

By the Committee on Judiciary and Senator Silver

308-2055-99

1                                   A bill to be entitled  
2           An act relating to partnership filings  
3           administered by the Department of State;  
4           amending s. 620.8101, F.S.; defining the terms  
5           "foreign limited liability partnership" and  
6           "limited liability partnership" and redefining  
7           the term "statement"; amending ss. 620.8103,  
8           620.8105, 620.81055, 620.8106, 620.8201,  
9           620.8303, 620.8304, 620.8306, 620.8307,  
10          620.8701, 620.8702, 620.8703, 620.8704,  
11          620.8801, 620.8805, 620.8806, 620.8807,  
12          620.8903, 620.8904, 620.8906, 620.8907, F.S.;  
13          conforming statutory cross-references;  
14          providing for registration requirements;  
15          providing document filing fees; providing for  
16          governing law; providing for partners'  
17          liability; providing for actions for and  
18          against partners; providing for purchase of  
19          dissociated interests; providing for settlement  
20          and contribution; providing for conversions;  
21          providing for the effect of merger; creating  
22          ss. 620.9001, 620.9002, 620.9003, 620.9101,  
23          620.9102, 620.9103, 620.9104, 620.9105,  
24          620.187, F.S.; adopting the model act  
25          provisions of the limited liability partnership  
26          act into the Revised Uniform Partnership Act of  
27          1995; providing for statement of qualification,  
28          name, annual report, statement of foreign  
29          qualification, effect of failure to qualify,  
30          activities not constituting transacting  
31          business, action by Attorney General, and

1 limited liability limited partnerships;  
2 amending s. 865.09, F.S.; requiring  
3 reregistration of a fictitious name upon  
4 relocation of a business; providing for  
5 conditions for exemption from fictitious name  
6 registration; providing for the use of  
7 corporate names; redesignating s. 620.90, F.S.,  
8 as s. 620.9901, F.S., relating to  
9 applicability; redesignating s. 620.91, F.S.,  
10 as s. 620.9902, F.S., relating to a saving  
11 clause; repealing ss. 620.78, 620.781, 620.782,  
12 620.783, 620.784, 620.7851, 620.786, 620.787,  
13 620.788, 620.7885, 620.7887, 620.789, F.S.,  
14 relating to registered limited liability  
15 partnerships; providing for a waiver of  
16 protection from liability of the partners in  
17 certain limited liability partnerships;  
18 providing limitations on the amount of such  
19 liability; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Section 620.8101, Florida Statutes, is  
24 amended to read:

25 620.8101 Definitions.--As used ~~provided~~ in this act,  
26 the term:

27 (1) "Act" means the Revised Uniform Partnership Act of  
28 1995, consisting of ss. 620.81001-620.9902 ~~ss.~~  
29 ~~620.81001-620.8908~~.

30 (2) "Business" means any trade, occupation,  
31 profession, or investment activity.

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

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

6           (b) A comparable order under federal or state law  
7 governing insolvency.

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

11           (5) "Foreign limited liability partnership" means a  
12 partnership that is formed under laws other than the laws of  
13 this state and has the status of a limited liability  
14 partnership under those laws.

15           (6) "Limited liability partnership" means a  
16 partnership that has filed a statement of qualification under  
17 s. 620.9001 and has not filed a similar statement in any other  
18 jurisdiction.

19           ~~(7)(5)~~ "Partnership" means an association of two or  
20 more persons to carry on as coowners a business for profit  
21 formed under s. 620.8202, predecessor law, or the comparable  
22 law of another jurisdiction.

23           ~~(8)(6)~~ "Partnership agreement" means an agreement,  
24 whether written, oral, or implied, among the partners  
25 concerning the partnership, including amendments to the  
26 partnership agreement.

27           ~~(9)(7)~~ "Partnership at will" means a partnership in  
28 which the partners have not agreed to remain partners until  
29 the expiration of a definite term or the completion of a  
30 particular undertaking.

31

1           (10)~~(8)~~ "Partnership interest" or "partner's interest  
2 in the partnership" means all of a partner's interests in the  
3 partnership, including the partner's transferable interest and  
4 all management and other rights.

5           (11)~~(9)~~ "Person" means an individual, corporation,  
6 business trust, estate, trust, partnership, limited  
7 partnership, association, joint venture, limited liability  
8 company, government, governmental subdivision, agency, or  
9 instrumentality, or any other legal or commercial entity.

10           (12)~~(10)~~ "Property" means all property, real,  
11 personal, or mixed, tangible or intangible, or any interest  
12 therein.

13           (13)~~(11)~~ "Registration" or "registration statement"  
14 means a partnership registration statement filed with the  
15 Department of State under s. 620.8105.

16           (14)~~(12)~~ "State" means a state of the United States,  
17 the District of Columbia, the Commonwealth of Puerto Rico, or  
18 any territory or insular possession subject to the  
19 jurisdiction of the United States.

20           (15)~~(13)~~ "Statement" means a statement of partnership  
21 authority under s. 620.8303, a statement of denial under s.  
22 620.8304, a statement of dissociation under s. 620.8704, a  
23 statement of dissolution under s. 620.8805, a statement of  
24 merger under s. 620.8907, a statement of qualification under  
25 s. 620.9001, a statement of foreign qualification under s.  
26 620.9102, or an amendment or cancellation of any of the  
27 foregoing.

28           (16)~~(14)~~ "Transfer" includes an assignment,  
29 conveyance, lease, mortgage, deed, or encumbrance.

30           Section 2. Subsection (2) of section 620.8103, Florida  
31 Statutes, is amended to read:

1           620.8103 Effect of partnership agreement; nonwaivable  
2 provisions.--  
3           (2) The partnership agreement may not:  
4           (a)~~1~~. Vary the rights and duties under s. 620.8105  
5 except to eliminate the duty to provide copies of statements  
6 to all of the partners;  
7           **(b) Vary the law applicable to a limited liability**  
8 **partnership under s. 620.8106(2);**  
9           (c)~~2~~. Unreasonably restrict the right of access to  
10 books and records under s. 620.8403(2) **or to information under**  
11 **s. 620.8403(3);**~~and (3); or~~  
12           (d)~~3~~. Eliminate the duty of loyalty under s.  
13 620.8404(2) or s. 620.8603(2)(c), but:  
14           1. The partnership agreement may identify specific  
15 types or categories of activities that do not violate the duty  
16 of loyalty, if not manifestly unreasonable;~~or~~  
17           2. All of the partners or a number or percentage  
18 specified in the partnership agreement may authorize or  
19 ratify, after full disclosure of all material facts, a  
20 specific act or transaction that otherwise would violate the  
21 duty of loyalty;  
22           (e)~~(b)~~ Unreasonably reduce the duty of care under s.  
23 620.8404(3) or s. 620.8603(2)(c);  
24           (f)~~(e)~~ Eliminate the obligation of good faith and fair  
25 dealing under s. 620.8404(4), but the partnership agreement  
26 may prescribe the standards by which the performance of the  
27 obligation is to be measured if the standards are not  
28 manifestly unreasonable;  
29           (g)~~(d)~~ Vary the power to dissociate as a partner under  
30 s. 620.8602(1), except to require the notice under s.  
31 620.8601(1) to be in writing;

1            (h)~~(e)~~ Vary the right of a court to expel a partner  
2 under the events specified in s. 620.8601(5);

3            (i)~~(f)~~ Vary the requirement to wind up the partnership  
4 business in cases specified in s. 620.8801(4), (5), or (6)~~s.~~  
5 ~~620.8601(4), (5), or (6)~~;

6            (j)~~(g)~~ Change the notice provisions contained in s.  
7 620.8902(6) or s. 620.8905(6); or

8            (k)~~(h)~~ Restrict rights of third parties under this  
9 act.

10           Section 3. Subsections (1), (4), (5), and (7) of  
11 section 620.8105, Florida Statutes, are amended to read:

12           620.8105 Execution, filing, and recording of  
13 partnership registration and other statements.--

14           (1) A partnership may file a partnership registration  
15 statement with the Department of State, which must include:

16           (a) The name of the partnership, which is ~~must be~~  
17 filed for purpose of public notice only and creates ~~shall~~  
18 ~~create~~ no presumption of ownership beyond that which is  
19 created under the common law and which shall be recorded by  
20 the Department of State without regard to any other name  
21 recordation.

22           (b) The street address of the chief executive office  
23 of the partnership and the street address of the principal  
24 office of the partnership in this state, if there is one.

25           (c)1. The names and mailing addresses of all partners  
26 of the partnership; or

27           2. The name and street address of an agent in this  
28 state appointed and maintained by the partnership, who shall  
29 maintain a list of the names and mailing addresses of all of  
30 the partners of the partnership and, on request for good cause  
31 shown, shall make the list available to any person at an

1 office open from at least 10 a.m. to 12 noon each day, except  
2 Saturdays, Sundays, and legal holidays.

3 (d) Pursuant to s. 119.092, the partnership's federal  
4 employer identification number.

5 (e) The name and recorded document number in this  
6 state of a partner or agent named pursuant to subparagraph  
7 (c)2. that is a person other than an individual.

8 (4) Except as provided in s. 620.8304 or s. 620.8704,  
9 a statement may be filed with the Department of State only if  
10 the partnership has filed a registration statement pursuant to  
11 subsection (1). If otherwise sufficient, a certified copy of  
12 a statement that is filed in a jurisdiction other than this  
13 state may be filed with the Department of State in lieu of an  
14 original statement. Any such filing has the effect provided  
15 in this act with respect to partnership property located in,  
16 or transactions that occur in, this state.

17 (5) A partnership registration statement or other  
18 statement must be delivered to the Department of State for  
19 filing, which may be accomplished by ~~include~~ electronic filing  
20 pursuant to s. 15.16 and must be typewritten or legibly  
21 printed in the English language.

22 (7) A partnership may amend or cancel its  
23 registration, and a person authorized by this act to file a  
24 statement of partnership authority, a statement of denial, a  
25 statement of dissociation, a statement of dissolution, a  
26 statement of merger, a statement of qualification, or a  
27 statement of foreign qualification may amend or cancel such  
28 ~~the~~ statement, by filing an amendment or cancellation that:

29 (a) Identifies the partnership and the statement being  
30 amended or canceled; and

31

1 (b) States the substance of what is being amended or  
2 canceled.

3 Section 4. Subsection (1) of section 620.81055,  
4 Florida Statutes, 1998 Supplement, is amended to read:

5 620.81055 Fees for filing documents and issuing  
6 certificates; powers of the Department of State.--

7 (1) The Department of State shall collect the  
8 following fees when documents authorized by this act are  
9 delivered to the Department of State for filing:

10 (a) Partnership registration statement: \$50.

11 (b) Statement of partnership authority: \$25.

12 (c) Statement of denial: \$25.

13 (d) Statement of dissociation: \$25.

14 (e) Statement of dissolution: \$25.

15 (f) Statement of qualification: \$25.

16 (g) Statement of foreign qualification: \$25.

17 (h) Limited liability partnership annual report: \$25.

18 (i)~~(f)~~ Statement of merger for each party thereto:  
19 \$25.

20 (j)~~(g)~~ Amendment to any statement or registration:  
21 \$25.

22 (k)~~(h)~~ Cancellation of any statement or registration:  
23 \$25.

24 (l)~~(i)~~ Certified copy of any recording or part  
25 thereof: \$52.50.

26 (m)~~(j)~~ Certificate of status: \$8.75.

27 (n)~~(k)~~ Any other document required or permitted to be  
28 filed by this act: \$25.

29 Section 5. Section 620.8106, Florida Statutes, is  
30 amended to read:

31 620.8106 Governing law ~~governing internal relations~~.--



1           (1) Except as otherwise provided in subsection (2),  
2 the law of the jurisdiction in which a partnership has its  
3 chief executive office governs relations among partners and  
4 between the partners and a partnership.

5           (2) The law of this state governs relations among the  
6 partners and between the partners and the partnership and the  
7 liability of partners for an obligation of a limited liability  
8 partnership.

9           Section 6. Section 620.8201, Florida Statutes, is  
10 amended to read:

11           620.8201 Partnership as entity.--

12           (1) A partnership is an entity distinct from its  
13 partners.

14           (2) A limited liability partnership continues to be  
15 the same entity that existed before the filing of a statement  
16 of qualification under s. 620.9001.

17           Section 7. Subsection (2) of section 620.8303, Florida  
18 Statutes, is amended to read:

19           620.8303 Statement of partnership authority.--

20           (2) If a filed statement of partnership authority is  
21 executed pursuant to s. 620.8105(6)~~s. 620.8105(3)~~ and states  
22 the name of the partnership but does not contain all of the  
23 other information required by subsection (1), the statement  
24 nevertheless operates with respect to a person not a partner  
25 as provided in subsections (3) and (4).

26           Section 8. Subsection (3) of section 620.8304, Florida  
27 Statutes, is amended to read:

28           620.8304 Statement of denial.--

29           (3) A statement of denial is a limitation on authority  
30 as provided in s. 620.8303(3) and (4)~~s. 620.8303(5) and (6)~~.

31

1           Section 9. Section 620.8306, Florida Statutes, is  
2 amended to read:

3           620.8306 Partner's liability.--

4           (1) Except as otherwise provided in subsections (2)  
5 and (3)~~subsection (2)~~, all partners are liable jointly and  
6 severally for all obligations of the partnership unless  
7 otherwise agreed by a claimant or provided by law.

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

12           (3) An obligation of a partnership incurred while the  
13 partnership is a limited liability partnership, whether  
14 arising in contract, tort, or otherwise, is solely the  
15 obligation of the partnership. A partner is not personally  
16 liable, directly or indirectly, by way of contribution or  
17 otherwise, for such an obligation solely by reason of being or  
18 so acting as a partner. This subsection applies  
19 notwithstanding anything inconsistent in the partnership  
20 agreement that existed immediately before the vote required to  
21 become a limited liability partnership under s. 620.9001(2).

22           Section 10. Subsections (2) and (4) of section  
23 620.8307, Florida Statutes, are amended to read:

24           620.8307 Actions by and against partnership and  
25 partners.--

26           (2) An action may be brought against the partnership  
27 and, to the extent not inconsistent with s. 620.8306, any or  
28 all of the partners in the same action or in separate actions.

29           (4) A judgment creditor of a partner may perfect a  
30 judgment lien but may not proceed against or otherwise levy or  
31 execute against the assets of the partner to satisfy a

1 judgment arising from a partnership obligation or liability  
2 unless the partner is personally liable for the claim under s.  
3 620.8306 and:

4 (a) A judgment based on the same claim has been  
5 obtained against the partnership and a writ of execution on  
6 the judgment has been returned unsatisfied in whole or in  
7 part;

8 (b) The partnership is a debtor in bankruptcy;

9 (c) The partner has agreed that the creditor need not  
10 exhaust partnership assets;

11 (d) A court grants permission to the judgment creditor  
12 to proceed against or otherwise levy or execute against the  
13 assets of a partner based on a finding that partnership assets  
14 subject to execution are clearly insufficient to satisfy the  
15 judgment, that exhaustion of partnership assets is excessively  
16 burdensome, or that the grant of permission is an appropriate  
17 exercise of the court's equitable powers; or

18 (e) Liability is imposed on the partner by law or  
19 contract independent of the existence of the partnership.

20 Section 11. Subsection (2) of section 620.8701,  
21 Florida Statutes, is amended to read:

22 620.8701 Purchase of dissociated partner's interest.--

23 (2) The buyout price of a dissociated partner's  
24 interest is the amount that would have been distributable to  
25 the dissociating partner under s. 620.8807(2) if, on the date  
26 of dissociation, the assets of the partnership were sold at a  
27 price equal to the greater of the liquidation value of the  
28 assets or the value of the assets based upon a sale of the  
29 entire business as a going concern without ~~having~~ the  
30 dissociated partner and the partnership were wound ~~wind~~ up as  
31

1 of such date. Interest must be paid from the date of  
2 dissociation to the date of payment.

3 Section 12. Subsection (1) of section 620.8702,  
4 Florida Statutes, is amended to read:

5 620.8702 Dissociated partner's power to bind and  
6 liability to partnership.--

7 (1) For 1 year after a partner dissociates without  
8 resulting in a dissolution and winding up of the partnership  
9 business, the partnership, including a surviving partnership  
10 under ss. 620.8901-620.8908, is bound by an act of the  
11 dissociated partner which would have bound the partnership  
12 under s. 620.8301 before dissociation only if, at the time of  
13 entering into the transaction, the other party:

14 (a) Reasonably believed that the dissociated partner  
15 was then a partner;

16 (b) Did not have notice of the partner's dissociation;  
17 and

18 (c) Is not deemed to have had knowledge under s.  
19 620.8303(4)~~s. 620.8303(5)~~ or notice under s. 620.8704(4).

20 Section 13. Subsection (2) of section 620.8703,  
21 Florida Statutes, is amended to read:

22 620.8703 Dissociated partner's liability to other  
23 persons.--

24 (2) A partner who dissociates without resulting in a  
25 dissolution and winding up of the partnership business is  
26 liable as a partner to any other party to a transaction  
27 entered into by the partnership, or a surviving partnership  
28 under ss. 620.8901-620.8908, within 1 year after the partner's  
29 dissociation only if the partner is liable for the obligation  
30 under s. 620.8306 and, at the time of entering into the  
31 transaction, the other party:

1 (a) Reasonably believed that the dissociated partner  
2 was then a partner;

3 (b) Did not have notice of the partner's dissociation;  
4 and

5 (c) Is not deemed to have had knowledge under s.  
6 620.8303(4)~~s. 620.8301(5)~~ or notice under s. 620.8704(4).

7 Section 14. Subsection (3) of section 620.8704,  
8 Florida Statutes, is amended to read:

9 620.8704 Statement of dissociation.--

10 (3) A statement of dissociation is a limitation on the  
11 authority of a dissociated partner for purposes of s.  
12 620.8303(4) and (5)~~s. 620.8303(5) and (6)~~.

13 Section 15. Section 620.8801, Florida Statutes, is  
14 amended to read:

15 620.8801 Events causing dissolution and winding up of  
16 partnership business.--A partnership is dissolved, and its  
17 business must be wound up, only upon the occurrence of any of  
18 the following events:

19 (1) In a partnership at will, the partnership's having  
20 notice from a partner, other than a partner who is dissociated  
21 under s. 620.8601(2)-(10), of such partner's express will to  
22 withdraw as a partner, or withdraw on a later date specified  
23 by the partner;

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

26 (a) Within 90 days after a partner's dissociation by  
27 death or otherwise under s. 620.8601(6)-(10) or wrongful  
28 dissociation under s. 620.8602(2), the express will of at  
29 least half of the remaining partners to wind up the  
30 partnership business, for which purpose a partner's rightful  
31 dissociation pursuant to s. 620.8602(2)(b)1. constitutes the

1 expression of that partner's will to wind up the partnership  
2 business;~~The expiration of 90 days after a partner's~~  
3 ~~dissociation by death or otherwise under s. 620.8601(6)-(10)~~  
4 ~~or by wrongful dissociation under s. 620.8602(2), unless~~  
5 ~~before that time a majority in interest of the remaining~~  
6 ~~partners, including partners who have rightfully dissociated~~  
7 ~~pursuant to s. 620.8602(2)(b)1., agree to continue the~~  
8 ~~partnership.~~

9 (b) The express will of all of the partners to wind up  
10 the partnership's business; or

11 (c) The expiration of the term or the completion of  
12 the undertaking;

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

15 (4) An event which makes it unlawful for all or  
16 substantially all of the business of the partnership to be  
17 continued, provided, a cure of the illegality, within 90 days  
18 after notice to the partnership of the event, is effective  
19 retroactively to the date of the event for purposes of this  
20 section;

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

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

25 (b) Another partner has engaged in conduct relating to  
26 the partnership business which makes it not reasonably  
27 practicable to carry on the business in partnership with such  
28 partner; or

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

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

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

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

11           Section 16. Subsections (2) and (4) of section  
12 620.8805, Florida Statutes, are amended to read:

13           620.8805 Statement of dissolution.--

14           (2) A statement of dissolution cancels a filed  
15 statement of partnership authority for purposes of s.  
16 620.8303(3)~~s. 620.8305(5)~~and is a limitation on authority  
17 for purposes of s. 620.8303(4)~~s. 620.8303(6)~~.

18           (4) After filing and, if appropriate, recording a  
19 statement of dissolution, a dissolved partnership may file  
20 and, if appropriate, record a statement of partnership  
21 authority that ~~which~~ will operate with respect to a person who  
22 is not a partner, as provided in s. 620.8303(3) and (4)~~s.~~  
23 ~~620.8303(5) and (6)~~, in any transaction, whether or not the  
24 transaction is appropriate for winding up the partnership  
25 business.

26           Section 17. Subsection (1) of section 620.8806,  
27 Florida Statutes, is amended to read:

28           620.8806 Partner's liability to other partners after  
29 dissolution.--

30           (1) Except as otherwise provided in subsection (2) and  
31 s. 620.8306, after dissolution, a partner is liable to the

1 other partners for the partner's share of any partnership  
2 liability incurred under s. 620.8804.

3 Section 18. Subsections (2), (3), and (4) of section  
4 620.8807, Florida Statutes, are amended to read:

5 620.8807 Settlement of accounts and contributions  
6 among partners.--

7 (2) Each partner is entitled to a settlement of all  
8 partnership accounts upon winding up the partnership business.  
9 In settling accounts among the partners, ~~any~~ profits and  
10 losses that ~~which~~ result from the liquidation of the  
11 partnership assets must be credited and charged to the  
12 partners' accounts. The partnership shall make a distribution  
13 to a partner in an amount equal to any excess of the credits  
14 over the charges in the partner's account but excluding from  
15 the calculation charges attributable to an obligation for  
16 which the partner is not personally liable under s. 620.8306.  
17 A partner shall contribute to the partnership an amount equal  
18 to any excess of the charges over the credits in the partner's  
19 account.

20 (3) If a partner fails to contribute the full amount  
21 required under subsection (2), all of the other partners shall  
22 contribute, in the proportions in which those ~~such~~ partners  
23 share partnership losses, the additional amount necessary to  
24 satisfy the partnership obligations for which they are  
25 personally liable under s. 620.8306. A partner or partner's  
26 legal representative may recover from the other partners any  
27 contributions the partner makes to the extent the amount  
28 contributed exceeds that ~~such~~ partner's share of the  
29 partnership obligations for which the partner is personally  
30 liable under s. 620.8306.

31



1           (4) After the settlement of accounts, each partner  
2 shall contribute, in the proportion in which the partner  
3 shares partnership losses, the amount necessary to satisfy  
4 partnership obligations that were not known at the time of the  
5 settlement and for which the partner is personally liable  
6 under s. 620.8306.

7           Section 19. Subsection (5) of section 620.8903,  
8 Florida Statutes, is amended to read:

9           620.8903 Conversion of limited partnership to  
10 partnership.--

11           (5) A limited partner who becomes a general partner as  
12 a result of a conversion remains liable only as a limited  
13 partner for an obligation incurred by the limited partnership  
14 before the conversion takes effect. Except as otherwise  
15 provided in s. 620.8306(3), the partner is liable as a general  
16 partner for an obligation of the partnership incurred after  
17 the conversion takes effect.

18           Section 20. Subsection (1) of section 620.8904,  
19 Florida Statutes, is amended to read:

20           620.8904 Effect of conversion; entity unchanged.--

21           (1) A partnership or limited partnership that has been  
22 converted pursuant to s. 620.8902 or s. ~~620.8908~~ 620.8903 is  
23 for all purposes the same entity that existed before the  
24 conversion.

25           Section 21. Subsection (3) of section 620.8906,  
26 Florida Statutes, is amended to read:

27           620.8906 Effect of merger.--

28           (3) A partner of the surviving partnership or limited  
29 partnership is liable for:

30           (a) All obligations of a party to the merger for which  
31 the partner was personally liable before the merger;

1 (b) All other obligations of the surviving entity  
2 incurred before the merger by a party to the merger, but such  
3 obligations may be satisfied only out of property of the  
4 surviving entity; and

5 (c) Except as otherwise provided in s. 620.8306, all  
6 obligations of the surviving entity incurred after the merger  
7 takes effect, but such obligations may be satisfied only out  
8 of property of the surviving entity if the partner is a  
9 limited partner.

10 Section 22. Subsections (5) and (6) of section  
11 620.8907, Florida Statutes, are amended to read:

12 620.8907 Statement of merger.--

13 (5) A filed and, if appropriate, recorded statement of  
14 merger, executed and affirmed ~~declared~~ to be accurate pursuant  
15 to s. 620.8105(6) ~~s. 620.8105(3)~~, stating the name of a  
16 partnership or limited partnership that is a party to the  
17 merger in whose name property was held before the merger and  
18 the name of the surviving entity, but not containing all of  
19 the other information required by subsection (2), operates  
20 with respect to the partnerships or limited partnerships named  
21 to the extent provided in subsection (4).

22 ~~(6) A filed and, if appropriate, recorded statement of~~  
23 ~~merger, executed and declared to be accurate pursuant to s.~~  
24 ~~620.8105(3), stating the name of a partnership or limited~~  
25 ~~partnership that is a party to the merger in whose name~~  
26 ~~property was held before the merger and the name of the~~  
27 ~~surviving entity, but not containing all of the other~~  
28 ~~information required by subsection (2), operates with respect~~  
29 ~~to the partnerships or limited partnerships named to the~~  
30 ~~extent provided in subsections (4) and (5).~~

31

1           Section 23. Section 620.9001, Florida Statutes, is  
2 created to read:

3           620.9001 Statement of qualification.--

4           (1) A partnership may become a limited liability  
5 partnership pursuant to this section.

6           (2) The terms and conditions on which a partnership  
7 becomes a limited liability partnership must be approved by  
8 the vote necessary to amend the partnership agreement except,  
9 in the case of a partnership agreement that expressly  
10 considers contribution obligations, the vote necessary to  
11 amend those provisions.

12           (3) After the approval required by subsection (2), a  
13 partnership may become a limited liability partnership by  
14 filing a statement of qualification. The statement must  
15 contain:

16           (a) The name of the partnership as identified in the  
17 records of the Department of State;

18           (b) The street address of the partnership's chief  
19 executive office and, if different, the street address of its  
20 principal office in this state, if there is one;

21           (c) The name and street address of the partnership's  
22 agent for service of process, who must be an individual  
23 resident of this state or other person authorized to do  
24 business in this state;

25           (d) A statement that the partnership elects to be a  
26 limited liability partnership; and

27           (e) A deferred effective date, if any.

28           (4) The status of a partnership as a limited liability  
29 partnership is effective on the later of the filing of the  
30 statement or a date specified in the statement. The status  
31 remains effective, regardless of changes in the partnership,

1 until it is canceled pursuant to s. 620.8105 (7) or revoked  
2 pursuant to s. 620.9003.

3 (5) The status of a partnership as a limited liability  
4 partnership and the liability of its partners are not affected  
5 by errors or later changes in the information required to be  
6 contained in the statement of qualification under subsection  
7 (3).

8 (6) The filing of a statement of qualification  
9 establishes that a partnership has satisfied all conditions  
10 precedent to the qualification of the partnership as a limited  
11 liability partnership.

12 (7) An amendment or cancellation of a statement of  
13 qualification is effective when it is filed or on a deferred  
14 effective date specified in the amendment or cancellation.

15 Section 24. Section 620.9002, Florida Statutes, is  
16 created to read:

17 620.9002 Name.--The name of a limited liability  
18 partnership must end with "Registered Limited Liability  
19 Partnership," "Limited Liability Partnership," "R.L.L.P.,"  
20 "L.L.P.," "RLLP," or "LLP."

21 Section 25. Section 620.9003, Florida Statutes, is  
22 created to read:

23 620.9003 Annual Report.--

24 (1) A limited liability partnership, and a foreign  
25 limited liability partnership authorized to transact business  
26 in this state, shall file an annual report in the office of  
27 the Secretary of State which contains:

28 (a) The name of the limited liability partnership and  
29 the state or other jurisdiction under whose laws the foreign  
30 limited liability partnership is formed;

31

1           (b) The current street address of the partnership's  
2 chief executive office and, if different, the current street  
3 address of its principal office in this state, if there is  
4 one;

5           (c) The partnership's Federal Employer Identification  
6 Number, if any, or, if none, whether one has been applied for;  
7 and

8           (d) The name and street address of the partnership's  
9 current agent for service of process, who must be an  
10 individual resident of this state or other person authorized  
11 to do business in this state.

12           (2) An annual report must be filed between January 1  
13 and May 1 of each year following the calendar year in which a  
14 partnership files a statement of qualification or a foreign  
15 partnership becomes authorized to transact business in this  
16 state.

17           (3) The Secretary of State may administratively revoke  
18 the statement of qualification of a partnership that fails to  
19 file an annual report when due or to pay the required filing  
20 fee. The Secretary of State shall provide the partnership at  
21 least 60 days' written notice of intent to revoke the  
22 statement. The notice is effective 5 days after it is  
23 deposited in the United States mail addressed to the  
24 partnership at its chief executive office set forth in the  
25 last filed statement of qualification or annual report. The  
26 notice must specify the annual report that has not been filed,  
27 the fee that has not been paid, and the date on or after which  
28 the revocation will become effective. The revocation is not  
29 effective if the annual report is filed and the fee is paid  
30 before the effective date of the revocation.

31

1           (4) A revocation under subsection (3) affects only a  
2 partnership's status as a limited liability partnership and is  
3 not an event of dissolution of the partnership.

4           (5) A partnership whose statement of qualification has  
5 been administratively revoked may apply to the Secretary of  
6 State for reinstatement within 2 years after the effective  
7 date of the revocation. The application must state:

8           (a) The name of the partnership and the effective date  
9 of the revocation; and

10           (b) That the ground for revocation either did not  
11 exist or has been corrected.

12           (6) A reinstatement under subsection (5) relates back  
13 to and takes effect as of the effective date of the  
14 revocation, and the partnership's status as a limited  
15 liability partnership continues as if the revocation had never  
16 occurred.

17           Section 26. Section 620.9101, Florida Statutes, is  
18 created to read:

19           620.9101 Law governing foreign limited liability  
20 partnership.--

21           (1) The law under which a foreign limited liability  
22 partnership is formed governs relations among the partners and  
23 between the partners and the partnership and the liability of  
24 partners for obligations of the partnership.

25           (2) A foreign limited liability partnership may not be  
26 denied a statement of foreign qualification by reason of any  
27 difference between the laws under which the partnership was  
28 formed and the laws of this state.

29           (3) A statement of foreign qualification does not  
30 authorize a foreign limited liability partnership to engage in  
31 any business or exercise any power that a partnership may not

1 engage in or exercise in this state as a limited liability  
2 partnership.

3 Section 27. Section 620.9102, Florida Statutes, is  
4 created to read:

5 620.9102 Statement of foreign qualification.--

6 (1) Before transacting business in this state, a  
7 foreign limited liability partnership must comply with the  
8 requirements of s. 620.8105 and file a statement of foreign  
9 qualification. The statement must contain:

10 (a) The name of the foreign limited liability  
11 partnership which satisfies the requirements of the state or  
12 other jurisdiction under whose law it is formed and ends with  
13 "Registered Limited Liability Partnership," "Limited Liability  
14 Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP";

15 (b) The street address of the partnership's chief  
16 executive office and, if different, the street address of its  
17 principal office in this state, if there is one;

18 (c) The name and street address of the partnership's  
19 agent for service of process who must be an individual  
20 resident of this state or other person authorized to do  
21 business in this state; and

22 (d) A deferred effective date, if any.

23 (2) The status of a partnership as a foreign limited  
24 liability partnership is effective on the later of the filing  
25 of the statement of foreign qualification or a date specified  
26 in the statement. The status remains effective, regardless of  
27 changes in the partnership, until it is canceled pursuant to  
28 s. 620.8105(7) or revoked pursuant to s. 620.9003.

29 (3) An amendment or cancellation of a statement of  
30 foreign qualification is effective when it is filed or on a  
31

1 deferred effective date specified in the amendment or  
2 cancellation.

3 Section 28. Section 620.9103, Florida Statutes, is  
4 created to read:

5 620.9103 Effect of failure to qualify.--

6 (1) A foreign limited liability partnership  
7 transacting business in this state may not maintain an action  
8 or proceeding in this state unless it has in effect a  
9 statement of foreign qualification.

10 (2) The failure of a foreign limited liability  
11 partnership to have in effect a statement of foreign  
12 qualification does not impair the validity of a contract or  
13 act of the foreign limited liability partnership or preclude  
14 it from defending an action or proceeding in this state.

15 (3) Limitations on personal liability of partners are  
16 not waived solely by transacting business in this state  
17 without a statement of foreign qualification.

18 (4) If a foreign limited liability partnership  
19 transacts business in this state without a statement of  
20 foreign qualification, the Secretary of State may accept  
21 substituted service of process, pursuant to the provisions of  
22 s. 48.181 with respect to actions arising out of the  
23 transaction of business in this state.

24 Section 29. Section 620.9104, Florida Statutes, is  
25 created to read:

26 620.9104 Activities not constituting transacting  
27 business.--

28 (1) Activities of a foreign limited liability  
29 partnership which do not constitute transacting business  
30 within the meaning of ss. 620.9101-620.9105 include:

31



- 1           (a) Maintaining, defending, or settling an action or  
2 proceeding;
- 3           (b) Holding meetings of its partners or carrying on  
4 any other activity concerning its internal affairs;
- 5           (c) Maintaining bank accounts;
- 6           (d) Maintaining offices or agencies for the transfer,  
7 exchange, and registration of the partnership's own securities  
8 or maintaining trustees or depositories with respect to those  
9 securities;
- 10           (e) Selling through independent contractors;
- 11           (f) Soliciting or obtaining orders, whether by mail or  
12 through employees or agents or otherwise, if the orders  
13 require acceptance outside this state before they become  
14 contracts;
- 15           (g) Creating or acquiring indebtedness, mortgages, or  
16 security interests in real or personal property;
- 17           (h) Securing or collecting debts or foreclosing  
18 mortgages or other security interests in property securing the  
19 debts, and holding, protecting, and maintaining property so  
20 acquired;
- 21           (i) Conducting an isolated transaction that is  
22 completed within 30 days and is not one in the course of  
23 similar transactions of like nature; and
- 24           (j) Transacting business in interstate commerce.
- 25           (2) For purposes of this act, the ownership in this  
26 state of income-producing real property or tangible personal  
27 property, other than property excluded under subsection (1),  
28 constitutes transacting business in this state.
- 29           (3) This section does not apply in determining the  
30 contacts or activities that may subject a foreign limited  
31

1 liability partnership to service of process, taxation, or  
2 regulation under any other law of this state.

3 Section 30. Section 620.9105, Florida Statutes, is  
4 created to read:

5 620.9105 Action by Attorney General.--The Attorney  
6 General may maintain an action to restrain a foreign limited  
7 liability partnership from transacting business in this state  
8 in violation of ss. 620.9101-620.9104.

9 Section 31. Section 620.187, Florida Statutes, is  
10 created to read:

11 620.187 Limited liability limited partnership.--

12 (1) A limited partnership may become a limited  
13 liability limited partnership by:

14 (a) Obtaining the approval of the terms and conditions  
15 of the limited partnership becoming a limited liability  
16 limited partnership by the vote necessary to amend the limited  
17 partnership agreement; however, in the case of a limited  
18 partnership agreement that expressly considers contribution  
19 obligations, the vote required is the vote necessary to amend  
20 those provisions;

21 (b) Filing a statement of qualification under s.  
22 620.9001(3) of the Revised Uniform Partnership Act of 1995;  
23 and

24 (c) Complying with the name requirements of s.  
25 620.9002 of the Revised Uniform Partnership Act of 1995.

26 (2) A limited liability limited partnership continues  
27 to be the same entity that existed before the filing of a  
28 statement of qualification under s. 620.9001(3) of the Revised  
29 Uniform Partnership Act of 1995.

30 (3) Sections 620.8306(3) and 620.8307(2) of the  
31 Revised Uniform Partnership Act of 1995 apply to both general

1 and limited partners of a limited liability limited  
2 partnership.

3 Section 32. Subsections (4), (7), and (14) of section  
4 865.09, Florida Statutes, 1998 Supplement, are amended to  
5 read:

6 865.09 Fictitious name registration.--

7 (4) CHANGE OF OWNERSHIP OR LOCATION.--If the ownership  
8 or location of a business registered under this section  
9 changes, the owner of record with the division shall file a  
10 cancellation and reregistration that meets the requirements  
11 set forth in subsection (3) within 30 days after the  
12 occurrence of such change.

13 (7) EXEMPTIONS.--A business formed by an attorney  
14 actively licensed to practice law in this state, or by a  
15 person licensed by the Department of Business and Professional  
16 Regulation or the Department of Health, for the purpose of  
17 practicing his or her licensed profession, or by any  
18 corporation, partnership, or other commercial entity that is  
19 actively organized or registered with the Department of State  
20 is not required to register its name pursuant to this section,  
21 unless the name under which the business is to be conducted  
22 differs from the name as licensed or registered.~~need not be~~  
23 ~~registered under this section, notwithstanding that it~~  
24 ~~transacts business ancillary to the practice of such~~  
25 ~~profession.~~

26 (14) PROHIBITION.--A fictitious name registered as  
27 provided in this section may not contain the words  
28 "Corporation" or "Incorporated," or the abbreviations "Corp."  
29 or "Inc.," unless the person or business for which the name is  
30 registered is incorporated or has obtained a certificate of  
31 authority to transact business in this state pursuant to

1 ~~chapter 607 or chapter 617. However, a business incorporated~~  
2 ~~or authorized under chapter 607 or chapter 617 is not required~~  
3 ~~to register the corporate name pursuant to this section unless~~  
4 ~~the name that the corporation intends to conduct business~~  
5 ~~under differs from the corporation's name as stated in its~~  
6 ~~articles of incorporation.~~

7       Section 33. Section 620.90, Florida Statutes, is  
8 transferred and redesignated as section 620.9901, Florida  
9 Statutes.

10       Section 34. Section 620.91, Florida Statutes, is  
11 transferred and redesignated as section 620.9902, Florida  
12 Statutes.

13       Section 35. Sections 620.78, 620.781, 620.782,  
14 620.783, 620.7851, 620.786, 620.787, 620.788, 620.7885,  
15 620.7887 and 620.789, Florida Statutes, and section 620.784,  
16 Florida Statutes, 1998 Supplement, are repealed.

17       Section 36. At any time during the first 6 months  
18 after the effective date of this act, a limited liability  
19 partnership that became a limited liability partnership before  
20 the effective date of this act may, by filing a notice with  
21 the Secretary of State so stating, waive its partners'  
22 protection from liability arising from written contractual  
23 obligations of the limited liability partnership, with regard  
24 to any particular written obligations, any particular class of  
25 written obligations, or all written obligations, entered into  
26 at any time or during any particular period of time, as the  
27 notice sets forth. If a limited liability partnership executes  
28 and delivers such a waiver, the partners of the limited  
29 liability partnership are jointly and severally liable for the  
30 contractual obligations of the partnership which are the  
31 subject of the notice; however, a partner is not liable under

1 any such contract for any amount in excess of the amount for  
2 which the partner would have been liable under the laws of  
3 this state as they existed immediately before the effective  
4 date of this act.

5 Section 37. This act shall take effect upon becoming a  
6 law.

7  
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 SB 1430

11 Adds a provision to the bill pertaining to fictitious name  
12 registration. Subsection (4) of s. 865.09, F.S., is amended to  
13 require a business registered with a fictitious name to file a  
14 cancellation and reregistration with the Department of State,  
15 pursuant to s. 865.09(3), F.S., whenever the business changes  
16 its location.

17 Adds a waiver provision to the limited liability partnership  
18 provisions of the bill which provides that any limited  
19 liability partnership which became a limited liability  
20 partnership prior to the effective date of this act may waive  
21 its partners' protection from liability in certain  
22 circumstances. The notice of waiver must be filed with the  
23 Secretary of State within 6 months after the effective date of  
24 the act. Under such waiver, limited liability partnership  
25 partners are jointly and severally liable for the  
26 partnership's contractual obligations which are the subject of  
27 the waiver. A partner is not liable in excess of the amount  
28 for which the partner would have been liable prior to the  
29 effective date of this act.  
30  
31