

TITLE 4: ECONOMIC RESOURCES
DIVISION 4: CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS

§ 40101. Definitions.

In this chapter:

- (a) "Business" includes every trade, occupation, and profession.
- (b) "Debtor in bankruptcy" means a person who is the subject of:
 - (1) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (2) A comparable order under federal, state, or foreign law governing insolvency.
- (c) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.
- (d) "Foreign limited liability partnership" means a partnership that:
 - (1) Is formed under laws other than the laws of this Commonwealth; and
 - (2) Has the status of a limited liability partnership under those laws.
- (e) "Limited liability partnership" means a partnership that has filed a statement of qualification under 4 CMC § 40181 and does not have a similar statement in effect in any other jurisdiction.
- (f) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under 4 CMC § 40112, predecessor law, or comparable law of another jurisdiction.
- (g) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.
- (h) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.
- (i) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.
- (j) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (k) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.
- (l) "Statement" means a statement of partnership authority under 4 CMC § 40123, a statement of denial under 4 CMC § 40124, a statement of dissociation under 4 CMC § 40158, a statement of dissolution under 4 CMC § 40165, a statement merger under 4 CMC § 40177, a statement of qualification under 4 CMC § 40181, a statement of foreign qualification under 4 CMC § 40186, or an amendment or cancellation of any of the foregoing.
- (m) "Statement" means a statement of partnership authority under 4 CMC § 40123, a statement of denial under 4 CMC § 40124, a statement of dissociation under 4 CMC § 40158, a statement of dissolution under 4 CMC § 40165, a statement of merger under 4 CMC § 40177, a statement of qualification under 4

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CMC § 40181, a statement of foreign qualification under 4 CMC § 40186, or an amendment or cancellation of any of the foregoing.

(n) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

Source: PL 15-88, § 2(101), modified.

Commission Comment: The Commission inserted the appropriate code section references and changed capitalization in this section pursuant to 1 CMC § 3806(c) and (f). Public Law 15-88, enacted on October 2, 2007, contained severability and savings provisions and the following:

Section 1. Findings. The Legislature finds that nearly every state except Louisiana has adopted some version of the Uniform Partnership Act drafted by the National Conference of Commissioners on Uniform State Laws. The Conference first considered a uniform law of partnership in 1902. The resulting Uniform Partnership Act ("UPA") was finally approved by the Conference in 1914. The UPA governs general partnerships, and also governs limited partnerships except where the limited partnership statute is inconsistent. The National Conference has noted over the past 80 years, the 49 states that adopted the UPA made remarkably few amendments.

In January of 1986, an American Bar Association subcommittee issued a detailed report that recommended extensive revisions to the UPA. The ABA Report recommended that the "entity theory" of partnership law should be incorporated into any revision of the UPA whenever possible. Following a series of revisions in 1992 and 1993, the Revised Uniform Partnership Act (1992) [RUPA] was adopted unanimously by a vote of the States on August 6, 1992, adopted unanimously by the Conference in 1994, and approved by the American Bar Association House of Delegates in August, 1994. The RUPA gives supremacy to the partnership agreement in almost all situations.

In 1995, the Conference appointed a Drafting Committee to add provisions to RUPA authorizing the creation of a new form of general partnership called a limited liability partnership (LLP). At the time RUPA was first approved in 1992, only two states had adopted limited liability partnership legislation. By the time the LLP amendments to RUPA were approved by the Conference at the 1996 Annual Meeting, however, over forty states had adopted limited liability partnership provisions to their general partnership statutes.

The LLP amendments to RUPA deal with four major issues: (1) scope of a partner's liability shield; (2) the voting requirement to become an LLP; (3) the effect of becoming an LLP on the partnership agreement; and (4) the annual filing requirement. The revised uniform law, incorporating the LLP amendments is known as the Uniform Partnership Act (1997).

The legislature finds that the Uniform Partnership Act (1997) is an appropriate and long overdue law in the Commonwealth. It brings the Commonwealth into the mainstream of American partnership law but adopts the modern trend among the various states in dealing with increasingly complex partnership issues. Before this Act, the

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Commonwealth relied solely on the common law for resolution of partnership issues. This Act incorporates much of the existing common law and also provides maximum flexibility and protection to partnerships and their individual members. It also establishes a vital role for the Commonwealth Government, through its Registrar of Corporations, by giving it certain well defined powers over domestic and foreign LLP's in the Commonwealth.

. . .

Section 3. Short Title. This Act may be cited as the "Uniform Partnership Act."