

Part 8 Dissolution and Winding up

48-2e-801 Events causing dissolution.

- (1) A limited partnership is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:
 - (a) an event or circumstance that the partnership agreement states causes dissolution;
 - (b) the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;
 - (c) after the dissociation of a person as a general partner:
 - (i) if the limited partnership has at least one remaining general partner, the vote or consent to dissolve the limited partnership not later than 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or
 - (ii) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:
 - (A) consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and
 - (B) at least one person is admitted as a general partner in accordance with the consent;
 - (d) the passage of 90 consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner;
 - (e) the passage of 90 consecutive days during which the limited partnership has only one partner, unless before the end of the period:
 - (i) the limited partnership admits at least one person as a partner;
 - (ii) if the previously sole remaining partner is only a general partner, the limited partnership admits the person as a limited partner; and
 - (iii) if the previously sole remaining partner is only a limited partner, the limited partnership admits a person as a general partner;
 - (f) on application by a partner, the entry by the district court of an order dissolving the limited partnership on the grounds that:
 - (i) the conduct of all or substantially all the limited partnership's activities and affairs is unlawful; or
 - (ii) it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement; or
 - (g) the signing and filing of a statement of administrative dissolution by the division under Section 48-2e-810.
- (2) If an event occurs that imposes a deadline on a limited partnership under Subsection (1) and before the limited partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the limited partnership under Subsection (1):
 - (a) the occurrence of the second event does not affect the deadline caused by the first event; and
 - (b) the limited partnership's meeting of the requirements of the first deadline does not extend the second deadline.

Enacted by Chapter 412, 2013 General Session

48-2e-802 Winding up.

- (1) A dissolved limited partnership shall wind up its activities and affairs, and, except as otherwise provided in Section 48-2e-803, the limited partnership continues after dissolution only for the purpose of winding up.
- (2) In winding up its activities and affairs, the limited partnership:
 - (a) shall discharge the limited partnership's debts, obligations, and other liabilities, settle and close the limited partnership's activities and affairs, and marshal and distribute the assets of the limited partnership; and
 - (b) may:
 - (i) amend its certificate of limited partnership to state that the limited partnership is dissolved;
 - (ii) preserve the limited partnership activities, affairs, and property as a going concern for a reasonable time;
 - (iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
 - (iv) transfer the limited partnership's property;
 - (v) settle disputes by mediation or arbitration;
 - (vi) deliver to the division for filing a statement of termination stating the name of the limited partnership and that the limited partnership is terminated; and
 - (vii) perform other acts necessary or appropriate to the winding up.
- (3) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities and affairs may be appointed by the affirmative vote or consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective. A person appointed under this Subsection (3):
 - (a) has the powers of a general partner under Section 48-2e-804 but is not liable for the debts, obligations, and other liabilities of the limited partnership solely by reason of having or exercising those powers or otherwise acting to wind up the dissolved limited partnership's activities and affairs; and
 - (b) shall deliver promptly to the division for filing an amendment to the certificate of limited partnership stating:
 - (i) that the limited partnership does not have a general partner;
 - (ii) the name and street and mailing addresses of the person; and
 - (iii) that the person has been appointed pursuant to this subsection to wind up the limited partnership.
- (4) On the application of any partner, the district court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership's activities and affairs, if:
 - (a) the limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to Subsection (3); or
 - (b) the applicant establishes other good cause.

Enacted by Chapter 412, 2013 General Session

48-2e-803 Rescinding dissolution.

- (1) A limited partnership may rescind its dissolution, unless a statement of termination applicable to the limited partnership is effective, the district court has entered an order under Subsection 48-2e-801(1)(f) dissolving the limited partnership, or the division has dissolved the limited partnership under Section 48-2e-810.

- (2) Rescinding dissolution under this section requires:
 - (a) the affirmative vote or consent of each partner; and
 - (b) if the limited partnership has delivered to the division for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:
 - (i) the amendment is not effective, the filing by the limited partnership of a statement of withdrawal under Section 48-2e-207 applicable to the amendment; or
 - (ii) the amendment is effective, the delivery by the limited partnership to the division for filing of an amendment to the certificate of limited partnership stating that the dissolution has been rescinded under this section.
- (3) If a limited partnership rescinds its dissolution:
 - (a) the limited partnership resumes carrying on its activities and affairs as if dissolution had never occurred;
 - (b) subject to Subsection (3)(c), any liability incurred by the limited partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
 - (c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Enacted by Chapter 412, 2013 General Session

48-2e-804 Power to bind partnership after dissolution.

- (1) A limited partnership is bound by a general partner's act after dissolution which:
 - (a) is appropriate for winding up the limited partnership's activities and affairs; or
 - (b) would have bound the limited partnership under Section 48-2e-402 before dissolution, if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.
- (2) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:
 - (a) at the time the other party enters into the transaction:
 - (i) less than two years has passed since the dissociation; and
 - (ii) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and
 - (b) the act:
 - (i) is appropriate for winding up the limited partnership's activities and affairs; or
 - (ii) would have bound the limited partnership under Section 48-2e-402 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

Enacted by Chapter 412, 2013 General Session

48-2e-805 Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.

- (1) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under Subsection 48-2e-804(1) by an act that is not appropriate for winding up the limited partnership's activities and affairs, the general partner is liable:
 - (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

- (b) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.
- (2) If a person dissociated as a general partner causes a limited partnership to incur an obligation under Subsection 48-2e-804(2), the person is liable:
 - (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and
 - (b) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the obligation.

Enacted by Chapter 412, 2013 General Session

48-2e-806 Known claims against dissolved limited partnership.

- (1) Except as otherwise provided in Subsection (4), a dissolved limited partnership may give notice of a known claim under Subsection (2), which has the effect provided in Subsection (3).
- (2) A dissolved limited partnership may in a record notify its known claimants of the dissolution. The notice must:
 - (a) specify the information required to be included in a claim;
 - (b) state that a claim must be in writing and provide a mailing address to which the claim is to be sent;
 - (c) state the deadline for receipt of a claim, which may not be less than 120 days after the date the notice is received by the claimant;
 - (d) state that the claim will be barred if not received by the deadline; and
 - (e) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 48-2e-404.
- (3) A claim against a dissolved limited partnership is barred if the requirements of Subsection (2) are met, and:
 - (a) the claim is not received by the specified deadline; or
 - (b) if the claim is timely received but rejected by the limited partnership:
 - (i) the limited partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the limited partnership to enforce the claim not later than 90 days after the claimant receives the notice; and
 - (ii) the claimant does not commence the required action not later than 90 days after the claimant receives the notice.
- (4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

Enacted by Chapter 412, 2013 General Session

48-2e-807 Other claims against dissolved limited partnership.

- (1) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the dissolved limited partnership to present them in accordance with the notice.
- (2) A notice under Subsection (1) must:

- (a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the dissolved limited partnership's registered agent is or was last located and in accordance with Section 45-1-101;
 - (b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;
 - (c) state that a claim against the dissolved limited partnership is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice; and
 - (d) unless the dissolved limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the dissolved limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 48-2e-404.
- (3) If a dissolved limited partnership publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership not later than three years after the publication date of the notice:
- (a) a claimant that did not receive notice in a record under Section 48-2e-806;
 - (b) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and
 - (c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.
- (4) A claim not barred under this section or Section 48-2e-806 may be enforced:
- (a) against the dissolved limited partnership, to the extent of its undistributed assets;
 - (b) except as otherwise provided in Section 48-2e-808, if the assets of the dissolved limited partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the dissolved limited partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution; and
 - (c) against any person liable on the claim under Sections 48-2e-404 and 48-2e-607.

Enacted by Chapter 412, 2013 General Session

48-2e-808 Court proceedings.

- (1) A dissolved limited partnership that has published a notice under Section 48-2e-807 may file an application with the district court in the county where the dissolved limited partnership's principal office is located, or, if the principal office is not located in this state, where the office of its registered agent is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited partnership, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-2e-807(3).
- (2) Not later than 10 days after the filing of an application under Subsection (1), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited partnership.
- (3) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of

the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.

- (4) A dissolved limited partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

Enacted by Chapter 412, 2013 General Session

48-2e-809 Liability of general partner and person dissociated as general partner when claim against limited partnership barred.

If a claim against a dissolved limited partnership is barred under Section 48-2e-806, 48-2e-807, or 48-2e-808, any corresponding claim under Section 48-2e-404 or 48-2e-607 is also barred.

Enacted by Chapter 412, 2013 General Session

48-2e-810 Administrative dissolution.

- (1) The division may commence a proceeding under Subsections (2) and (3) to dissolve a limited partnership administratively if the limited partnership does not:
 - (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days after it is due;
 - (b) deliver an annual report to the division not later than 60 days after it is due; or
 - (c) have a registered agent in this state for 60 consecutive days.
- (2) If the division determines that one or more grounds exist for administratively dissolving a limited partnership, the division shall serve the limited partnership with notice in a record of the division's determination.
- (3) If a limited partnership, not later than 60 days after service of the notice under Subsection (2), does not cure or demonstrate to the satisfaction of the division the nonexistence of each ground determined by the division, the division shall administratively dissolve the limited partnership by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The division shall file the statement and serve a copy on the limited partnership pursuant to Section 48-2e-209.
- (4) A limited partnership that is administratively dissolved continues in existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets under Sections 48-2e-802, 48-2e-806, 48-2e-807, 48-2e-808, and 48-2e-813 or to apply for reinstatement under Section 48-2e-811.
- (5) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent.

Enacted by Chapter 412, 2013 General Session

48-2e-811 Reinstatement.

- (1) A limited partnership that is administratively dissolved under Section 48-2e-810 may apply to the division for reinstatement not later than two years after the effective date of dissolution. The application must state:
 - (a) the name of the limited partnership at the time of its administrative dissolution and, if needed, a different name that satisfies Section 48-2e-108;

- (b) the address of the principal office of the limited partnership and the name and address of its registered agent;
 - (c) the effective date of the limited partnership's administrative dissolution; and
 - (d) that the grounds for dissolution did not exist or have been cured.
- (2) To be reinstated, a limited partnership must pay all fees, taxes, interest, and penalties that were due to the division at the time of its administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the division while the limited partnership was administratively dissolved.
- (3) If the division determines that an application under Subsection (1) contains the information required, is satisfied that the information is correct, and determines that all payments required to be made to the division by Subsection (2) have been made, the division shall:
- (a) cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;
 - (b) file the statement of reinstatement; and
 - (c) serve a copy of the statement of reinstatement on the limited partnership.
- (4) When reinstatement under this section is effective, the following rules apply:
- (a) The restatement relates back to and takes effect as of the effective date of the administrative dissolution.
 - (b) The limited partnership resumes carrying on its activities and affairs as if the administrative dissolution had not occurred.
 - (c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

Enacted by Chapter 412, 2013 General Session

48-2e-812 Judicial review of denial of reinstatement.

- (1) If the division denies a limited partnership's application for reinstatement following administrative dissolution, the division shall serve the limited partnership with notice in a record that explains the reasons for the denial.
- (2) A limited partnership may seek judicial review of denial of reinstatement in the district court not later than 30 days after service of the notice of denial.

Enacted by Chapter 412, 2013 General Session

48-2e-813 Disposition of assets in winding up -- When contributions required.

- (1) In winding up its activities and affairs, a limited partnership shall apply its assets, including the contributions required by this section, to discharge the limited partnership's obligations to creditors, including partners that are creditors.
- (2) After a limited partnership complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section 48-2e-703:
 - (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and
 - (b) among partners in proportion to their respective rights to share in distributions immediately before the dissolution of the limited partnership, except to the extent necessary to comply with any transfer effective under Section 48-2e-702.
- (3) If a limited partnership's assets are insufficient to satisfy all of its obligations under Subsection (1), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

- (a) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under Section 48-2e-607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.
 - (b) If a person does not contribute the full amount required under Subsection (3)(a) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.
 - (c) If a person does not make the additional contribution required by Subsection (3)(b), further additional contributions are determined and due in the same manner as provided in that subsection.
 - (d) A person that makes an additional contribution under Subsection (3)(b) or (3)(c) may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b) necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.
- (4) If a limited partnership does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.
- (5) All distributions made under Subsections (2) and (4) must be paid in money.

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