

## CHAPTER 178

## UNIFORM PARTNERSHIP ACT

178.01	Citation; definition of terms; knowledge and notice.	178.29	Liability of dissolving partner to partners continues until knowledge of dissolution.
178.02	Rules of construction.	178.30	Partner's agency after dissolution.
178.03	Partnership defined.	178.31	Discharge of existing liabilities on dissolution.
178.04	Determination of whether partnership exists.	178.32	Right to wind up.
178.05	Partnership property.	178.33	Application of partnership property on dissolution.
178.06	Partners are agents of partnership.	178.34	Adjustment of rights on dissolution for fraud.
178.07	Conveyance of real property of partnership.	178.35	Settlement and distribution on dissolution.
178.08	Admission by partner is evidence against the partnership.	178.36	Rights and liabilities on continuing business after dissolution without liquidation.
178.09	Notice to or knowledge of partner charges partnership.	178.37	Rights of retiring or deceased partner.
178.10	Partnership liable for wrongful act of partner.	178.38	Right to accounting accrues on dissolution.
178.11	Partnership liable on partner's breach of trust.	178.39	Recording of partnership agreements; amendments; articles of dissolution.
178.12	Liability of partners.	178.40	Registration of limited liability partnerships.
178.13	Partnership by estoppel.	178.41	Effect of registration.
178.14	Liability of incoming partner.	178.42	Name of registered limited liability partnership.
178.15	Rights and duties of partners.	178.43	Registered office and registered agent.
178.16	Partnership books.	178.44	Service on registered limited liability partnership.
178.17	Partners must render information.	178.45	Foreign registered limited liability partnerships.
178.18	Partner accountable as fiduciary.	178.46	Filing requirements.
178.19	Right to an account.	178.47	Forms.
178.20	After fixed term partnership continues as partnership at will.	178.48	Filing and service fees.
178.21	Property rights of partner.	178.49	Effective date and time of document.
178.22	Partner's interest in partnership.	178.50	Correcting filed document.
178.23	Assignment of partner's interest.	178.51	Filing duty of the department.
178.24	Partner's interest chargeable as such with judgment lien.	178.52	Appeal from department's refusal to file document.
178.25	Dissolution of partnership defined.	178.53	Applicability to foreign and interstate commerce.
178.26	Causes of dissolution.		
178.27	Dissolution by decree of court.		
178.28	Dissolution terminates agency of partner.		

**178.01 Citation; definition of terms; knowledge and notice.** (1) This chapter may be cited as the “Uniform Partnership Act”.

(2) In this chapter:

(a) “Bankrupt” includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act.

(b) “Business” includes every trade, occupation or profession.

(c) “Conveyance” includes every assignment, lease, mortgage or encumbrance.

(d) “Court” includes every court and judge having jurisdiction in the case.

(de) “Department” means the department of financial institutions.

(dm) “Foreign registered limited liability partnership” means a limited liability partnership formed pursuant to an agreement governed by the laws of another state or country and registered under the laws of that jurisdiction.

(e) “Person” includes individuals, partnerships, limited liability companies, corporations, other associations and, to the extent authorized by governing instrument or court order, personal representatives and trustees.

(f) “Real property” includes land and any interest or estate in land.

(g) “Registered limited liability partnership” means a partnership formed pursuant to an agreement governed by the laws of this state and registered under s. 178.40.

(3) A person has “knowledge” of a fact within the meaning of this chapter not only when that person has actual knowledge thereof, but also when that person has knowledge of such other facts as in the circumstances shows bad faith.

(4) A person has “notice” of a fact within the meaning of this chapter when the person who claims the benefit of the notice (a) states the fact to such person, or (b) delivers through the mail, or by other means of communication, a written statement of the fact

to such person or to a proper person at his or her place of business or residence.

**History:** 1971 c. 66; 1983 a. 189; 1993 a. 112, 482; 1995 a. 97, 225.

**178.02 Rules of construction.** (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) The law of estoppel shall apply under this chapter.

(3) The law of agency shall apply under this chapter.

(4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This chapter shall not be construed so as to impair the obligations of any contract existing July 9, 1915, nor to affect any action or proceedings begun or right accrued before said date.

(6) In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern.

**178.03 Partnership defined.** (1) A partnership is an association of 2 or more persons to carry on as co-owners a business for profit. A partnership includes a registered limited liability partnership and a foreign registered limited liability partnership.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter; but this chapter shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

**History:** 1993 a. 491; 1995 a. 97.

**178.04 Determination of whether partnership exists.** In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by s. 178.13, persons who are not partners as to each other are not partners as to 3rd persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that that person is a partner in the business, but that inference shall not be drawn if the profits were received for any of the following:

- (a) As payment as a debt by installments or otherwise.
- (b) As wages of an employee or rent to a landlord.
- (c) As an annuity to a surviving spouse or representative of a deceased partner.
- (d) As interest on a loan, though the amount of payment vary with the profits of the business.
- (e) As the consideration for the sale of the goodwill of a business or other property by installments or otherwise.

**History:** 1975 c. 94 s. 91 (5); 1975 c. 199; 1993 a. 491; 1997 a. 254; 2005 a. 253.

The receipt of a share of profits is prima facie evidence that a person is a partner, but a partnership will not be implied merely because of common ownership of property, whether or not profits are shared. *Anderson v. Anderson*, 54 Wis. 2d 666, 196 N.W.2d 727 (1972).

Except when all parties have performed the contract, thus indicating their acquiescence in its terms, a partnership created to deal in real estate is void unless it conforms to the statute of frauds. *Estate of Schaefer*, 72 Wis. 2d 600, 241 N.W.2d 607 (1976).

**178.05 Partnership property.** (1) All property originally brought into the partnership stock or subsequently acquired, by purchase or otherwise, on account of the partnership is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

Whether real estate is partnership property depends on whether it was acquired on account of the partnership, and, when held in the name of a partner, upon the intention of the parties. The fact that realty, individually owned, is used for partnership purposes is insufficient to support a finding that the land is partnership property. *Estate of Schreiber*, 68 Wis. 2d 135, 227 N.W.2d 917 (1975).

**178.06 Partners are agents of partnership.** (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which the partner is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom the partner is dealing has knowledge of the fact that the partner has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all of the partners have no authority to do any of the following:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership.
- (b) Dispose of the goodwill of the business.
- (c) Perform any other act which would make it impossible to carry on the ordinary business of the partnership.
- (d) Confess a judgment.
- (e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on the partner's authority shall bind the partnership to persons having knowledge of the restriction.

**History:** 1993 a. 482; 1997 a. 35.

When one partner repeatedly entered into renewals of an employment contract with a pharmacist to operate a drug store without objections by the other partners, the contract was valid even though highly favorable to the employee, so long as the partner received no personal benefit that the other partners did not share. *Reliable Pharmacy v. Hall*, 54 Wis. 2d 191, 194 N.W.2d 596 (1972).

When a partner's actions in real estate a transaction on behalf of a partnership fall within the express provisions of s. 178.06 (1), a partner who acts on behalf of the partnership is "an agent of the partnership" and s. 178.06 (1) controls. When the partner's actions do not fall within those provisions, the partner "purports to act as an agent," and s. 706.03 controls. *Wyss v. Albee*, 193 Wis. 2d 101, 532 N.W.2d 444 (1995).

**178.07 Conveyance of real property of partnership.**

(1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of s. 178.06 (1), or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded the partner's authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in the partner's own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under s. 178.06 (1).

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under s. 178.06 (1), unless the purchaser or the purchaser's assignee is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a 3rd person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in the partner's own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under s. 178.06 (1).

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

**History:** 1993 a. 482; 2005 a. 253.

**178.08 Admission by partner is evidence against the partnership.**

An admission or representation made by any partner concerning partnership affairs within the scope of the partner's authority as conferred by this chapter is evidence against the partnership.

**History:** 1993 a. 482.

**178.09 Notice to or knowledge of partner charges partnership.**

Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to the partner's mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

**History:** 1993 a. 482.

**178.10 Partnership liable for wrongful act of partner.**

Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership, or with the authority of the partner's copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

**History:** 1993 a. 482.

**178.11 Partnership liable on partner's breach of trust.** The partnership is bound to make good the loss if any of the following occurs:

(1) One partner acting within the scope of his or her apparent authority receives money or property of a 3rd person and misapplies it.

(2) The partnership in the course of its business receives money or property of a 3rd person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

**History:** 1993 a. 482.

**178.12 Liability of partners.** (1) Except as provided in sub. (2), all partners are liable:

(a) Jointly and severally for everything chargeable to the partnership under ss. 178.10 and 178.11.

(b) Jointly for all other debts and obligations of the partnership, but any partner may enter into a separate obligation to perform a partnership contract.

(2) Except as provided in sub. (3), a partner in a registered limited liability partnership is not personally liable directly or indirectly, or by way of indemnification, contribution, assessment or otherwise, for any debt, obligation or liability of the partnership, whether in tort, contract or otherwise, and including any debt, obligation or liability arising from omissions, negligence, wrongful acts, misconduct or malpractice, arising while the partnership is a registered limited liability partnership.

(3) Subsection (2) does not affect the liability of a partner in a registered limited liability partnership for any of the following:

(a) The partner's own omissions, negligence, wrongful acts, misconduct or malpractice.

(b) The omissions, negligence, wrongful acts, misconduct or malpractice of any person acting under the partner's actual supervision and control in the specific activity in which the omissions, negligence, wrongful acts, misconduct or malpractice occurred.

(c) Any other debts, obligations and liabilities resulting from the partner's acts or conduct other than as a partner.

(d) Any liability that the partner may have under s. 13.69 (1).

(4) A partner in a registered limited liability partnership is not a proper defendant in a proceeding to recover damages or to enforce obligations of the type described in sub. (2) unless the partner is alleged in good faith to be personally liable under sub. (3).

**History:** 1995 a. 97.

**178.13 Partnership by estoppel.** (1) When a person, by words spoken or written or by conduct, represents himself or herself, or consents to another representing him or her to anyone, as a partner in an existing partnership or with one or more persons not actual partners, he or she is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership and, if he or she has made such representation or consented to its being made in a public manner, he or she is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made, as follows:

(a) If a partnership liability results, he or she is liable as though he or she were an actual member of the partnership.

(b) If no partnership liability results, he or she is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, that person is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though that person were a partner in fact, with respect to persons who rely upon the representation. Where all the mem-

bers of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

**History:** 1993 a. 482; 1997 a. 254.

Under *Wis. Tel. Co. v. Lehman*, 274 Wis. 331, partnership by estoppel involves some express or implied representation by the person in question that he or she is a partner, in reasonable and bona fide reliance upon which the person seeking to hold him or her liable as a partner has changed position, in such a manner that he or she will be prejudiced if the representation is denied. The party seeking to hold another liable as a partner must, in the exercise of reasonable prudence and good faith, have relied upon such condition or thing and been misled by it. Given the 50-year-old precedent, it appears that estoppel may be based on a change in position and is not limited to an extension of credit. *Glazer v. Brookhouse*, 471 F. Supp. 2d 945 (2007).

**178.14 Liability of incoming partner.** A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before that person's admission as though that person had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

**History:** 1993 a. 482.

**178.15 Rights and duties of partners.** The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid that partner's contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and, except as provided in s. 178.12 (2), each partner must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to that partner's share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him or her in the ordinary and proper conduct of the partnership's business, or for the preservation of the partnership's business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he or she agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him or her only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his or her services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

**History:** 1993 a. 482; 1995 a. 97.

Sub. (6) allows extra compensation only when a partnership is dissolved due to the death of a partner and there is a surviving partner. It did not apply when a partner's decision to retire dissolved the partnership, but the business of the partnership had not been wound up at the time of the retiring partner's death 6 months later. *Estate of Matteson v. Matteson*, 2008 WI 48, 309 Wis. 2d 311, 749 N.W.2d 557, 05–2607.

**178.16 Partnership books.** The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

**178.17 Partners must render information.** Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

**178.18 Partner accountable as fiduciary. (1)** Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him or her without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him or her of partnership property.

**(2)** This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

**History:** 1993 a. 482.

**178.19 Right to an account.** Any partner shall have the right to a formal account as to partnership affairs in any of the following circumstances:

**(1)** If that partner is wrongfully excluded from the partnership business or possession of its property by his or her copartners.

**(2)** If the right exists under the terms of any agreement.

**(3)** As provided by s. 178.18.

**(4)** If other circumstances render it just and reasonable.

**History:** 1993 a. 482.

**178.20 After fixed term partnership continues as partnership at will. (1)** When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

**(2)** A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

**178.21 Property rights of partner. (1)** The property rights of a partner are that partner's rights in specific partnership property, that partner's interest in the partnership, and his or her right to participate in the management.

**(2)** A partner is co-owner with the other partners of specific partnership property holding as a tenant in partnership.

**(3)** The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with the other partners to possess specific partnership property for partnership purposes; but a partner has no right to possess such property for any other purpose without the consent of the other partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of the rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner the partner's right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when the partner's right in such property vests in the partner's legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to elective rights under s. 861.02 (1) of a surviving spouse or to allowances to a surviving spouse, heirs, or next of kin.

**History:** 1975 c. 94 s. 91 (6); 1975 c. 200; 1983 a. 186; 1985 a. 37; 1987 a. 393 s. 53; 1993 a. 213, 482; 1997 a. 188.

**NOTE:** As to sub. (3) (e), see notes in 1985 Wis. Act 37, marital property trailer bill.

**178.22 Partner's interest in partnership.** A partner's interest in the partnership is the partner's share of the profits and surplus, and the same is personal property.

**History:** 1993 a. 482.

**178.23 Assignment of partner's interest. (1)** A conveyance by a partner of the partner's interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with the assignee's contract the profits to which the assigning partner would otherwise be entitled.

**(2)** In case of a dissolution of the partnership, the assignee is entitled to receive the assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

**History:** 1993 a. 482.

A partner's interest in partnership property is assignable by inter vivos gift, provided the elements of such a gift are established. Estate of Schreiber, 68 Wis. 2d 135, 227 N.W.2d 917 (1992).

**178.24 Partner's interest chargeable as such with judgment lien. (1)** On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of the debtor partner's share of the profits, and of any other money due or to fall due to the debtor partner in respect to the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

**(2)** The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners; or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

**(3)** Nothing in this chapter shall be held to deprive a partner of the partner's right, if any, under the exemption laws, as regards the partner's interest in the partnership.

**History:** 1993 a. 482; 1999 a. 83.

**178.25 Dissolution of partnership defined. (1)** The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

**(2)** On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

**178.26 Causes of dissolution.** Dissolution is caused:

**(1)** Without violation of the agreement between the partners (a) by the termination of the definite term or particular undertaking specified in the agreement, (b) by the express will of any partner when no definite term or particular undertaking is specified, (c) by the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking, (d) by the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

**(2)** In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under s. 178.27.

**178.27 Dissolution by decree of court.** (1) On application by or for a partner the court shall decree a dissolution whenever any of the following applies:

(a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind.

(b) A partner becomes in any other way incapable of performing the partner's part of the partnership contract.

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business.

(d) A partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself or herself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him or her.

(e) The business of the partnership can only be carried on at a loss.

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under s. 178.23 or 178.24: (a) After the termination of the specified term or particular undertaking; (b) at any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

(3) Upon application by a district attorney or the attorney general, the court shall decree a dissolution if the partnership has violated s. 940.302 (2) or 948.051 (2).

**History:** 1993 a. 482; 2007 a. 116.

**178.28 Dissolution terminates agency of partner.** Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership, with respect to the partners, when the dissolution is not by the act, bankruptcy or death of a partner; or when the dissolution is by such act, bankruptcy or death of a partner, in cases where s. 178.29 so requires, and with respect to persons not partners, as declared in s. 178.30.

**178.29 Liability of dissolving partner to partners continues until knowledge of dissolution.** If a dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to the other copartners for the partner's share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless any of the following applies:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution.

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

(3) The liability is for a debt, obligation or liability for which the partner is not liable as provided in s. 178.12 (2).

**History:** 1993 a. 482; 1995 a. 97.

**178.30 Partner's agency after dissolution.** (1) After dissolution a partner can bind the partnership except as provided in sub. (3):

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution.

(b) By any transaction that would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

1. Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

2. Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under sub. (1) (b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the persons with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to the partner's connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution if any of the following applies:

(a) The partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs.

(b) The partner has become bankrupt.

(c) The partner has no authority to wind up partnership affairs, except by a transaction with any of the following:

1. A person who had extended credit to the partnership prior to dissolution and had no knowledge or notice of the partner's want of authority.

2. A person who had not extended credit to the partnership prior to dissolution, and having no knowledge or notice of the partner's want of authority, the fact of the partner's want of authority had not been advertised in the manner provided for advertising the fact of dissolution in sub. (1) (b) 2.

(4) Nothing in this section shall affect the liability under s. 178.13 of any person who after dissolution represents himself or herself or consents to another representing him or her as a partner in a partnership engaged in carrying on business.

**History:** 1993 a. 482; 2001 a. 38.

**178.31 Discharge of existing liabilities on dissolution.**

(1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between the partner, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for those obligations of the partnership incurred while the deceased partner was a partner and for which the deceased partner was liable under s. 178.12 but subject to the prior payment of the deceased partner's separate debts.

**History:** 1993 a. 482; 1995 a. 97.

Notwithstanding an agreement between the partners, both partners were liable for a prior partnership obligation since there was no agreement under sub. (2). Fox Valley Builders Corp. v. Day, 71 Wis. 2d 785, 238 N.W.2d 748 (1976).

**178.32 Right to wind up.** Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however,

that any partner, the partner's legal representative, or the partner's assignee, upon cause shown, may obtain winding up by the court.

**History:** 1993 a. 482.

**178.33 Application of partnership property on dissolution.** (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against the other copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement, and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under s. 178.31 (2) the expelled partner shall receive in cash only the net amount due the expelled partner from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have all the rights specified in sub. (1), and the right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his or her interest in the partnership at the dissolution, less any damages recoverable under par. (a), and in like manner indemnify him or her against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have, if the business is not continued under the provisions of par. (b), all the rights of a partner under sub. (1) subject to the provisions of par. (a), and, if the business is continued under par. (b), the right as against the other partners and all claiming through them in respect of their interests in the partnership, to have the value of his or her interest in the partnership, less any damages caused to the other partners by the dissolution, ascertained and paid to him or her in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the goodwill of the business shall not be considered.

**History:** 1993 a. 482; 1997 a. 254.

A partner who had not wrongfully dissolved the partnership had a right under sub. (1) to force a sale of assets, in the absence of a contrary agreement. *Dreifuerst v. Dreifuerst*, 90 Wis. 2d 566, 280 N.W.2d 335 (Ct. App. 1979).

A business run for 8 years by a surviving partner was winding up under s. 178.33 (1), not continuing under s. 178.37. *Trust Estate of Schaefer*, 91 Wis. 2d 360, 283 N.W.2d 410 (Ct. App. 1979).

A deceased or withdrawing partner has no claim to post-dissolution profits that are related to the skill and services of the remaining partners. Fees from work in progress at the time of dissolution constitute partnership assets allocated to each partner according to the partnership formula without any additional compensation to the partner who performed the work. *Gull v. Van Epps*, 185 Wis. 2d 609, 517 N.W.2d 531 (Ct. App. 1994).

**178.34 Adjustment of rights on dissolution for fraud.** If a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled to all of the following:

(1) A lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to 3rd persons for any sum of money paid by the party entitled to rescind for the purchase of an interest in the partnership and for any capital or advances contributed by the party entitled to rescind.

(2) To stand, after all liabilities to 3rd persons have been satisfied, in the place of the creditors of the partnership for any pay-

ments made by the party entitled to rescind in respect of the partnership liabilities.

(3) Indemnification by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

**History:** 1993 a. 482; 2005 a. 253.

**178.35 Settlement and distribution on dissolution.** In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are all of the following:

(a) Partnership property.

(b) Contributions of the partners specified in sub. (4).

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners.

(b) Those owing to partners other than for capital and profits.

(c) Those owing to partners in respect of capital.

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in sub. (1) to the satisfaction of the liabilities.

(4) Except as provided in s. 178.12 (2), the partners shall contribute, as provided by s. 178.15 (1), the amount necessary to satisfy liabilities, and if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in sub. (4).

(6) Any partner or the partner's legal representative shall have the right to enforce the contributions specified in sub. (4) to the extent of the amount which the partner has paid in excess of the partner's share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in sub. (4).

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) If a partner has become bankrupt or the partner's estate is insolvent, the claims against the partner's separate property shall rank in the following order:

(a) Those owing to separate creditors.

(b) Those owing to partnership creditors.

(c) Those owing to partners by way of contribution.

**History:** 1993 a. 482; 1995 a. 97.

**178.36 Rights and liabilities on continuing business after dissolution without liquidation.** (1) If any new partner is admitted into an existing partnership, or if any partner retires and assigns, or the representative of the deceased partner assigns, that partner's rights in partnership property to 2 or more of the partners, or to one or more of the partners and one or more 3rd persons and if the business is continued without liquidation of the partnership affairs, the creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) If any partner retires or dies and the business of the dissolved partnership is continued as set forth in subs. (1) and (2), with the consent of the retired partners or the representative of the deceased partner, but without any assignment of the retired or deceased partner's right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more 3rd persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of s. 178.33 (2) (b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a 3rd person becoming a partner in the partnership continuing the business, under this section to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) If the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for the retired or deceased partner's right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

**History:** 1993 a. 482; 2005 a. 253.

A business run for 8 years by a surviving partner was winding up under s. 178.33 (1), not continuing under s. 178.37. Trust Estate of Schaefer, 91 Wis. 2d 360, 283 N.W.2d 410 (Ct. App. 1979).

**178.37 Rights of retiring or deceased partner.** If any partner retires or dies, and the business is continued under any of the conditions set forth in s. 178.33 (2) (b) or 178.36 (1), (2), (3), (5) and (6), without any settlement of accounts as between the retired or deceased partner or the deceased partner's estate and the person or partnership continuing the business, unless otherwise agreed, the retired partner or the deceased partner's legal representative as against such persons or partnership may have the value of the retired or deceased partner's interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of the retired or deceased partner's interest in the dissolved partnership with interest, or, at the option of the retired partner or the deceased partner's legal representative, in lieu of interest, the profits attributable to the use of the retired or deceased partner's right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by s. 178.36 (8).

**History:** 1993 a. 482.

A personal representative who is also a partner may not deprive a deceased partner's estate of its rights to interest or profits under this section. Hence, a personal rep-

resentative possessed no authority to waive the estate's rights under the statute, and the personal representative must choose one of the options provided. McDonald v. McDonald, 68 Wis. 2d 292, 228 N.W.2d 727 (1975).

When a legal representative has failed or refused to act, an heir may maintain an action to recover assets for the benefit of an estate. Schaefer v. Schaefer, 89 Wis. 2d 323, 278 N.W.2d 332 (Ct. App. 1979).

A business run for 8 years by a surviving partner was winding up under s. 178.33 (1), not continuing under s. 178.37. Trust Estate of Schaefer, 91 Wis. 2d 360, 283 N.W.2d 410 (Ct. App. 1979).

A deceased or withdrawing partner has no claim to post-dissolution profits that are related to the skill and services of the remaining partners. Fees from work in progress at the time of dissolution constitute partnership assets allocated to each partner according to the partnership formula without any additional compensation to the partner who performs the work. Gull v. Van Epps, 185 Wis. 2d 609, 517 N.W.2d 531 (Ct. App. 1994).

The burden is on the retiring partner, not the continuing partner, to prove "profits attributable." Exiting partners are not entitled to a full predissolution profit share after dissolution because the predissolution profit-sharing ratio was predicated in part on that partner's contribution of services, which ended upon dissolution, while after dissolution, the exiting partner is compensated for the use of its investment in the partnership. Estate of Matteson v. Matteson, 2008 WI 48, 309 Wis. 2d 311, 749 N.W.2d 557, 05-2607.

### 178.38 Right to accounting accrues on dissolution.

The right to an account of his or her interest shall accrue to any partner, or his or her legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

**History:** 1993 a. 482.

### 178.39 Recording of partnership agreements; amendments; articles of dissolution.

Partnership agreements, amendments thereof and agreements in dissolution thereof may be recorded in the office of the register of deeds of the county in which the principal place of business of such partnership is located.

**History:** 1993 a. 301.

### 178.40 Registration of limited liability partnerships.

(1) To become a registered limited liability partnership or a foreign registered limited liability partnership, a partnership shall file with the department the fee specified in s. 178.48 and a registration statement that includes all of the following:

- A name for the partnership that complies with s. 178.42.
- If a foreign registered limited liability partnership, the name of the state or country under whose law it is formed.
- The mailing address of its principal office.
- The street address of the registered office and the name and address of the registered agent at that office for service of process.

(e) A statement that the partnership registers as a registered limited liability partnership or a foreign registered limited liability partnership.

(f) Any other information that the partnership determines to include.

(2) A registered limited liability partnership or a foreign registered limited liability partnership may amend its registration statement at any time by filing with the department a statement that includes all of the following:

- The name of the partnership.
- If a foreign registered limited liability partnership, the name of the state or country under whose law it is formed.
- The date of the filing of the original registration statement.
- The amendment to the registration statement.

(3) A registered limited liability partnership or a foreign registered limited liability partnership may terminate its registration by filing with the department the fee specified in s. 178.48 and a written notice of withdrawal that includes all of the following:

- The name of the partnership.
- If a foreign registered limited liability partnership, the name of the state or country under whose law it is formed.
- A statement that the partnership withdraws its registration.

**History:** 1995 a. 97.

Wisconsin's LLP Law. Fahrenbach & Klinker. Wis. Law. March 1996.

**178.41 Effect of registration.** (1) A registration of a limited liability partnership is effective when the registration statement takes effect under s. 178.49.

(a) The department's filing of a registration statement is conclusive proof that the partnership is registered as a registered limited liability partnership or a foreign registered limited liability partnership under this chapter, except in a proceeding by the state to revoke the registration, and is notice of all other facts set forth in the registration statement.

(b) The department's filing of a registration statement of a foreign registered limited liability partnership under s. 178.40 constitutes its certificate of authority to transact business in this state and is notice of all other facts set forth in the registration statement.

(2) (a) A partnership that registers as a registered limited liability partnership is for all purposes the same partnership that existed before the registration and continues to be a partnership under the laws of this state.

(b) If a registered limited liability partnership or a foreign registered limited liability partnership dissolves for any reason and its business continues without winding up the partnership affairs and without liquidating or terminating the partnership, and so long as the partnership continues to comply with s. 178.42, the registration of the registered limited liability partnership or the foreign registered limited liability partnership shall continue to be applicable to the partnership continuing the business, and the partnership shall not be required to file a new registration statement. The partnership continuing the business shall be considered to have filed any documents required or permitted under this chapter which were filed by the dissolved registered limited liability partnership or foreign registered limited liability partnership.

(3) If a registered limited liability partnership or a foreign registered limited liability partnership dissolves for any reason and winds up its affairs, liquidates or terminates, the registration statement remains in effect as to the partnership and partners during the period of winding up and remains in effect as to the partners after liquidation or termination with respect to liabilities of the partnership incurred, assumed or arising before the effective date of liquidation or termination.

(4) A partnership continues as a registered limited liability partnership or foreign registered limited liability partnership if there is substantial compliance with the requirements of this chapter. The status of a partnership as a registered limited liability partnership or foreign registered limited liability partnership and the liability of a partner of that registered limited liability partnership or foreign registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in any filing under this chapter.

**History:** 1995 a. 97.

**178.42 Name of registered limited liability partnership.**

(1) The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

(2) The name of a foreign registered limited liability partnership transacting business in this state shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP", or other words or abbreviations as may be required or authorized by the laws of the jurisdiction in which the partnership is formed.

(3) Except as provided in sub. (4), the name of a registered limited liability partnership shall be distinguishable upon the records of the department from all of the following names:

(a) The name of any other domestic or foreign corporation, cooperative, unincorporated cooperative association, registered limited liability partnership, limited partnership, or limited liability company existing, registered or licensed to transact business under the laws of this state.

(b) Any name reserved or registered under ch. 179, 180, 181, 183, 185, or 193.

(4) The name of a registered limited liability partnership is not distinguishable from a name referred to under sub. (3) (a) and (b) if the only difference between it and the other name is the inclusion or absence of a word or words referred to in sub. (1) or (2) or the words "corporation", "incorporated", "limited", "company", "cooperative", "limited partnership", "limited liability company" or abbreviations of these words.

(5) If the name of a domestic or foreign limited liability partnership is not distinguishable from a name referred to under sub. (3) (a) and (b), the domestic or foreign limited liability partnership may register under a fictitious name that is distinguishable from a name referred to under sub. (3) (a) and (b).

**History:** 1995 a. 97; 2005 a. 441.

**178.43 Registered office and registered agent.** (1) A registered limited liability partnership and foreign registered limited liability partnership shall continuously maintain in this state a registered office and registered agent. The registered office may be the same as any of the partnership's places of business. The registered agent shall be any of the following:

(a) A natural person who resides in this state and whose business office is identical with the registered office.

(b) A domestic corporation, nonstock corporation, limited liability company, limited partnership or registered limited liability partnership.

(c) A foreign corporation, foreign limited liability company, foreign limited partnership or foreign registered limited liability partnership if that entity is authorized to transact business in this state and the entity's business office is identical with the registered office.

(2m) The registered agent of a registered limited liability partnership or a foreign limited liability partnership may resign as registered agent by executing and filing with the department a written statement that includes all of the following information, as applicable:

(a) The name of the registered limited liability partnership or foreign registered limited liability partnership for which the registered agent is acting.

(b) The name of the registered agent.

(c) If the registered agent is acting for a registered limited liability partnership, the street address of the registered limited liability partnership.

(d) If the registered agent is acting for a foreign registered limited liability partnership, the foreign registered limited liability partnership's current registered office and the mailing address of the foreign registered limited liability partnership's current principal office.

(e) A statement that the registered agent resigns.

(f) If the registered office is also discontinued, a statement to that effect.

(3m) After the filing of a statement under sub. (2m), the department shall mail a copy of the statement to the registered limited liability partnership or foreign registered limited liability partnership at the address provided under sub. (2m) (c) or (d).

(4) A registered limited liability partnership or foreign registered limited liability partnership may change its registered office or registered agent, or both, by doing any of the following:

(a) Delivering to the department for filing a statement of change.

(b) Including the name of its registered agent and the street address of its registered office, as changed, in an amendment to its registration statement.

(5) Except as provided in sub. (6), a statement of change shall include all of the following information:



(a) The name of the registered limited liability partnership or foreign registered limited liability partnership and, if applicable, a statement that the registered limited liability partnership or foreign registered limited liability partnership is registered under this chapter.

(b) The name of its registered agent, as changed.

(c) The street address of its registered agent, as changed.

(d) A statement that, after the changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(6) If the name of a registered agent changes or if the street address of a registered agent's business office changes, the registered agent may change the name of the registered agent or the street address of the registered office, or both, of any registered limited liability partnership or foreign registered limited liability partnership for which he, she, or it is the registered agent. To make a change under this subsection, the registered agent shall notify the registered limited liability partnership or foreign registered limited liability partnership in writing of the change and deliver to the department for filing a signed statement that complies with sub. (5) and recites that the registered limited liability partnership or foreign registered limited liability partnership has been notified of the change.

**History:** 1995 a. 97; 2001 a. 44, 105; 2009 a. 237.

**178.44 Service on registered limited liability partnership.** (1) A registered limited liability partnership's or foreign registered limited liability partnership's registered agent is the partnership's agent for service of process, notice or demand required or permitted by law to be served on the partnership.

(2) Except as provided in sub. (3), if a registered limited liability partnership or a foreign registered limited liability partnership has no registered agent or the agent cannot with reasonable diligence be served, the partnership may be served by registered or certified mail, return receipt requested, addressed to the partnership at its principal office. Service is perfected under this subsection at the earliest of the following:

(a) The date on which the partnership receives the mail.

(b) The date shown on the return receipt, if signed on behalf of the partnership.

(c) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

(3) If the address of the registered limited liability partnership's or foreign registered limited liability partnership's principal office cannot be determined from the records of the department, the partnership may be served by publishing a class 3 notice, under ch. 985, in the community in which the partnership's principal office or registered office, as most recently designated in the records of the department, is located.

(4) This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served on a registered limited liability partnership or a foreign registered limited liability partnership in any other manner permitted by law.

**History:** 1995 a. 97.

**178.45 Foreign registered limited liability partnerships.** (1) Before transacting business in this state, a foreign registered limited liability partnership shall do all of the following:

(a) Comply with any statutory or administrative registration or filing requirements governing the specific type of business in which the partnership is engaged.

(b) Obtain a certificate of authority from the department by filing a registration statement under s. 178.40.

(1m) Upon application by a district attorney or the attorney general, a court shall revoke a foreign registered limited liability partnership's certificate of authority if the foreign registered limited liability partnership has violated s. 940.302 (2) or 948.051 (2).

(2) A foreign registered limited liability partnership holding a valid certificate of authority under this section is subject to ss. 178.40 to 178.53.

(3) The internal affairs of a foreign registered limited liability partnership, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of the jurisdiction in which the foreign limited liability partnership is formed.

(4) The following shall apply to a foreign registered limited liability partnership transacting business in this state without filing a registration statement and obtaining a certificate of authority under s. 178.40:

(a) A foreign registered limited liability partnership transacting business in this state without a certificate of authority may not maintain a proceeding in a court of this state until it obtains a certificate of authority.

(b) Neither the successor to a foreign registered limited liability partnership that transacted business in this state without a certificate of authority nor the assignee of a cause of action arising out of that business may maintain a proceeding based on that cause of action in a court of this state until the foreign registered limited liability partnership or its successor obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign registered limited liability partnership, or its successor or assignee, until the court determines if the foreign limited liability partnership or its successor requires a certificate of authority. If the court determines that a certificate is required, the court may further stay the proceeding until the foreign registered limited liability partnership or its successor obtains the certificate of authority.

(d) The failure of a foreign registered limited liability partnership to obtain a certificate of authority does not do any of the following:

1. Impair the validity of any contract or act of the foreign registered limited liability partnership or its title to property in this state.

2. Affect the right of any other party to a contract to maintain any action on the contract.

3. Prevent the foreign registered limited liability partnership from defending any civil, criminal, administrative or investigatory proceeding in any court of this state.

(e) A foreign registered limited liability partnership that transacts business in this state without a certificate of authority is liable to this state, for each year or any part of a year during which it transacted business in this state without a certificate of authority, for an amount equal to the sum of the following:

1. All fees that would have been imposed under this chapter upon the foreign registered limited liability partnership had it applied for and received a certificate of authority.

2. Fifty percent of the amount under subd. 1. or \$5,000, whichever is less.

(f) The foreign registered limited liability partnership shall pay the amount owed under par. (e) to the department. The department may not issue a certificate of authority to the foreign registered limited liability partnership until the amount owed is paid. The attorney general may enforce a foreign registered limited liability partnership's obligation to pay any amount owed under par. (e).

(g) A partner of a foreign registered limited liability partnership is not liable for the debts and obligations of the foreign registered limited liability partnership solely because the foreign registered limited liability partnership transacted business in this state without a certificate of authority.

**History:** 1995 a. 97; 2007 a. 116.

**178.46 Filing requirements. (1g)** In this section:

(a) "Deliver" means deliver by hand, mail, commercial delivery service, electronic transmission, or any other method of delivery used in conventional commercial practice.

(b) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) “Electronic signature” means an electronic sound, symbol, or process, attached to or logically associated with a writing and executed or adopted by a person with intent to authenticate the writing.

(d) “Sign” means to execute or adopt a manual, facsimile, conformed, or electronic signature or any symbol with intent to authenticate a writing.

**(1r)** Except as provided in sub. (4), a document required or permitted to be filed under s. 178.40 or 178.50 in the office of the department shall satisfy all of the following requirements:

(a) Contain the information required by this chapter, although it may also contain other information.

(b) Be in the English language, except that a partnership name need not be in English if it is written in English letters or Arabic or Roman numerals.

(c) Contain the name of the drafter, if required by s. 182.01 (3).

(d) Be executed in accordance with sub. (3).

(e) Be on the form prescribed by the department if the document is described in s. 178.47.

(f) Be delivered to the department for filing and be accompanied by one exact or conformed copy and the filing fee required by s. 178.48.

**(2)** The department shall file photocopies or other reproduced copies of typewritten or printed documents if the copies satisfy sub. (1r) and are originally executed to satisfy sub. (3).

**(3)** (a) The documents described in s. 178.40 or 178.50 shall be executed by one or more partners authorized by the partnership or as otherwise provided in the partnership agreement.

(b) The person executing a document shall sign it and, beneath or opposite the signature, type or legibly print his or her name.

**(4)** The department may waive any of the requirements of subs. (1r) to (3) if it appears from the face of the document that the document’s failure to satisfy the requirement is immaterial.

**History:** 1995 a. 97; 1997 a. 35; 2001 a. 44.

**178.47 Forms. (1)** (a) The department shall prescribe and furnish on request forms for all of the following documents:

1. A registration statement under s. 178.40 (1).
2. An amended registration statement under s. 178.40 (2).
3. A notice of withdrawal under s. 178.40 (3).

(b) The forms prescribed by the department under par. (a) 1., 2. and 3. shall require disclosure of only the information required under s. 178.40 (1), (2) and (3), respectively.

(c) The use of a form prescribed under par. (a) is mandatory.

**(2)** The department may prescribe and furnish on request forms for other documents required or permitted to be filed with the department under this chapter, but use of these forms is not mandatory.

**History:** 1995 a. 97.

**178.48 Filing and service fees. (1)** Except as provided under sub. (4), the department shall collect the following fees when the documents described under this subsection are delivered to the department for filing:

- (a) Registration statement, \$100.
- (b) Amendment of registration statement, \$40.
- (c) Termination of registration, \$40.
- (d) Articles of correction, \$40.
- (e) Statement of change to registered office or registered agent or office, \$10.

**(2)** The department shall collect the fee established under s. 182.01 (4) (c) each time process is served on the department under this chapter.

**(3)** In addition to the fees required under sub. (1), the department shall collect the fee established under s. 182.01 (4) (d) for processing in an expeditious manner a document required or permitted to be filed with the department under this chapter.

**(4)** The department, by rule, may specify a larger fee for filing documents described in sub. (1) in paper format.

**History:** 1995 a. 97; 2001 a. 16, 44; 2009 a. 237.

**178.49 Effective date and time of document. (1)** (a) Except as provided in sub. (2), a document filed under this chapter is effective on the date that it is received by the department for filing and at any of the following times on that date:

1. The time of day specified in the document as its effective time.

2. If no effective time is specified, at the close of business.

(b) The date that a document is received by the department is determined by the department’s endorsement on the original document.

**(2)** A document may specify a delayed effective date and time, except that the effective date may not be more than 90 days after the date that it is received for filing. If a document specifies a delayed effective date and time in accordance with this subsection, the document is effective at the date and time specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date.

**History:** 1995 a. 97.

**178.50 Correcting filed document. (1)** A registered limited liability partnership or foreign registered limited liability partnership holding a certificate of authority under s. 178.40 may correct a document that was filed with the department if the document contains a statement that was incorrect at the time of filing or was defectively executed, including defects in any attestation, seal, verification or acknowledgment.

**(2)** To correct a document under sub. (1), a registered limited liability partnership or a foreign registered limited liability partnership holding a certificate of authority under s. 178.40 shall file with the department articles of correction that include all of the following:

(a) A description of the document, including its filing date, or a copy of the document.

(b) An identification of the incorrect statement and the reason that it is incorrect, or the manner in which the execution was defective, whichever applies.

(c) The corrected statement or execution.

**(3)** (a) Except as provided in par. (b), articles of correction are effective on the effective date of the document that they correct.

(b) With respect to a person relying on the uncorrected document and adversely affected by the correction, the articles of correction are effective when filed.

**History:** 1995 a. 97.

**178.51 Filing duty of the department. (1)** Upon receipt of a document by the department for filing, the department shall stamp or otherwise endorse the date of receipt on the original document copy and, upon request, any additional document copy received. The department shall return any additional document copy to the person delivering it, as confirmation of the date of receipt.

**(2)** (a) Except as provided in par. (b), if a document satisfies s. 178.46, the department shall file the document by stamping or otherwise endorsing “Filed” on both the original and the document copy. After filing a document, the department shall deliver the document copy to the registered limited liability partnership or to the foreign registered limited liability partnership or to its representative.

(b) If a registered limited liability partnership or foreign registered limited liability partnership is in default in the payment of any fee required under s. 178.48, the department shall refuse to file

any document relating to the partnership until all delinquent fees are paid.

(3) (a) If the department refuses to file a document, the department shall return it to the partnership, or to its representative, within 5 business days after the document is received by the office of the department for filing, together with a brief written explanation of the reason for the department's refusal.

(b) The department's failure to either file or return a document within 5 business days after it was received constitutes a refusal to file.

(c) If a document that has been refused for filing by the department is resubmitted for filing by the department, the effective date of the document under s. 178.49 is the date that the resubmitted document is received by the department for filing or a delayed effective date specified in the resubmitted document in accordance with s. 178.49 (2). The effective time of the resubmitted document shall be determined under s. 178.49 (1) or (2), whichever is applicable.

(4) Except as provided in s. 178.41 (1), the department's filing of a document or refusal to file a document does not do any of the following:

(a) Affect the validity or invalidity of the document in whole or part.

(b) Relate to the correctness or incorrectness of information contained in the document.

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

**History:** 1995 a. 97; 2001 a. 44.

**178.52 Appeal from department's refusal to file document.** (1) If the department refuses to file a document received

for filing, the partnership may appeal the refusal by filing a petition in circuit court to compel the department to file the document. The partnership shall file the petition in the circuit court for the county where the partnership's principal office or, if none in this state, its registered office is located. The partnership shall attach to the petition the document and any explanation by the department of the reasons for the refusal to file.

(2) The partnership shall file the petition under sub. (1) within 30 days after the department returns the document under s. 178.51 (3) (a). If the department does not return the document within the period specified in s. 178.51 (3) (b), the partnership shall file the petition within 30 days after the period specified in s. 178.51 (3) (b) expires.

(3) The court may summarily order the department to file the document or take other action that the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.

(4) If the court orders the department to file the document under sub. (3), the effective date of the document shall be the date on which it was received by the department or a delayed effective date, if specified under s. 178.49 (2).

**History:** 1995 a. 97.

**178.53 Applicability to foreign and interstate commerce.** A partnership, including a registered limited liability partnership, formed pursuant to an agreement governed by this chapter, may conduct its business, carry on its operations and govern its internal affairs in accordance with this chapter, and may exercise the powers and enjoy the limitations on partner liability granted under this chapter, in any state, territory, district or possession of the United States or in any foreign country.

**History:** 1995 a. 97.