
SENATE BILL 5374

State of Washington

54th Legislature

1995 Regular Session

By Senators Smith and Roach

Read first time 01/20/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to registered limited liability partnerships;
2 amending RCW 25.04.020, 25.04.060, 25.04.150, 25.04.180, 25.04.340,
3 25.04.360, and 25.04.400; and adding new sections to chapter 25.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 25.04.020 and 1985 c 8 s 2 are each amended to read as
6 follows:

7 In this chapter:

8 "Court" includes every court and judge having jurisdiction in the
9 case;

10 "Business" includes every trade, occupation, or profession;

11 "Person" includes individuals, trustees and personal
12 representatives, partnerships, corporations, and other associations;

13 "Bankrupt" includes bankrupt under the federal bankruptcy act or
14 insolvent under any state insolvent act;

15 "Conveyance" includes every assignment, lease, mortgage, or
16 encumbrance;

17 "Real property" includes land and any interest or estate in land;

18 "Registered limited liability partnership" means a partnership
19 formed pursuant to an agreement governed by the laws of this state,

1 registered under section 8 of this act and complying with section 9 of
2 this act.

3 **Sec. 2.** RCW 25.04.060 and 1955 c 15 s 25.04.060 are each amended
4 to read as follows:

5 (1) A partnership is an association of two or more persons to carry
6 on as co-owners a business for profit and includes, for all purposes of
7 the laws of this state, a registered limited liability partnership.

8 (2) Any association formed under any other statute of this state,
9 or a statute adopted by any authority, other than the authority of this
10 state, is not a partnership under this chapter, unless such association
11 would have been a partnership in this state prior to the adoption of
12 this chapter.

13 (3) This chapter shall apply to limited partnerships except insofar
14 as the statutes relating to such partnerships are inconsistent
15 herewith.

16 **Sec. 3.** RCW 25.04.150 and 1985 c 8 s 3 are each amended to read as
17 follows:

18 (1) Except as provided in subsection (2) of this section, all
19 partners are liable:

20 ~~((1))~~ (a) Jointly and severally for everything chargeable to the
21 partnership under RCW 25.04.130 and 25.04.140; and

22 ~~((2))~~ (b) Jointly for all other debts and obligations of the
23 partnership; but any partner may enter into a separate obligation to
24 perform a partnership contract;

25 ~~((3))~~ (c) Except that:

26 ~~((a))~~ (i) In no event shall a trustee or personal representative
27 (a fiduciary) acting as a partner have personal liability except as
28 provided in RCW 11.98.110 (2) and (4);

29 ~~((b))~~ (ii) Any such liability under these subsections shall be
30 satisfied first from the partnership assets and second from the trust
31 or estate; and

32 ~~((c))~~ (iii) If a fiduciary is liable, the fiduciary is entitled
33 to indemnification first from the partnership assets and second from
34 the trust or estate.

35 (2) Subject to subsection (3) of this section, a partner in a
36 registered limited liability partnership is not liable directly or
37 indirectly, including by way of indemnification, contribution,

1 assessment, or otherwise for debts, obligations, and liabilities of or
2 chargeable to the partnership, whether in tort, contract or otherwise,
3 arising from omissions, negligence, wrongful acts, misconduct, or
4 malpractice committed while the partnership is a registered limited
5 liability partnership and in the course of the partnership business by
6 another partner or an employee, agent, or representative of the
7 partnership.

8 (3) Subsection (2) of this section shall not affect the liability
9 of a partner in a registered limited liability partnership for his or
10 her own omissions, negligence, wrongful acts, misconduct, or
11 malpractice or that of any person under his or her direct supervision
12 and control.

13 (4) A partner in a registered limited liability partnership is not
14 a proper party to a proceeding by or against a registered limited
15 liability partnership, the object of which is to recover damages or
16 enforce the obligations arising out of the acts, omissions,
17 malpractice, or misconduct of the type described in subsection (2) of
18 this section, unless such partner is personally liable under subsection
19 (3) of this section.

20 **Sec. 4.** RCW 25.04.180 and 1955 c 15 s 25.04.180 are each amended
21 to read as follows:

22 The rights and duties of the partners in relation to the
23 partnership shall be determined, subject to any agreement between them,
24 by the following rules:

25 (1) Each partner shall be repaid his or her contributions, whether
26 by way of capital or advances to the partnership property and share
27 equally in the profits and surplus remaining after all liabilities,
28 including those to partners, are satisfied; and except as provided in
29 RCW 25.04.150(2), each partner must contribute toward the losses,
30 whether of capital or otherwise, sustained by the partnership according
31 to his or her share in the profits.

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

36 (3) A partner, who in aid of the partnership makes any payment or
37 advance beyond the amount of capital which he or she agreed to

1 contribute, shall be paid interest from the date of the payment or
2 advance.

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

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

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

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

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

17 **Sec. 5.** RCW 25.04.340 and 1955 c 15 s 25.04.340 are each amended
18 to read as follows:

19 Where the dissolution is caused by the act, death or bankruptcy of
20 a partner, each partner is liable to his or her copartners for his or
21 her share of any liability created by any partner acting for the
22 partnership as if the partnership had not been dissolved unless:

23 (1) The dissolution being by act of any partner, the partner acting
24 for the partnership had knowledge of the dissolution(~~(or)~~);

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

28 (3) The liability is for a debt, obligation, or liability for which
29 the partner is not liable as provided in RCW 25.04.150(2).

30 **Sec. 6.** RCW 25.04.360 and 1955 c 15 s 25.04.360 are each amended
31 to read as follows:

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

34 (2) A partner is discharged from any existing liability upon
35 dissolution of the partnership by an agreement to that effect between
36 himself or herself, the partnership creditor and the person or
37 partnership continuing the business; and such agreement may be inferred

1 from the course of dealing between the creditor having knowledge of the
2 dissolution and the person or partnership continuing the business.

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

8 (4) The individual property of a deceased partner shall be liable
9 for ~~((all))~~ those obligations of the partnership incurred while he or
10 she was a partner and for which he or she was liable under RCW
11 25.04.150, but subject to the prior payment of his or her separate
12 debts.

13 **Sec. 7.** RCW 25.04.400 and 1955 c 15 s 25.04.400 are each amended
14 to read as follows:

15 In settling accounts between the partners after dissolution, the
16 following rules shall be observed, subject to any agreement to the
17 contrary:

18 (1) The assets of the partnership are:

19 (a) The partnership property,

20 (b) The contributions of the partners ~~((necessary for the payment~~
21 ~~of all the liabilities))~~ specified in subsection ~~((+2))~~ (4) of this
22 section.

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

25 (a) Those owing to creditors other than partners,

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

27 (c) Those owing to partners in respect of capital,

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

29 (3) The assets shall be applied in the order of their declaration
30 in subdivision (1) of this section to the satisfaction of the
31 liabilities.

32 (4) Except as provided in RCW 25.04.150(2): (a) The partners shall
33 contribute, as provided by RCW 25.04.180(1) the amount necessary to
34 satisfy the liabilities; ~~((but))~~ and (b) if any, but not all, of the
35 partners are insolvent, or, not being subject to process, refuse to
36 contribute, the other partners shall contribute their share of the
37 liabilities, and, in the relative proportions in which they share the
38 profits, the additional amount necessary to pay the liabilities.

1 (5) An assignee for the benefit of creditors or any person
2 appointed by the court shall have the right to enforce the contribution
3 specified in subdivision (4) of this section.

4 (6) Any partner or his or her legal representative shall have the
5 right to enforce the contributions specified in subdivision (4) of this
6 section, to the extent of the amount which he or she has paid in excess
7 of his or her share of the liability.

8 (7) The individual property of a deceased partner shall be liable
9 for the contributions specified in subdivision (4) of this section.

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

15 (9) Where a partner has become bankrupt or his or her estate is
16 insolvent the claims against his or her separate property shall rank in
17 the following order:

- 18 (a) Those owing to separate creditors,
- 19 (b) Those owing to partnership creditors,
- 20 (c) Those owing to partners by way of contribution.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 25.04 RCW
22 to read as follows:

23 (1) To become and to continue as a registered limited liability
24 partnership, a partnership shall file with the secretary of state an
25 application stating the name of the partnership; the address of its
26 principal office; if the partnership's principal office is not located
27 in this state, the address of a registered office and the name and
28 address of a registered agent for service of process in this state
29 which the partnership will be required to maintain; the number of
30 partners; a brief statement of the business in which the partnership
31 engages; any other matters that the partnership determines to include;
32 and that the partnership thereby applies for status as a registered
33 limited liability partnership.

34 (2) The application shall be executed by a majority in interest of
35 the partners or by one or more partners authorized to execute an
36 application.

37 (3) The application shall be accompanied by a fee of one hundred
38 dollars for each partner.

1 (4) The secretary of state shall register as a registered limited
2 liability partnership any partnership that submits a completed
3 application with the required fee.

4 (5) A partnership registered under this section shall pay, in each
5 year following the year in which its application is filed, on a date
6 and in an amount specified by the secretary of state, an annual fee for
7 each partner. The fee must be accompanied by a notice, on a form
8 provided by the secretary of state, of the number of partners currently
9 in the partnership and of any material changes in the information
10 contained in the partnership's application for registration.

11 (6) Registration is effective immediately after the date an
12 application is filed, and remains effective until: (a) It is
13 voluntarily withdrawn by filing with the secretary of state a written
14 withdrawal notice executed by a majority in interest of the partners or
15 by one or more partners authorized to execute a withdrawal notice; or
16 (b) thirty days after receipt by the partnership of a notice from the
17 secretary of state, which notice shall be sent by certified mail,
18 return receipt requested, that the partnership has failed to make
19 timely payment of the annual fee specified in subsection (5) of this
20 section, unless the fee is paid within such a thirty-day period.

21 (7) The status of a partnership as a registered limited liability
22 partnership, and the liability of the partners thereof, shall not be
23 affected by: (a) Errors in the information stated in an application
24 under subsection (1) of this section or a notice under subsection (5)
25 of this section; or (b) changes after the filing of such an application
26 or notice in the information stated in the application or notice.

27 (8) The secretary of state may provide forms for the application
28 under subsection (1) of this section or a notice under subsection (5)
29 of this section.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 25.04 RCW
31 to read as follows:

32 The name of a registered limited liability partnership shall
33 contain the words "registered limited liability partnership" or the
34 abbreviation "L.L.P." or "L.L.P." as the last words or letters of its
35 name.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 25.04 RCW
37 to read as follows:

1 (1) A partnership, including a registered limited liability
2 partnership, formed and existing under this chapter, may conduct its
3 business, carry on its operations, and have and exercise the powers
4 granted by this chapter in any state, territory, district, or
5 possession of the United States or in any foreign country.

6 (2) It is the intent of the legislature that the legal existence of
7 registered limited liability partnerships formed and existing under
8 this chapter be recognized outside the boundaries of this state and
9 that the laws of this state governing such registered limited liability
10 partnerships transacting business outside this state be granted the
11 protection of full faith and credit under the Constitution of the
12 United States.

13 (3) The internal affairs of a partnership, including registered
14 limited liability partnerships, formed and existing under this chapter,
15 including the liability of partners for debts, obligations, and
16 liabilities of or chargeable to the partnership, shall be subject to
17 and governed by the laws of this state.

18 (4) Subject to any statutes for the regulation and control of
19 specific types of business, registered limited liability partnerships,
20 formed and existing under the laws of another jurisdiction, may do
21 business in this state and are not required to register with the
22 secretary of state under this chapter.

23 (5) It is the policy of this state that the internal affairs of
24 partnerships, including registered limited liability partnerships,
25 formed and existing under the laws of another jurisdiction, including
26 the liability of partners for debts, obligations, and liabilities of or
27 chargeable to partnerships, shall be subject to and governed by the
28 laws of such other jurisdiction.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 25.04 RCW
30 to read as follows:

31 If the registered limited liability partnership's members are
32 required to be licensed to practice their profession, and the
33 registered limited liability partnership fails to maintain for itself
34 and for its members practicing in this state a policy of professional
35 liability insurance, bond, or other evidence of financial
36 responsibility of a kind designated by rule by the state insurance
37 commissioner and in the amount of at least one million dollars or such
38 greater amount as the state insurance commissioner may establish by

1 rule for a licensed profession or for any specialty within a
2 profession, taking into account the nature and size of the business,
3 then the registered limited liability partnership's members shall be
4 personally liable to the extent that, had such insurance, bond, or
5 other evidence of responsibility been maintained, it would have covered
6 the liability in question.

--- END ---