~~partnership and~~  
8 partnership, the conduct of its ~~business.~~ business, and the responsibilities  
9 and rights of its partners. The term 'partnership agreement' includes any  
10 written or oral agreement, whether or not the agreement is set forth in a  
11 document referred to by the partners as a 'partnership agreement', and  
12 includes any amendment agreed upon by the partners unanimously or in  
13 accordance with the terms of the agreement. The term also includes any  
14 agreement of the partners to waive or revise the terms of the partnership  
15 agreement in one or more specific instances and not necessarily on an  
16 ongoing or permanent basis.
- 17 (11) 'Partnership interest' means a partner's share of the allocations of  
18 income, gain, loss, deduction or credit of a limited partnership and the  
19 right to receive distributions of cash or other partnership assets.
- 20 (12) 'Person' means a natural person, partnership, limited partnership  
21 (domestic or foreign), trust, estate, association, or corporation.
- 22 (13) 'State' means a state, territory, or possession of the United States, the  
23 District of Columbia, or the Commonwealth of Puerto Rico."

24 Section 12. G.S. 59-106(a)(5) reads as rewritten:

- 25 "(5) ~~Unless contained in a written partnership agreement:~~ A written record  
26 that contains:
- 27 a. The amount of cash and a description and statement of the  
28 agreed value of the other property or services contracted by each  
29 partner and which each partner has agreed to contribute;
- 30 b. The times at which or events on the happening of which any  
31 additional contributions agreed to be made by each partner are to  
32 be made;
- 33 c. Any right of a partner to receive distribution of property,  
34 including cash from the limited partnership; and
- 35 d. Events upon the happening of which the limited partnership is to  
36 be dissolved and its affairs wound up.

37 The written record required pursuant to this subdivision may be part of a  
38 written partnership agreement or may be contained in one or more other  
39 documents or records."

40 Section 13. G.S. 59-107 reads as rewritten:

41 "**§ 59-107. Nature of business.**

42 A limited partnership may be formed for and carry on any lawful business ~~that a~~  
43 ~~partnership without limited partners may carry on.~~ business."

1 Section 14. G.S. 59-205 reads as rewritten:

2 **"§ 59-205. ~~Amendment or cancellation~~ Execution by judicial act.**

3 If a person ~~required by G.S. 59-204 to execute a certificate of amendment or~~  
4 ~~cancellation~~ fails or refuses to ~~do so,~~ execute a certificate pursuant to G.S. 59-204, any  
5 other partner, ~~and any assignee of a partnership interest,~~ person who is adversely affected  
6 by the failure or refusal, may petition the court for the county in which the partnership's  
7 registered office is located to direct the ~~amendment or cancellation.~~ execution of the  
8 certificate. If the court finds that ~~the amendment or cancellation is proper~~ it is proper for  
9 the certificate to be executed and that any person so designated has failed or refused to  
10 execute the certificate, it shall order an appropriate person to prepare, and the Secretary  
11 of State to ~~record~~ record, an appropriate ~~certificate of amendment or cancellation~~  
12 certificate."

13 Section 15. G.S. 59-206(a)(5) reads as rewritten:

14 "(5) The certificate required by subdivision (3a) of this section ~~subsection~~  
15 shall be recorded by the register of deeds in the same manner as deeds,  
16 and for the same fees, but no formalities as to acknowledgement,  
17 probate, or approval by any other officer shall be required. The former  
18 name of the limited partnership holding title to the real property before  
19 the amendment shall appear in the 'Grantor' index, and the amended  
20 name of the limited partnership holding title to the real property by  
21 virtue of the amendment shall appear in the 'Grantee' index."

22 Section 16. G.S. 59-301 reads as rewritten:

23 **"§ 59-301. Admission of ~~additional~~ limited partners.**

24 (a) In connection with the formation of a limited partnership, a person is admitted  
25 as a limited partner upon the later to occur of:

26 (1) The formation of the limited partnership; or

27 (2) The time provided for becoming a limited partner pursuant to and upon  
28 compliance with the partnership agreement.

29 (b) After the ~~filing~~ formation of a limited partnership's original certificate of limited  
30 partnership, a person may be admitted as an additional limited partner:

31 (1) In the case of a person acquiring a partnership interest directly from the  
32 limited partnership, at the time provided pursuant to, and upon the  
33 compliance with ~~with,~~ the partnership agreement, or, if the partnership  
34 agreement does not so provide, upon the written consent of all partners;  
35 agreement; and

36 (2) In the case of an assignee of a partnership interest of a partner who has  
37 the power, as provided in G.S. 59-704, to grant the assignee the right to  
38 become a limited partner, upon the exercise of that power and  
39 compliance with any conditions limiting the grant or exercise of the  
40 power."

41 Section 17. G.S. 59-302 reads as rewritten:

42 **"§ 59-302. Voting.**

1 Subject to G.S. 59-303, the The partnership agreement may grant to all or a specified  
2 group of the limited partners the right to vote (on a per capita or other basis) upon any  
3 matter."

4 Section 18. G.S. 59-303 reads as rewritten:

5 "**§ 59-303. Liability to third parties.**

6 (a) ~~Except as provided in subsection (d), a limited partner is not bound by the~~  
7 ~~obligations of a limited partnership unless he is also a general partner or, in addition to~~  
8 ~~the exercise of his rights and powers as a limited partner, he takes part in the control of~~  
9 ~~the business. However, if the limited partner's participation in the control of the business~~  
10 ~~is not substantially the same as the exercise of the powers of a general partner, he is liable~~  
11 ~~only to persons who transact business with the limited partnership with actual knowledge~~  
12 ~~of his participation in control.~~

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

15 (1) ~~Being a contractor for or an agent or employee of the limited~~  
16 ~~partnership or of a general partner, or an officer, director, or shareholder~~  
17 ~~of a corporate general partner;~~

18 (2) ~~Consulting with and advising a general partner with respect to the~~  
19 ~~business of the limited partnership;~~

20 (3) ~~Acting as surety for the limited partnership;~~

21 (4) ~~Proposing, approving or disapproving an amendment to the partnership~~  
22 ~~agreement;~~

23 (5) ~~Proposing or voting on one or more of the following matters:~~

24 a. ~~The dissolution and winding up of the limited partnership;~~

25 b. ~~The sale, exchange, lease, mortgage, pledge, or other transfer of~~  
26 ~~all or substantially all of the assets of the limited partnership~~  
27 ~~other than in the ordinary course of its business;~~

28 c. ~~The incurrence of indebtedness by the limited partnership other~~  
29 ~~than in the ordinary course of its business;~~

30 d. ~~A change in the nature of the business; or~~

31 e. ~~The addition, removal or substitution of general partners;~~

32 (6) ~~Bringing an action in the right of a limited partnership to recover a~~  
33 ~~judgment in its favor pursuant to Part 10 of this Article;~~

34 (7) ~~Approving or disapproving a transaction involving an actual or potential~~  
35 ~~conflict of interest between a general partner and the limited~~  
36 ~~partnership; or~~

37 (8) ~~Requesting or attending a meeting of partners.~~

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

41 (d) ~~A limited partner who knowingly permits his name to be used in the name of~~  
42 ~~the limited partnership, except under circumstances permitted by G.S. 59-103(b)(i), is~~

1 liable to creditors who extend credit to the limited partnership without actual knowledge  
2 that the limited partner is not a general partner.

3 A limited partner is not liable for the obligations of a limited partnership by reason of  
4 being a limited partner and does not become liable for the obligations of a limited  
5 partnership by participating in the management or control of the business of the limited  
6 partnership."

7 Section 19. G.S. 59-304 reads as rewritten:

8 **"§ 59-304. Person erroneously believing himself limited partner.**

9 (a) Except as provided in subsection (b), a person who makes a contribution to a  
10 business enterprise and erroneously but in good faith believes that ~~he~~the person has  
11 become a limited partner in the enterprise is not a general partner in the enterprise and is  
12 not bound by its obligations by reason of making the contribution, receiving distributions  
13 from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the  
14 mistake, he:

15 (1) Causes an appropriate certificate of limited partnership or certificate of  
16 amendment to be executed and filed; or

17 (2) Withdraws from future equity participation in the enterprise.

18 (b) A person who makes a contribution of the kind described in subsection (a) of  
19 this section is liable as a general partner to any third party who transacts business with the  
20 enterprise ~~(i) before the person withdraws from the enterprise, or (ii) before the person gives~~  
21 ~~notice to the partnership of his withdrawal from future equity participation, but only if the third~~  
22 ~~party actually believed in good faith that the person was a general partner at the time of the~~  
23 ~~transaction.~~ in the case in which:

24 (1) The third party actually believed in good faith that the person was a  
25 general partner at the time of the transaction; and

26 (2) The third party transacted business with the enterprise before either:

27 a. An appropriate certificate has been filed pursuant to subsection  
28 (a) of this section to reflect that the person is not a general  
29 partner; or

30 b. The person has given notice to the partnership of withdrawal  
31 from future equity participation and before the withdrawal was  
32 effective."

33 Section 20. G.S. 59-305 reads as rewritten:

34 **"§ 59-305. Information.**

35 Each limited partner has the right to:

36 (1) Inspect and copy any of the partnership records required to be  
37 maintained by G.S. 59-106; and

38 (2) Obtain from the general partners from time to time upon reasonable  
39 demand (i) true and full information regarding the state of the business  
40 and financial condition of the limited partnership, (ii) promptly after  
41 becoming available, a copy of the limited partnership's federal, State,  
42 and local income tax returns for each year, and (iii) other information  
43 regarding the affairs of the limited partnership as is just and reasonable."

1 Section 21. G.S. 59-402(4) reads as rewritten:

2 "(4) Unless otherwise provided in writing in the partnership agreement, the  
3 general partner: (i) makes an assignment for the benefit of creditors; (ii)  
4 files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or  
5 insolvent; (iv) files a petition or answer seeking for himself any  
6 reorganization, arrangement, composition, readjustment, liquidation,  
7 dissolution, or similar relief under any statute, law, or regulation; (v)  
8 files an answer or other pleading admitting or failing to contest the  
9 material allegations of a petition filed against ~~him~~ the general partner in  
10 any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in  
11 the appointment of a trustee, receiver, or liquidator of the general  
12 partner or of all or any substantial part of ~~his~~ the general partner's  
13 properties;"

14 Section 22. G.S. 59-402(5) reads as rewritten:

15 "(5) Unless otherwise provided in writing in the partnership agreement, 120  
16 days after the commencement of any proceeding against the general  
17 partner seeking reorganization, arrangement, composition, readjustment,  
18 liquidation, dissolution, or similar relief under any statute, law, or  
19 regulation, the proceeding has not been dismissed, or if within 90 days  
20 after the appointment without ~~his~~ the general partner's consent or  
21 acquiescence of a trustee, receiver, or liquidator of the general partner or  
22 of all or any substantial part of his properties, the appointment is not  
23 vacated or stayed, or within 90 days after the expiration of any such  
24 stay, the appointment is not vacated;"

25 Section 23. G.S. 59-502(a) reads as rewritten:

26 "(a) Except as provided in the ~~agreement of limited partnership,~~ partnership  
27 agreement, a partner is obligated to the limited partnership to perform any enforceable  
28 promise to contribute cash or property or to perform services, even if ~~he~~ the partner is  
29 unable to perform because of death, disability or any other reason. If a partner does not  
30 make the required contribution of property or services, ~~he~~ the partner is obligated at the  
31 option of the limited partnership to contribute cash equal to that portion of the agreed  
32 value of the stated contribution that has not been made. As used in this section, the term  
33 'agreed value' means an amount or other measure of value as (i) is provided in the  
34 partnership agreement, or (ii) if not provided in the partnership agreement, is required to  
35 be set forth in the written records required pursuant to G.S. 59-106."

36 Section 24. G.S. 59-503 reads as rewritten:

37 "**§ 59-503. Sharing income, gain, loss, deduction or credit.**

38 ~~Allocation of the income,~~ Income, gain, loss, deduction or credit of a limited  
39 partnership shall be allocated among the partners, and among classes of partners, in the  
40 manner provided in the partnership agreement. ~~If the partnership agreement does not so~~  
41 provide in writing, items of income, gain, loss, deduction or credit shall be allocated on the basis  
42 of the value of the contributions made by each partner to the extent they have been received by  
43 the partnership and have not been returned. ~~To the extent the partnership agreement does not~~



1 provide for the allocation of items of income, gain, loss, deduction, or credit, then those  
2 items shall be allocated on the basis of the agreed value of the contributions made by  
3 each partner to the extent they have been received by the partnership and have not been  
4 returned. As used in this section, the term 'agreed value' means an amount or other  
5 measure of value as (i) is provided in the partnership agreement, or (ii) if not  
6 provided in the partnership agreement, is required to be set forth in the written records  
7 required pursuant to G.S. 59-106."

8 Section 25. G.S. 59-504 reads as rewritten:

9 **"§ 59-504. Sharing of distributions.**

10 Distributions of cash or other assets of a limited partnership shall be made among the  
11 partners, and among classes of partners, in the manner provided in the partnership  
12 agreement. ~~If the partnership agreement does not so provide in writing, distributions shall be~~  
13 ~~made on the basis of the value of the contributions made by each partner to the extent they have~~  
14 ~~been received by the partnership and have not been returned.~~ To the extent the partnership  
15 agreement does not provide for the sharing of distributions among the partners,  
16 distributions shall be made among the partners on the basis of the agreed value of the  
17 contributions made by each partner to the extent they have been received by the  
18 partnership and have not been returned. As used in this section, the term 'agreed value'  
19 means an amount or other measure of value as (i) is provided in the partnership  
20 agreement, or (ii) if not provided in the partnership agreement, is required to be set forth  
21 in the written records required pursuant to G.S. 59-106."

22 Section 26. G.S. 59-602 reads as rewritten:

23 **"§ 59-602. Withdrawal of general partner.**

24 After filing of the original certificate of limited ~~partnership~~ partnership, a general  
25 partner may withdraw from a limited partnership at any time by giving written notice to  
26 the other partners, but if the withdrawal violates the partnership agreement, the limited  
27 partnership may recover from the withdrawing general partner, in addition to its other  
28 remedies, ~~and any damages for breach of the partnership agreement.~~ agreement and may  
29 offset the damages against the amount otherwise distributable or payable to the partner."

30 Section 27. G.S. 59-603 reads as rewritten:

31 **"§ 59-603. Withdrawal of limited partner.**

32 A limited partner may withdraw from a limited partnership only at the time or upon  
33 the happening of events specified in writing in and in accordance with the partnership  
34 ~~agreement.~~ agreement, including any amendment or addendum to the partnership  
35 agreement agreed upon by the partners unanimously or in accordance with the terms of  
36 the agreement and made in connection with any permitted withdrawal. If the partnership  
37 agreement does not specify in writing the time or the events upon the happening of which  
38 a limited partner may withdraw, ~~a limited partner may not withdraw prior to the~~  
39 ~~or a definite time for the dissolution and winding up of the limited partnership, a limited~~  
40 ~~partner may withdraw upon not less than six months prior written notice to each general partner~~  
41 ~~at his address on the books of the limited partnership at its registered office in this State.~~  
42 partnership."

43 Section 28. G.S. 59-604 reads as rewritten:

1 **"§ 59-604. Distribution upon withdrawal.**

2 Except as provided in this Article, upon withdrawal any withdrawing partner is  
3 entitled to receive any distribution to which ~~he—the partner~~ is entitled under the  
4 partnership agreement and, if not otherwise provided in the agreement, ~~he—the partner~~ is  
5 entitled to receive, within a reasonable time after withdrawal, the fair value of ~~his—the~~  
6 partner's partnership interest in the limited partnership as of the date of withdrawal.  
7 withdrawal, based upon the partner's right to share in distributions from the limited  
8 partnership."

9 Section 29. G.S. 59-606 reads as rewritten:

10 **"§ 59-606. Right to distribution.**

11 Subject to the other provisions of Part 6 of this Article, at the time a partner becomes  
12 entitled to receive a distribution, ~~he—the partner~~ has the status of, and is entitled to all  
13 remedies available to, a creditor of the limited partnership with respect to the  
14 distribution."

15 Section 30. G.S. 59-608(c) reads as rewritten:

16 "(c) A partner receives a return of ~~his—the partner's~~ contribution to the extent that a  
17 distribution to ~~him—the partner~~ reduces ~~his—the partner's~~ share of the fair value of the net  
18 assets of the limited partnership below the agreed value of ~~his—the partner's~~ contribution  
19 which has not been distributed to ~~him—the partner~~. As used in this section, the term  
20 'agreed value' means an amount or other measure of value as (i) is provided in the  
21 partnership agreement, or (ii) if not provided in the partnership agreement, is required to  
22 be set forth in the written records required pursuant to G.S. 59-106."

23 Section 31. G.S. 59-702 reads as rewritten:

24 **"§ 59-702. Assignment of partnership interest.**

25 Except as provided in the partnership agreement, a partnership interest is assignable in  
26 whole or in part. Subject to G.S. 59-801(3) an assignment of a partnership interest  
27 does not dissolve a limited partnership or entitle the assignee to become or to exercise  
28 any rights of a partner. An assignment entitles the assignee to receive, to the extent  
29 assigned, only the allocation and distribution to which the assignor would be entitled.  
30 Except as provided in the partnership agreement, a ~~limited partner shall continue to be a~~  
31 ~~limited partner after assignment of all or any part of his partnership interest. Except as provided~~  
32 ~~in the partnership agreement, a general partner ceases to be a general partner and to have the~~  
33 power to exercise any rights and powers of a partner upon assignment of all ~~his—of the~~  
34 partner's partnership interest. Except as provided in the partnership agreement, neither  
35 the pledge or granting of a security interest in any or all of the partnership interest of a  
36 partner nor the pledge or granting of a lien or other encumbrance against any or all of the  
37 partnership interest of a partner shall cause the partner to cease to be a partner or cease to  
38 have the power to exercise any rights or powers of a partner."

39 Section 32. G.S. 59-704(b) reads as rewritten:

40 "(b) An assignee who has become a limited partner has, to the extent assigned, the  
41 rights and powers, and is subject to the restrictions and liabilities, of a limited partner  
42 under the partnership agreement and this Article. An assignee who becomes a limited  
43 partner also is liable for the obligations of ~~his—the assignee's~~ assignor to make and return

1 contributions as provided in ~~Part~~ Parts 5 and 6 of this Article. However, the assignee is  
2 not obligated for liabilities that (i) are unknown to the assignee at the time he-the assignee  
3 became a limited partner and which-(ii) could not be ascertained from the written  
4 provisions of the partnership agreement."

5 Section 33. G.S. 59-801 reads as rewritten:

6 **"§ 59-801. Nonjudicial dissolution.**

7 (a) A limited partnership is dissolved and its affairs shall be wound up upon the  
8 happening of the first to occur of the following:

9 (1) At the time specified in the certificate of limited partnership or upon the  
10 happening of events specified in writing in the partnership agreement;

11 (2) Written consent of all partners;

12 (3) An event of withdrawal of a general partner unless-at-unless:

13 a. At the time there is at least one other general partner-and the  
14 written provisions of the partnership agreement permit-partner, in  
15 which case, unless otherwise provided in a written partnership  
16 agreement or agreed upon by all remaining partners, (i) the  
17 limited partnership is not dissolved, (ii) the limited partnership  
18 shall not be wound up, and (iii) the business of the limited  
19 partnership to-be carried on-shall be continued by the remaining  
20 general partner and that partner does so, but the limited partnership is  
21 not dissolved and is not required to be wound up by reason of any  
22 event of withdrawal if, within-partners; or

23 b. Within 90 days after the withdrawal, all remaining partners  
24 partners, or a lesser number or portion of the partners provided in  
25 the partnership agreement, agree in writing to continue the  
26 business of the limited partnership and to the appointment of one  
27 or more additional general partners if necessary or desired;-or  
28 desired, in which case the limited partnership is not dissolved and  
29 is not required to be wound up by reason of the event of  
30 withdrawal;

31 (3a) Ninety days after the withdrawal of the limited partnership's last limited  
32 partner, unless the limited partnership admits at least one limited partner  
33 before the end of the 90 days; or

34 (4) Entry of a decree of judicial dissolution under G.S. 59-802.

35 (b) The causes of dissolution of a limited partnership shall be governed solely by  
36 this Article. Article 2 of this Chapter, which governs the causes of dissolution of a  
37 partnership without limited partners, does not apply and shall not govern the causes of  
38 dissolution of a limited partnership."

39 Section 34. G.S. 59-901 reads as rewritten:

40 **§ 59-901. Law governing.**

41 Subject to the Constitution of this State, (+) (i) the laws of the jurisdiction under  
42 which a foreign limited partnership is organized govern its organization and internal  
43 affairs and the liability of its limited-partners, and (2)-(ii) a foreign limited partnership

1 may not be denied registration by reason of any difference between those laws and the  
2 laws of this State."

3 Section 35. G.S. 59-903 reads as rewritten:

4 **"§ 59-903. Issuance of registration.**

5 (a) If the Secretary of State finds that an application satisfies the requirements of  
6 this Article, the Secretary shall, when all requisite fees have been tendered as in this  
7 Article prescribed:

8 (1) Endorse on the application the word 'filed', and the hour, day, month  
9 and year of the filing thereof;

10 (2) File in the office of the Secretary of State the application;

11 (3) Issue a certificate of authority to transact business in this State to which  
12 the Secretary shall affix the conformed copy of the application; and

13 (4) Send to the foreign limited partnership or its representative the  
14 certificate of authority, together with the conformed copy of the  
15 application affixed thereto."

16 Section 36. G.S. 59-907(e) reads as rewritten:

17 (e) A limited partner of a foreign limited partnership is not liable as a general  
18 partner of the foreign limited partnership solely by reason of the foreign limited  
19 partnership's having transacted business in this State without registration."

20 Section 37. G.S. 59-1002 reads as rewritten:

21 **"§ 59-1002. Proper plaintiff.**

22 In a derivative action, the plaintiff must be a partner at the time of bringing the action  
23 and ~~(1)~~ (i) must have been a partner at the time of the transaction of which he complains  
24 that is the subject of the complaint or (2) his (ii) the plaintiff's status as a partner had must  
25 have devolved upon him the partner by operation of law or pursuant to the terms of the  
26 partnership agreement from a person who was a partner at the time of the transaction."

27 Section 38. Sections 2, 3, and 5 become effective October 1, 1999, and apply  
28 to liabilities arising on or after that date. Section 4 becomes effective January 1, 2000.  
29 Sections 6, 7, and 8 become effective January 1, 2000, and apply to registered limited  
30 liability partnerships existing on or after that date. Section 9 becomes effective January  
31 1, 2000, and applies to registered limited liability partnerships and foreign limited  
32 liability partnerships whose fiscal year ends on or after that date. Section 10 becomes  
33 effective January 1, 2000, and applies to foreign limited liability partnerships transacting  
34 business in this State on or after that date, except that any foreign limited liability  
35 partnership that, as of that effective date, was already registered with the Secretary of  
36 State as a registered limited liability partnership shall not be required to register anew as  
37 a foreign limited liability partnership under G.S. 59-91. Section 27 becomes effective  
38 October 1, 1999, and applies to (i) any limited partnership formed before that date, only if  
39 validly adopted in writing by its partners or otherwise as a part of its partnership  
40 agreement, and (ii) all limited partnerships formed on or after that date. The remainder of  
41 this act becomes effective October 1, 1999.