

## CHAPTER 45-22 LIMITED LIABILITY PARTNERSHIPS

### 45-22-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Address" means:
  - a. In the case of a registered office or principal executive office, the mailing address, including the zip code, of the actual office location which may not be only a post-office box; and
  - b. In all other cases, the mailing address, including the zip code.
2. "Authenticated electronic communication" means:
  - a. That the electronic communication is delivered:
    - (1) To the principal place of business of the limited liability partnership; or
    - (2) To a partner or agent of the limited liability partnership authorized by the limited liability partnership to receive the electronic communication; and
  - b. That the electronic communication sets forth information from which the limited liability partnership can reasonably conclude that the electronic communication was sent by the purported sender.
3. "Domestic limited liability partnership" means a partnership formed by two or more persons under this chapter with a registration in effect and which is not a foreign limited liability partnership.
4. "Domestic organization" means an organization created under the laws of this state.
5. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
6. "Electronic communication" means any form of communication, not directly involving the physical transmission of paper:
  - a. That creates a record that may be retained, retrieved, and reviewed by a recipient of the communication; and
  - b. That may be directly reproduced in paper form by the recipient through an automated process.
7. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
8. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and signed or adopted by a person with the intent to sign the record.
9. "Filed with the secretary of state" means, except as otherwise permitted by law or rule:
  - a. That a record meeting the applicable requirements of this chapter, together with the fees provided in section 45-22-23, has been delivered or communicated to the secretary of state by a method or medium of communication acceptable by the secretary of state and has been determined by the secretary of state to conform to law.
  - b. That the secretary of state did then:
    - (1) Record the actual date on which the record was filed, and if different, the effective date of filing; and
    - (2) Record the record in the office of the secretary of state.
10. "Foreign limited liability partnership" means a partnership formed by two or more persons as a limited liability partnership under the laws of a jurisdiction other than this state which is in good standing in its jurisdiction of origin.
11. "Foreign organization" means an organization created under laws other than the laws of this state for a purpose for which the organization may be created under the laws of this state.
12. "Jurisdiction of origin" means the jurisdiction in which the limited liability partnership status of the foreign limited liability partnership was created.
13. "Limited liability partnership" means a domestic limited liability partnership or a foreign limited liability partnership.

14. "Managing partner" means a partner charged with the management of the limited liability partnership or foreign limited liability partnership in this state and if no partners are so specifically designated, then all partners.
15. "Notice":
  - a. Is given to a limited liability partnership:
    - (1) When in writing and mailed or delivered to a managing partner at the registered office or principal executive office of the limited liability partnership; or
    - (2) When given by a form of electronic communication consented to by a managing partner of the limited liability partnership to which the notice is given if by:
      - (a) Facsimile communication, when directed to a telephone number at which a managing partner of the limited liability partnership or the partner has consented to receive notice.
      - (b) Electronic mail, when directed to an electronic mail address at which a managing partner of the limited liability partnership has consented to receive notice.
      - (c) Posting on an electronic network on which a managing partner of the limited liability partnership has consented to receive notice, together with separate notice to the limited liability partnership if the specific posting, upon the later of:
        - [1] The posting; or
        - [2] The giving of the separate notice.
      - (d) Any other form of electronic communication by which a managing partner of the limited liability partnership has consented to receive notice, when directed to the limited liability partnership.
  - b. Is given to a partner of the limited liability partnership:
    - (1) When in writing and mailed or delivered to the partner at the registered office or at the principal executive office of the limited liability partnership; or
    - (2) When given by a form of electronic communication consented to by the partner to which the notice is given if by:
      - (a) Facsimile communication, when directed to a telephone number at which the partner has consented to receive notice;
      - (b) Electronic mail, when directed to an electronic mail address at which the partner has consented to receive notice;
      - (c) Posting on an electronic network on which the partner has consented to receive notice, together with separate notice to the partner of the specific posting, upon the later of:
        - [1] The posting; or
        - [2] The giving of the separate notice; or
      - (d) Any other form of electronic communication by which the partner has consented to receive notice, when directed to the partner.
  - c. Is given in all other cases:
    - (1) When mailed to the person at an address designated by the person or at the last-known address of the person;
    - (2) When deposited with a nationally recognized overnight delivery service for overnight delivery or, if overnight delivery to the person is not available, for delivery as promptly as practicable, to the person at an address designated by the person or at the last-known address of the person;
    - (3) When handed to the person;
    - (4) When left at the office of the person with a clerk or other person in charge of the office or:
      - (a) If there is no one in charge, when left in a conspicuous place in the office; or

- (b) If the office is closed or the person to be notified has no office, when left at the dwelling house or usual place of abode of the person with some person of suitable age and discretion then residing there;
    - (5) When given by a form of electronic communication consented to by the person to whom the notice is given if by:
      - (a) Facsimile communication, when directed to a telephone number at which the person has consented to receive notice;
      - (b) Electronic mail, when directed to an electronic mail address at which the person has consented to receive notice;
      - (c) Posting on an electronic network on which the person has consented to receive notice, together with separate notice to the person of the specific posting, upon the later of:
        - [1] The posting; or
        - [2] The giving of the separate notice; or
      - (d) Any other form of electronic communication by which the person has consented to receive notice, when directed to the person; or
    - (6) When the method is fair and reasonable when all circumstances are considered.
  - d. Is given by mail when deposited in the United States mail with sufficient postage affixed.
  - e. Is given by deposit for delivery when deposited for delivery as provided in paragraph 2 of subdivision c, after having made sufficient arrangements for payment by the sender.
  - f. Is deemed received when it is given.
16. "Organization":
- a. Means, whether domestic or foreign, a corporation, limited liability company, general partnership, limited partnership, limited liability partnership, limited liability limited partnership, or any other person subject to a governing statute; but
  - b. Excludes:
    - (1) A nonprofit corporation, whether a domestic nonprofit corporation which is incorporated under chapter 10-33 or a foreign nonprofit corporation which is incorporated in another jurisdiction; or
    - (2) Any nonprofit limited liability company, whether a domestic nonprofit limited liability company which is organized under chapter 10-36 or a foreign nonprofit limited liability company which is organized in another jurisdiction.
17. "Originally registered" and "original registration" means the record establishing the limited liability partnership status of the foreign limited liability partnership in the jurisdiction of origin of the foreign limited liability partnership.
18. "Partnership" means an association of two or more persons to carry on as co-owners of a business for profit formed under chapters 45-13 through 45-21, predecessor law, or comparable law of another jurisdiction.
19. "Principal executive office" means:
- a. An office from which the limited liability partnership conducts business; or
  - b. If the limited liability partnership has no office from which the limited liability partnership conducts business, the registered office of the limited liability partnership.
20. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
21. "Register" means the act of filing with the secretary of state which causes:
- a. A domestic limited liability partnership to be created; or
  - b. A foreign limited liability partnership to be authorized to transact business in this state.
22. "Registered office" means the place in this state designated as the registered office of the limited liability partnership or foreign limited liability partnership.
23. "Registration" means the record which, when filed with the secretary of state, causes:
- a. A domestic limited liability partnership to be created; or

- b. A foreign limited liability partnership to be authorized to do business in this state.
24. "Signed" means:
- a. That the signature of a person which may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, transmitted by telecommunication or electronically, or in any other manner reproduced on the record, is placed on a record with the present intention to authenticate that record; and
  - b. With respect to a record required by this chapter to be filed with the secretary of state means that:
    - (1) The record is signed by a person authorized to do so by this chapter, or by or pursuant to an agreement among the partners, or by a resolution approved by the affirmative vote of the required proportion or number of partners; and
    - (2) The signature and the record are communicated by a method or medium of communication acceptable by the secretary of state.

**45-22-01.1. Legal recognition of electronic records and electronic signatures.**

Repealed by S.L. 2005, ch. 100, § 156.

**45-22-02. Applicability of chapters 45-13 through 45-21.**

In any case not provided for in this chapter, chapters 45-13 through 45-21 govern. If any provision of this chapter conflicts with chapters 45-13 through 45-21, that provision of this chapter takes precedence.

**45-22-03. Registration.**

- 1. A partnership may become a limited liability partnership pursuant to this section.
  - a. In determining whether the underlying partnership necessary for registration as a domestic limited liability partnership has been formed, the rules set forth in section 45-14-02 apply.
  - b. The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the necessary vote of partners required to amend the partnership agreement, unless the partnership agreement contains a requirement that the vote of a greater number of partners is necessary to amend provisions relating to the partners' obligations to contribute to the partnership, in which case by the necessary vote of the partners to amend these provisions.
- 2. After the approval required by subdivision b of subsection 1, a partnership shall become a limited liability partnership by filing a registration with the secretary of state. A domestic limited liability partnership or foreign limited liability partnership that is transacting business in this state must have in effect and filed with the secretary of state a registration that complies with this section. From the effective date of filing, the registration of:
  - a. A domestic limited liability partnership establishes the status as a domestic limited liability partnership; and
  - b. A foreign limited liability partnership authorizes the transaction of business in this state.
- 3. A registration, signed by a managing partner, must contain:
  - a. With respect to a domestic limited liability partnership:
    - (1) The name of the domestic limited liability partnership.
    - (2) The nature of the business to be transacted in this state.
    - (3) A statement indicating whether the limited liability partnership will be engaged in farming or ranching in this state or owning or leasing land in this state which is used for farming or ranching.
    - (4) The address of the principal executive office of the domestic limited liability partnership.

- (5) The name of the registered agent of the domestic limited liability partnership as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of that noncommercial registered agent in this state.
- (6) The name and address of each managing partner and, if the limited liability partnership will be engaged in farming or ranching in this state or owning or leasing land in this state which is used for farming or ranching, then the names and addresses of all partners.
- (7) A statement that the partnership elects to be a limited liability partnership.
- (8) A deferred effective date, if any.
- b. With respect to a foreign limited liability partnership:
  - (1) The name of the foreign limited liability partnership and, if different, the name under which the foreign limited liability partnership proposes to transact business in this state.
  - (2) The jurisdiction of origin.
  - (3) The date on which the foreign limited liability partnership expires in the jurisdiction of origin.
  - (4) The nature of the business to be transacted in this state.
  - (5) A statement indicating whether the foreign limited liability partnership will be engaged in farming or ranching in this state or owning or leasing land in this state which is used for farming or ranching.
  - (6) The address of the principal executive office of the foreign limited liability partnership.
  - (7) The name of the registered agent of the foreign limited liability partnership as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of that registered agent in this state.
  - (8) The name and address of each managing partner and, if the foreign limited liability partnership will be engaged in farming or ranching in this state or owning or leasing land in this state which is used for farming or ranching, then the names and addresses of all partners.
  - (9) An acknowledgment that the status of the foreign limited liability partnership in this state will automatically expire unless the foreign limited liability partnership continuously maintains limited liability partnership status in the jurisdiction of origin.
- c. The registration must be accompanied by payment of the fees provided in section 45-22-22 together with a certificate of good standing or certificate of existence authenticated by the registering officer of the state or country where the foreign limited liability partnership is originally registered.
4. An original of the registration must be filed with the secretary of state.
  - a. If the secretary of state finds the registration conforms to law and the fees provided in section 45-22-22 are paid, the secretary of state shall endorse on the original the word "filed" and the day, month, and year of the filing and shall file the original in the office of the secretary of state.
  - b. If any statement in the registration is false when made or becomes inaccurate after the registration is filed, making the registration false or inaccurate in any respect, the limited liability partnership shall file promptly with the secretary of state an amended or corrected registration. If only a change of address of the principal executive office is required, an amended or corrected registration need not be filed. However, the change of address of the principal executive office must be reported in the next annual report filed after the change or be submitted in writing to the secretary of state without a filing fee.
  - c. In the case of a change in a foreign limited liability partnership's name, a foreign limited liability partnership shall file promptly with the secretary of state a certificate to that effect authenticated by the proper officer of the jurisdiction of origin.
  - d. In the case of a termination or merger:

- (1) A foreign limited liability partnership that is not the surviving organization need not file an amended registration but, within thirty days after the merger or termination becomes effective, shall file with the secretary of state a certificate to that effect authenticated by the proper officer of the foreign limited liability partnership's jurisdiction of origin.
  - (2) It is not necessary for any foreign limited liability partnership, which is the surviving organization in a merger, to procure a new or amended registration unless the name of the foreign limited liability partnership is changed or unless the foreign limited liability partnership desires to pursue in this state purposes other than those which the foreign limited liability partnership is authorized to transact in this state.
5. A managing partner must be separately registered with the secretary of state at the time of the registration of a domestic or foreign limited liability partnership if that managing partner is a domestic or foreign:
  - a. Corporation;
  - b. Limited liability company;
  - c. Limited partnership;
  - d. Limited liability partnership;
  - e. Limited liability limited partnership; or
  - f. Partnership using a fictitious name.
6. With respect to a domestic limited liability partnership:
  - a. A partnership's decision to file a registration is an ordinary matter that may be decided by a majority of the partners.
  - b. The decision to withdraw a registration may be undertaken only with the consent of all partners or as otherwise expressly provided in a written partnership agreement.
7. A partnership that registers as a limited liability partnership is not deemed to have dissolved as a result of the registration.
8. If a limited liability partnership or foreign limited liability partnership dissolves without winding up business or changes the jurisdiction of origin, a partnership that is a successor to the limited liability partnership or foreign limited liability partnership and which intends to be a limited liability partnership or foreign limited liability partnership is not required to file a new registration or renewal and is deemed to have filed any documents required or permitted under this section which were filed by the predecessor partnership.
9. The status of a partnership as a limited liability partnership is effective on the later of the filing of the registration or a date specified in the registration which is within ninety days after the filing of the registration.
  - a. The status of a partnership as a domestic limited liability partnership and the authority of a foreign limited liability partnership to transact business in this state remains effective, regardless of changes in the partnership, until the partnership's registration is voluntarily withdrawn pursuant to section 45-22-13 or revoked by the secretary of state pursuant to sections 45-22-16 and 45-22-21.1.
  - b. The status of a partnership as a limited liability partnership and the liability of the partnership's partners for obligation of the partnership is not affected by errors or later changes in the information required to be contained in the registration under subsection 3.

**45-22-04. Limited liability partnership - Name. (Contingent effective date - [See note](#))**

1. The name of a limited liability partnership:
  - a. Must be expressed in letters or characters in the English language as those letters or characters appear in the American standard code for information interchange (ASCII) table.
  - b. Must contain the words "limited liability partnership" or the abbreviation "L.L.P." or the abbreviation "LLP", either of which abbreviations may be used

- interchangeably for all purposes authorized by this chapter, including real estate matters, contracts, and filings with the secretary of state.
- c. May not contain the word "corporation", "company", "incorporated", "limited liability company", "limited partnership", "limited liability limited partnership", or any abbreviation of these words.
  - d. May not contain a word or phrase that indicates or that implies that the limited liability partnership:
    - (1) Is formed for a purpose other than:
      - (a) A lawful purpose for which a limited liability partnership may be formed under this chapter; or
      - (b) For a purpose stated in its registration; or
    - (2) May not be formed under this chapter.
  - e. May not be the same as or deceptively similar to:
    - (1) The name, whether foreign and authorized to do business in this state or domestic, unless there is filed with the registration a record that complies with subsection 3, of:
      - (a) Another limited liability partnership;
      - (b) A corporation;
      - (c) A limited liability company;
      - (d) A limited partnership; or
      - (e) A limited liability limited partnership;
    - (2) A name, the right to which is at the time of registration reserved in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
    - (3) A fictitious name registered in the manner provided in chapter 45-11;
    - (4) A trade name registered in the manner provided in chapter 47-25; or
    - (5) A trademark or service mark registered in the manner provided in chapter 47-22.
  - f. Need not be filed as provided in chapter 45-11 except if transacting business under a name other than the name as registered under this chapter.
2. The secretary of state shall determine whether a name is deceptively similar to another name for purposes of this chapter.
  3. If the secretary of state determines that a limited liability partnership name is deceptively similar to another name for purposes of this chapter, the limited liability partnership name may not be used unless there is filed with the registration:
    - a. The written consent of the holder of the rights to the name to which the proposed name has been determined to be deceptively similar; or
    - b. A certified copy of a judgment of a court in this state establishing the earlier right of the applicant to the use of the name in this state.
  4. This section and section 45-22-05 do not:
    - a. Abrogate or limit:
      - (1) The law of unfair competition or unfair practices;
      - (2) Chapter 47-25;
      - (3) The laws of the United States with respect to the right to acquire and protect copyrights, trade names, trademarks, service names, and service marks; or
      - (4) Any other rights to the exclusive use of names or symbols.
    - b. Derogate the common law or principles of equity.
  5. A limited liability partnership that is the surviving organization in a merger with one or more organizations, or that acquires by sale, lease, or other disposition to or exchange with a domestic organization all or substantially all of the assets of another organization including its name, may have the same name, subject to the requirements of subsection 1, as that used in this state by any of the other organizations, if the other organization whose name is sought:
    - a. Is incorporated, organized, formed, or registered under the laws of this state;
    - b. Is authorized to transact business or conduct activities in this state;

- c. Holds a reserved name in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
  - d. Holds a fictitious name registered in the manner provided in chapter 45-11;
  - e. Holds a trade name registered in the manner provided in chapter 47-25; or
  - f. Holds a trademark or service mark registered in the manner provided in chapter 47-22.
6. The use of a name by a limited liability partnership in violation of this section does not affect or vitiate the limited liability partnership's status as a limited liability partnership. However, a court of this state may, upon application of the state or of an interested or affected person, enjoin the limited liability partnership from doing business under a name assumed in violation of this section, even though the limited liability partnership's registration may have been filed with the secretary of state.
  7. A limited liability partnership whose registration has expired or whose registration has been forfeited as provided in section 45-22-21.1 may reacquire the right to use that name by refiling a registration as provided in section 45-22-03 unless the name has been adopted for use or reserved by another person, in which case the filing will be rejected unless the filing is accompanied by a written consent or judgment pursuant to subsection 3. A limited liability partnership that cannot reacquire the use of its limited liability partnership name shall adopt a new limited liability partnership name that complies with this section:
    - a. By refiling a registration as provided in section 45-22-03;
    - b. By amending its registration as provided in section 45-22-03; or
    - c. By reinstating the limited liability partnership pursuant to section 45-22-21.1, unless the name has been adopted for use or reserved by another person, in which case the filing will be rejected unless the filing is accompanied by a written consent or judgment as provided in subsection 3.
  8. With respect to foreign limited liability partnerships:
    - a. A foreign limited liability partnership may register under any name that would be available to a domestic limited liability partnership, regardless of whether the name is the same under which the foreign limited liability partnership is authorized in the jurisdiction of original registration.
    - b. A fictitious name certificate must be filed as provided in chapter 45-11 only if registering under a name other than the name as authorized in the jurisdiction of original registration.
  9. A limited liability partnership that files its registration with an effective date later than the date of filing as provided in subsection 9 of section 45-22-03 shall maintain the right to the name until the effective date.

**Limited liability partnership - Name. (Contingent effective date - See note)**

1. The name of a limited liability partnership:
  - a. Must be expressed in letters or characters in the English language as those letters or characters appear in the American standard code for information interchange (ASCII) table.
  - b. Must contain the words "limited liability partnership" or the abbreviation "L.L.P." or the abbreviation "LLP", either of which abbreviations may be used interchangeably for all purposes authorized by this chapter, including real estate matters, contracts, and filings with the secretary of state.
  - c. May not contain the word "corporation", "company", "incorporated", "limited liability company", "limited partnership", "limited liability limited partnership", or an abbreviation of these words.
  - d. May not contain a word or phrase indicating or implying the limited liability partnership:
    - (1) Is formed for a purpose other than:
      - (a) A lawful purpose for which a limited liability partnership may be formed under this chapter; or
      - (b) For a purpose stated in its registration; or
    - (2) May not be formed under this chapter.

- e. Must be distinguishable in the records of the secretary of state from:
    - (1) The name, whether foreign and authorized to do business in this state or domestic, unless there is filed with the registration a record that complies with subsection 3, of:
      - (a) Another limited liability partnership;
      - (b) A corporation;
      - (c) A limited liability company;
      - (d) A limited partnership; or
      - (e) A limited liability limited partnership;
    - (2) A name, the right to which is at the time of registration reserved in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
    - (3) A fictitious name registered in the manner provided in chapter 45-11;
    - (4) A trade name registered in the manner provided in chapter 47-25; or
    - (5) A trademark or service mark registered in the manner provided in chapter 47-22.
  - f. Need not be filed as provided in chapter 45-11 except if transacting business under a name other than the name as registered under this chapter.
2. The secretary of state shall determine whether a name is distinguishable in the secretary of state's records from another name for purposes of this chapter and may adopt rules reasonable or necessary for making these determinations.
  3. If the secretary of state determines a limited liability partnership name is indistinguishable in the secretary of state's records from another name for purposes of this chapter, the limited liability partnership name may not be used unless there is filed with the registration:
    - a. The written consent of the holder of the rights to the name to which the proposed name has been determined to be indistinguishable; or
    - b. A certified copy of a judgment of a court in this state establishing the earlier right of the applicant to the use of the name in this state.
  4. This section and section 45-22-05 do not:
    - a. Abrogate or limit:
      - (1) The law of unfair competition or unfair practices;
      - (2) Chapter 47-25;
      - (3) The laws of the United States with respect to the right to acquire and protect copyrights, trade names, trademarks, service names, and service marks; or
      - (4) Any other rights to the exclusive use of names or symbols.
    - b. Derogate the common law or principles of equity.
  5. A limited liability partnership that is the surviving organization in a merger with one or more organizations, or that acquires by sale, lease, or other disposition to or exchange with a domestic organization all or substantially all of the assets of another organization including its name, may have the same name, subject to the requirements of subsection 1, as that used in this state by any of the other organizations, if the other organization whose name is sought:
    - a. Is incorporated, organized, formed, or registered under the laws of this state;
    - b. Is authorized to transact business or conduct activities in this state;
    - c. Holds a reserved name in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
    - d. Holds a fictitious name registered in the manner provided in chapter 45-11;
    - e. Holds a trade name registered in the manner provided in chapter 47-25; or
    - f. Holds a trademark or service mark registered in the manner provided in chapter 47-22.
  6. The use of a name by a limited liability partnership in violation of this section does not affect or vitiate the limited liability partnership's status as a limited liability partnership. However, a court of this state may, upon application of the state or of an interested or affected person, enjoin the limited liability partnership from doing business under a

- name assumed in violation of this section, even though the limited liability partnership's registration may have been filed with the secretary of state.
7. A limited liability partnership whose registration has expired or whose registration has been forfeited as provided in section 45-22-21.1 may reacquire the right to use that name by refiling a registration as provided in section 45-22-03 unless the name has been adopted for use or reserved by another person, in which case the filing will be rejected unless the filing is accompanied by a written consent or judgment pursuant to subsection 3. A limited liability partnership that cannot reacquire the use of its limited liability partnership name shall adopt a new limited liability partnership name that complies with this section:
    - a. By refiling a registration as provided in section 45-22-03;
    - b. By amending its registration as provided in section 45-22-03; or
    - c. By reinstating the limited liability partnership pursuant to section 45-22-21.1, unless the name has been adopted for use or reserved by another person, in which case the filing will be rejected unless the filing is accompanied by a written consent or judgment as provided in subsection 3.
  8. With respect to foreign limited liability partnerships:
    - a. A foreign limited liability partnership may register under any name that would be available to a domestic limited liability partnership, regardless of whether the name is the same under which the foreign limited liability partnership is authorized in the jurisdiction of original registration.
    - b. A fictitious name certificate must be filed as provided in chapter 45-11 only if registering under a name other than the name as authorized in the jurisdiction of original registration.
  9. A limited liability partnership that files its registration with an effective date later than the date of filing as provided in subsection 9 of section 45-22-03 shall maintain the right to the name until the effective date.

**45-22-05. Reserved name.**

1. The exclusive right to the use of a limited liability partnership name otherwise permitted by section 45-22-04 may be reserved by any person.
2. The reservation is made by filing with the secretary of state a request that the name be reserved:
  - a. If the name is available for use by the applicant, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of twelve months.
  - b. The reservation may be renewed for successive twelve-month periods.
3. The right to the exclusive use of a limited liability partnership name reserved pursuant to this section may be transferred to another person by or on behalf of the applicant for whom the name was reserved by filing with the secretary of state a notice of the transfer and specifying the name and address of the transferee.
4. The right to the exclusive use of a limited liability partnership name reserved pursuant to this section may be canceled by or on behalf of the applicant for whom the name was reserved by filing with the secretary of state a notice of cancellation.
5. The secretary of state may destroy all reserved name requests and the index thereof one year after expiration.

**45-22-06. Failure to use required name.**

If a person purports to enter into a contract or other undertaking on behalf of a limited liability partnership and with intent to defraud does not disclose to the other party that part of the limited liability partnership's name that complies with subsection 1 of section 45-22-04, that person is personally liable on the contract or undertaking unless that person can show in making the contract or accepting the undertaking that the other party had knowledge or notice that the partnership was a limited liability partnership, or did not rely on the partnership being an ordinary partnership. Any partner of a limited liability partnership who with intent to defraud consents to a person not making the disclosure described in this section is also personally liable

on the contract or undertaking, unless that partner can make the showing described in this section.

**45-22-07. Unauthorized assumption of limited liability partnership powers - Liability.**

A person who assumes to act as a limited liability partnership knowing that a registration is not in effect is jointly and severally liable for all debts and liabilities incurred or arising as a result.

**45-22-08. Limited liability partnership shield.**

Repealed by S.L. 1999, ch. 95, § 207.

**45-22-08.1. Partner liability.**

1. An obligation of a partnership incurred while the partnership is a domestic limited liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the domestic limited liability partnership.
2. A partner is not personally liable, directly or indirectly, including by way of indemnification, contribution, or otherwise under section 45-19-03, 45-20-06, 45-20-07, 45-21-03, or 45-21-06 or any other basis of law, for an obligation under this section solely by reason of being a partner or acting as a partner.
3. This section applies notwithstanding any inconsistent provision in the partnership agreement.
4. This section does not limit or impair the right of a domestic limited liability partnership or the domestic limited liability partnership's partners to make claims against any particular partner on the grounds that the particular partner has, in the partner's capacity as a partner, breached a duty to a domestic limited liability partnership.

**45-22-09. Piercing the limited liability shield.**

With respect to piercing the limited liability partnership shield:

1. Except as provided in subsection 2, the case law that states the conditions and circumstances under which the corporate veil or limited liability shield of a corporation may be pierced under North Dakota law also applies to limited liability partnerships, taking into account the differences between corporations and partnerships.
2. The use of informal procedures or arrangements for the management and for the conduct of business is not a ground for piercing the limited liability shield of the limited liability partnership.

**45-22-10. Liability of partners for illegal distributions.**

With respect to the liability of partners for illegal distributions:

1. Except as provided in subsection 3, a partner who receives a distribution from a domestic limited liability partnership which would have been in violation of section 10-19.1-92 had the limited liability partnership been a corporation with a board of directors is liable to the domestic limited liability partnership, the domestic limited liability partnership's receiver, or other person winding up the domestic limited liability partnership's affairs, but only to the extent that the distribution received by the partner exceeded the amount that properly could have been paid under section 10-19.1-92.
2. An action may not be commenced under this section more than two years from the date of the distribution.
3. A partner actively engaged in the partnership business is not liable to the domestic limited liability partnership for any distribution that is or was regularly paid to the partner on account of engagement in the partnership business to the extent the distribution is reasonable compensation for the partner's services to or on behalf of the partnership.

**45-22-11. Registered office and agent.**

A limited liability partnership shall continuously maintain a registered agent as provided by chapter 10-01.1 and, if a noncommercial registered agent, the address of that noncommercial registered agent in this state.

**45-22-12. Change of registered office or agent.**

1. A limited liability partnership may change the limited liability partnership's registered office, change the limited liability partnership's registered agent, or state a change in the name of the limited liability partnership's registered agent as provided in chapter 10-01.1.
2. A registered agent of a limited liability partnership may resign as provided in chapter 10-01.1.

**45-22-13. Voluntary withdrawal of status.**

1. A partnership may end the partnership's status as a limited liability partnership at any time by filing a withdrawal statement with the secretary of state.
2. The withdrawal statement must contain:
  - a. With respect to a domestic limited liability partnership:
    - (1) The name of the domestic limited liability partnership.
    - (2) A statement that the domestic limited liability partnership is withdrawing the current registration.
    - (3) An acknowledgment by the domestic limited liability partnership that the withdrawal ends the domestic limited liability partnership's status as a limited liability partnership with respect to periods after the effective date of the withdrawal.
  - b. With respect to a foreign limited liability partnership:
    - (1) The name of the foreign limited liability partnership.
    - (2) The jurisdiction of origin.
    - (3) A statement that the foreign limited liability partnership is not transacting business in this state as a foreign limited liability partnership.
    - (4) A statement that the foreign limited liability partnership surrenders authority to transact business in this state as a foreign limited liability partnership and is withdrawing the foreign limited liability partnership's current registration.
    - (5) An acknowledgment by the foreign limited liability partnership that the withdrawal ends the foreign limited liability partnership's authorization to transact business in this state as a foreign limited liability partnership with respect to periods after the effective date of the withdrawal.
    - (6) A statement that the foreign limited liability partnership consents to service of process based upon any cause of action arising in this state during the time the foreign limited liability partnership was authorized to transact business in this state and that service may be made on the foreign limited liability partnership as provided in section 10-01.1-13.
    - (7) A post-office address to which a person may mail a copy of any process against the foreign limited liability partnership.
3. The withdrawal statement may state a delayed withdrawal date. If the withdrawal statement does not state an effective date, the statement is effective when filed.
4. If the foreign limited liability partnership is not the surviving organization in a merger or termination, the filing with the secretary of state of a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign limited liability partnership is originally registered constitutes a valid withdrawal statement.

#### **45-22-14. Filing after dissolution.**

1. A dissolved limited liability partnership that is winding up affairs may continue the limited liability partnership's status as a limited liability partnership through termination by continuing to file an annual report until termination.
2. When the dissolved limited liability partnership winds up affairs, the limited liability partnership shall file with the secretary of state a termination notice, together with the fees provided in section 45-22-22. The termination notice must:
  - a. Contain:
    - (1) The name of the limited liability partnership.
    - (2) A statement the limited liability partnership dissolved and wound up affairs.
    - (3) A statement the limited liability partnership is terminated.
  - b. Be signed by one former managing partner who did not wrongfully dissolve the partnership or, in the case of a foreign limited liability partnership, by an authorized partner.

#### **45-22-15. Limited liability after dissolution.**

With respect to limited liability after dissolution:

1. Subject to section 45-22-14, the limited liability shield described in sections 45-22-08.1 and 45-22-09 continues in full force for the dissolved domestic limited liability partnership regardless of any dissolution, winding up, and termination.
2. If a domestic limited liability partnership dissolves and the domestic limited liability partnership's business is continued by a successor partnership under section 45-20-02, the limited liability described in section 45-22-08.1 also applies to that successor domestic limited liability partnership until the withdrawal of the registration that the dissolved domestic limited liability partnership had in effect under section 45-22-03 at the moment of dissolution. The successor partnership may at any time file the partnership's own registration under section 45-22-03.

#### **45-22-16. Secretary of state - Revocation of registration.**

1. The registration of a limited liability partnership or foreign limited liability partnership may be revoked by the secretary of state if:
  - a. The limited liability partnership or foreign limited liability partnership fails:
    - (1) To appoint and maintain a registered agent and registered office as provided in chapter 10-01.1;
    - (2) To file any amendment to the registration of the limited liability partnership or foreign limited liability partnership as required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03;
    - (3) Fails to file a merger as required to be filed pursuant to subdivision d of subsection 4 of section 45-22-03; or
    - (4) Fails to file a withdrawal statement or cancellation of its registration if the foreign limited liability partnership's existence expires, it is dissolved, or it ceases to exist in the jurisdiction of origin.
  - b. An intentional misrepresentation is made in any material matter in any registration, report, affidavit, or other document submitted by the limited liability partnership or foreign limited liability partnership pursuant to this chapter.
2. Except for revocation of the registration for failure to file the annual report as provided in section 45-22-21.1, the secretary of state may not revoke the registration of a limited liability partnership or foreign limited liability partnership unless:
  - a. The secretary of state gave the limited liability partnership or foreign limited liability partnership at least sixty days' notice of the reason for the pending revocation by mail addressed to the registered agent of the limited liability partnership or foreign limited liability partnership at the registered office or, if the limited liability partnership or foreign limited liability partnership fails to appoint and maintain a registered agent in this state, by mail addressed to its principal executive office; and

- b. During the sixty-day period, the limited liability partnership or foreign limited liability partnership fails:
  - (1) To appoint and maintain a registered agent as provided in chapter 10-01.1;
  - (2) To file the report of change regarding the name or business address of the registered agent;
  - (3) To file any amendment to the registration of the limited liability partnership or foreign limited liability partnership required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03; or
  - (4) To correct the misrepresentation.
3. Upon the expiration of the sixty-day period without the limited liability partnership or foreign limited liability partnership curing the reason for the pending revocation set forth in the notice, the registration is revoked. The secretary of state shall note the revocation in the records of the secretary of state and shall give notice of the revocation to the limited liability partnership or foreign limited liability partnership. Notice by the secretary of state must be mailed to the last registered agent at the last registered office. If the limited liability partnership or foreign limited liability partnership failed to appoint and maintain a registered office in this state, the notice must be mailed to its principal executive office.

**45-22-17. Service of process on a limited liability partnership or a foreign limited liability partnership and on a nonresident partner.**

Any process, notice, or demand required or permitted by law to be served on the limited liability partnership, the foreign limited liability partnership, or a partner may be served as provided in section 10-01.1-13.

**45-22-18. Foreign limited liability partnership - Governing law.**

1. The laws of the foreign limited liability partnership's jurisdiction of origin govern:
  - a. The relations among the partners of a foreign limited liability partnership, or the relations between any partner or partners of a foreign limited liability partnership and the foreign limited liability partnership; and
  - b. The liability of partners for obligations of a foreign limited liability partnership.
2. A foreign limited liability partnership may not be denied registration to transact business in this state by reason of any difference between the laws of the foreign limited liability partnership's jurisdiction of origin and the laws of this state.
3. A foreign limited liability partnership holding a valid registration in this state has the same, but no greater, rights and privileges as a domestic limited liability partnership. The registration does not authorize the foreign limited liability partnership to engage in any business or exercise any power that a domestic limited liability partnership may not engage in or exercise as a limited liability partnership.

**45-22-19. Foreign limited liability partnership - Transacting business and obtaining licenses and permits by a foreign limited liability partnership.**

No foreign limited liability partnership may transact business in this state or obtain any license or permit required by this state until the partnership has registered with the secretary of state.

**45-22-20. Transaction of business by a foreign limited liability partnership without registration.**

1. A foreign limited liability partnership transacting business in this state may not maintain any cause of action in any court of this state until the partnership registers with the secretary of state.
2. The failure of a foreign limited liability partnership to register with the secretary of state does not impair the validity of any contract or act of the foreign limited liability partnership or prevent the foreign limited liability partnership from defending any claim for relief in any court of this state.

3. A limitation on the personal liability of a partner is not waived solely by the foreign limited liability partnership transacting business in this state without having filed a registration with the secretary of state.
4. A foreign limited liability partnership, by transacting business in this state without registering with the secretary of state, appoints the secretary of state as the agent upon whom any notice, process, or demand may be served.

**45-22-20.1. Foreign limited liability partnership - Transactions by a foreign limited liability partnership not constituting the transactions of business.**

1. A foreign limited liability partnership transacting business in this state may not maintain any claim, action, suit, or proceeding in any court of this state until the foreign limited liability partnership registers with the secretary of state.
2. The failure of a foreign limited liability partnership to register does not impair the validity of any contract or act of the foreign limited liability partnership or prevent the foreign limited liability partnership from defending any claim, action, suit, or proceeding in any court in this state.
3. A foreign limited liability partnership, by transacting business in this state without registering, appoints the secretary of state as the foreign limited liability partnership's agent upon whom any notice, process, or demand may be served.
4. A foreign limited liability partnership that transacts business in this state without registering is liable to the state for the years or parts of years during which the foreign limited liability partnership transacted business in this state without registering in an amount equal to all fees that would have been imposed by this chapter upon that foreign limited liability partnership had the foreign limited liability partnership duly registered, filed all reports required by this chapter, and paid all penalties imposed by this chapter. The attorney general shall bring proceedings to recover all amounts due this state under this section.
5. A foreign limited liability partnership that transacts business in this state without registering is subject to a civil penalty, payable to the state, not to exceed five thousand dollars. Each managing partner or agent who authorizes, directs, or participates in the transaction of business in this state on behalf of a foreign limited liability partnership that has not registered is subject to a civil penalty, payable to the state, not to exceed one thousand dollars.
6. The civil penalties set forth in subsection 5 may be recovered in an action brought within the district court of Burleigh County by the attorney general. Upon a finding by the court that a foreign limited liability partnership or any of the foreign limited liability partnership's managing partners or agents have transacted business in this state in violation of this chapter, the court shall issue, in addition to the imposition of a civil penalty, an injunction restraining the further transaction of the business of the foreign limited liability partnership and further exercise of any rights and privileges by the foreign limited liability partnership in this state. The foreign limited liability partnership must be enjoined from transacting business in this state until all civil penalties plus any interest and court costs that the court may assess have been paid and until the foreign limited liability partnership has otherwise complied with the provisions of this chapter.

**45-22-21. Foreign limited liability partnership - Transactions by a foreign limited liability partnership not constituting the transaction of business.**

1. The following activities of a foreign limited liability partnership, among others, do not constitute transacting business within the meaning of this chapter:
  - a. Maintaining, defending, or settling any proceeding.
  - b. Holding meetings of partners or carrying on any other activities concerning internal affairs.
  - c. Maintaining bank accounts.
  - d. Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership's own partnership interests or maintaining trustees or depositories with respect to those partnership interests.

- e. Selling through independent contractors.
  - f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before the orders become contracts.
  - g. Creating or acquiring indebtedness, with or without a mortgage, or other security interests in real or personal property.
  - h. Collecting debts, including foreclosing mortgages and canceling contracts for deed; enforcing other security interests on property; securing debts; accepting deeds or other instruments of title from debtors in lieu of foreclosure; canceling or other enforcement; and holding, protecting, and maintaining property acquired under this subdivision.
    - i. Selling or transferring title to property in this state to any person.
    - j. Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like manner.
  - k. Transacting business in interstate commerce.
2. As used in this section, the term "transacting business" has no effect on personal jurisdiction under the North Dakota Rules of Civil Procedure.
  3. For purposes of this section, any foreign limited liability partnership that owns income-producing real or tangible personal property in this state, other than property exempted under subsection 1, is considered transacting business in this state.
  4. This section does not apply in determining the contracts or activities that may subject a foreign limited liability partnership to service of process or taxation in this state or to regulation under any other law of this state.

**45-22-21.1. Secretary of state - Annual report of domestic limited liability partnership and foreign limited liability partnership.**

1. Each domestic limited liability partnership and each foreign limited liability partnership authorized to transact business in this state shall file, within the time provided by subsection 3, an annual report setting forth:
  - a. The name of the limited liability partnership and its jurisdiction of origin.
  - b. The address of the registered office of the limited liability partnership in this state, and the name of the limited liability partnership's registered agent in this state at that address.
  - c. The address of the limited liability partnership's chief executive office.
  - d. A brief statement of the character of the business in which the limited liability partnership is actually engaged in this state.
  - e. The name and respective address of each managing partner of the domestic limited liability partnership or foreign limited liability partnership.
  - f. If the limited liability partnership or foreign limited liability partnership owns or leases land that is used for farming or ranching in this state, a statement listing:
    - (1) The names and addresses of all partners; and
    - (2) The acreage [hectarage] and location listed by section, township, range, and county of all land in this state owned or leased by the limited liability partnership or foreign limited liability partnership.
2. The annual report must be submitted on forms prescribed by the secretary of state. The information provided must be given as of the date of the execution of the report. The annual report must be signed as provided in subsection 24 of section 45-22-01, the partnership agreement, or in a resolution approved by the affirmative vote of the required proportion or number of partners. If the limited liability partnership is in the hands of a receiver or trustee, the annual report must be signed on behalf of the limited liability partnership by the receiver or trustee. The secretary of state may destroy any annual report provided for in this section after the annual report is on file for six years.
3. Except for the first annual report, the annual report of a limited liability partnership or foreign limited liability partnership must be delivered to the secretary of state before April first of each year. The first annual report of a limited liability partnership must be

delivered before April first of the year following the calendar year of the effective date stated in the registration and the first annual report of a foreign limited liability partnership must be delivered before April first of the year following the calendar year in which the registration is filed by the secretary of state. A limited liability partnership in existence on July 1, 1999, shall file the first annual report before April first in the year of the expiration of the registration in effect on July 1, 1999. The secretary of state must file the annual report if the annual report conforms to the requirements of subsection 2.

- a. If the annual report does not conform, the annual report must be returned to the limited liability partnership for any necessary corrections.
  - b. If the annual report is filed before the deadlines provided in this subsection, penalties for the failure to file a report within the time provided do not apply if the annual report is corrected to conform to the requirements of subsection 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.
4. After the date established under subsection 3, the secretary of state shall notify any limited liability partnership failing to file an annual report that the limited liability partnership's registration is not in good standing and that the registration of the limited liability partnership may be revoked pursuant to subsection 5.
- a. The secretary of state shall mail notice of revocation to the last registered agent at the last registered office.
  - b. If the limited liability partnership files an annual report after the notice is mailed, together with the annual report filing fee and late filing penalty fee as provided by section 45-22-22, the secretary of state shall restore the limited liability partnership's registration to good standing.
5. A domestic limited liability partnership that does not file an annual report, along with the statutory filing and penalty fees, within six months after the date established in subsection 3, forfeits the limited liability partnership's registration.
- a. The secretary of state shall note the revocation of the domestic limited liability partnership's registration on the records of the secretary of state and shall give notice of the action to the revoked domestic limited liability partnership.
  - b. Notice by the secretary of state must be mailed to the domestic limited liability partnership's last registered agent at the last registered office.
6. A foreign limited liability partnership that does not file an annual report, along with the statutory filing and penalty fees, within six months after the date established by subsection 3, forfeits the foreign limited liability partnership's registration and authority to transact business in this state.
- a. The secretary of state shall note the revocation of the foreign limited liability partnership's registration and authority on the records of the secretary of state and shall give notice of the action to the foreign limited liability partnership.
  - b. Notice by the secretary of state must be mailed to the foreign limited liability partnership's last registered agent at the last registered office.
  - c. The secretary of state's decision that a registration must be revoked under this subsection is final.
7. A domestic limited liability partnership with a registration that is revoked for failure to file an annual report or a foreign limited liability partnership with registration and authority that are forfeited by failure to file an annual report may be reinstated by filing a past-due report, together with the statutory filing and penalty fees for an annual report and a reinstatement fee as provided in section 45-22-22. The fees must be paid and the report filed within one year following the revocation. Reinstatement under this subsection does not affect any right or liability of a domestic limited liability partnership or a foreign limited liability partnership for the time from the revocation to the reinstatement.

#### **45-22-22. Secretary of state - Fees and charges.**

1. The secretary of state shall charge and collect for:

- a. Filing a registration as a domestic limited liability partnership, thirty-five dollars. If there are more than two managing partners, an additional three dollars must be paid for each additional managing partner not to exceed two hundred fifty dollars.
- b. Filing a registration as a foreign limited liability partnership, sixty dollars.
- c. Filing an annual report of a domestic limited liability partnership or foreign limited liability partnership, twenty-five dollars.
  - (1) The secretary of state shall charge and collect additional fees for late filing of an annual report as follows:
    - (a) After the date provided in subsection 3 of section 45-22-21.1, twenty dollars; and
    - (b) After the revocation of the domestic limited liability partnership registration or the foreign limited liability partnership registration, the reinstatement fee of fifty dollars.
  - (2) Fees paid to the secretary of state according to this subdivision are not refundable if an annual report submitted to the secretary of state cannot be filed because it lacks information required by section 45-22-21.1 or the annual report lacks sufficient payment as required by this subdivision.
- d. Filing a statement of correction or amended registration, twenty-five dollars.
- e. Filing an application to reserve a name, ten dollars.
- f. Filing a notice of transfer of a reserved name, ten dollars.
- g. Filing a cancellation of a reserved name, ten dollars.
- h. Filing a consent to use of name, ten dollars.
- i. Filing a statement of change of address of registered office or change of registered agent or both, or change of address of registered office by registered agent, the fee provided in section 10-01.1-03.
- j. Filing a notice of withdrawal, ten dollars.
- k. Filing a certificate of fact stating a merger of a foreign limited liability partnership registered with the secretary of state, fifty dollars.
- l. Filing any other statement of a domestic limited liability partnership, ten dollars.
- m. Filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
- n. Any record submitted for approval before the actual time of submission for filing, one-half of the fee provided in this section for filing the record.
- 2. The secretary of state shall charge and collect for:
  - a. Furnishing a copy of any record or paper relating to a domestic limited liability partnership or foreign limited liability partnership, the fee provided in section 54-09-04 for copying a record.
  - b. A certificate certifying a copy or reciting facts related to a domestic limited liability partnership or foreign limited liability partnership, fifteen dollars.

**45-22-23. Secretary of state - Powers - Enforcement - Penalty - Appeal.**

- 1. The secretary of state shall administer this chapter.
- 2. The secretary of state may propound to any limited liability partnership subject to this chapter and to any partner any interrogatory reasonably necessary and proper to ascertain whether the partnership has complied with this chapter.
  - a. Any interrogatory must be answered within thirty days after mailing or within any additional time fixed by the secretary of state. Every answer to the interrogatory must be full and complete and be made in writing and under oath.
  - b. If an interrogatory is directed:
    - (1) To an individual, the interrogatory must be answered by that individual;
    - (2) To a domestic limited liability partnership, the interrogatory must be answered by a managing partner; or
    - (3) To a foreign limited liability partnership, the interrogatory must be answered by a resident partner or, if no partner is a resident partner, a partner designated by the foreign limited liability partnership.

- c. The secretary of state need not file any record to which an interrogatory relates until the interrogatory is answered, except if the answers disclose the record is not in conformity with this chapter.
  - d. The secretary of state shall certify to the attorney general, for any action the attorney general determines appropriate, any interrogatory and answers that disclose a violation of this chapter.
  - e. Each managing partner of a domestic limited liability partnership or a resident partner or designated partner of a foreign limited liability partnership who fails or refuses within the time provided by this section to answer truthfully and fully every interrogatory propounded to that person by the secretary of state is guilty of an infraction.
  - f. Any interrogatory propounded by the secretary of state and the answers are not open to public inspection under section 44-04-18. The secretary of state may not disclose any fact or information obtained from an interrogatory except to the extent permitted by law or required for evidence in any criminal proceeding or other action by this state.
3. If the secretary of state rejects any record required by this chapter to be approved by the secretary of state before the record may be filed, the secretary of state shall give written notice of the rejection to the person that delivered the record, specifying the reasons for rejection.
    - a. Within thirty days after the service of the notice of denial, the limited liability partnership may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of that court a petition setting forth a copy of the record sought to be filed and a copy of the written rejection of the record by the secretary of state. The court shall try the matter de novo.
    - b. The court shall sustain the action of the secretary of state or direct the secretary of state to take any action the court determines proper.
  4. If the secretary of state revokes the registration of any foreign limited liability partnership pursuant to section 45-22-16, then the foreign limited liability partnership may appeal to district court in the judicial district serving Burleigh County by filing with the clerk of that court a petition, including:
    - a. A copy of the foreign limited liability partnership's registration; and
    - b. A copy of the notice of revocation given by the secretary of state. The court shall try the matter de novo. The court shall sustain the action of the secretary of state or direct the secretary of state to take any action the court determines proper.
  5. If the court order sought is one for reinstatement of a domestic limited liability partnership registration that has been revoked as provided in subsection 5 of section 45-22-22.1, or for reinstatement of the registration of a foreign limited liability partnership that has been revoked as provided in subsection 6 of section 45-22-21.1, then, together with any other action the court deems proper, any such order which orders the reinstatement of the registration of a domestic or foreign limited liability partnership registration shall require the domestic or foreign limited liability partnership to:
    - a. File the most recent past-due annual report;
    - b. Pay the fees to the secretary of state for all past-due annual reports as provided in subsection 1 of section 45-22-22; and
    - c. Pay the reinstatement fee to the secretary of state as provided in subsection 1 of section 45-22-22.
  6. The attorney general may maintain an action to restrain a foreign limited liability partnership from transacting business in this state in violation of this chapter.

**45-22-23.1. Delivery to and filing of records by secretary of state and effective date.**

1. A record authorized or required to be delivered to the secretary of state for filing under this chapter must be captioned to describe the purpose of the record, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the secretary of state determines that a record complies with the filing requirements of this

chapter, then the secretary of state shall file the record and return a copy of the filed record to the person that delivered it to the secretary of state for filing. That person shall then:

- a. For a statement of dissociation, send a copy of the filed statement:
    - (1) To the person which the statement indicates has dissociated as a partner; and
    - (2) To the limited liability partnership; and
  - b. For all other records, send a copy of the filed record to the person on whose behalf the record was filed.
2. Upon request and payment of a fee provided in section 45-22-22, the secretary of state shall send to the requester a certified copy of the requested record.
  3. Except as otherwise specifically provided in this chapter, a record delivered to the secretary of state for filing under this chapter may specify a delayed effective date within ninety days. Except as otherwise provided in this chapter, a record filed by the secretary of state is effective:
    - a. If the record does not specify a delayed effective date within ninety days, then on the date the record is filed as evidenced by the endorsement of the secretary of state of the date on the record.
    - b. If the record specifies a delayed effective date within ninety days, then on the specified date.

#### **45-22-23.2. Correcting a filed record.**

With respect to correction of a filed record:

1. Whenever a record authorized by this chapter to be filed with the secretary of state has been filed and inaccurately records the action referred to in the record, contains an inaccurate or erroneous statement, or was defectively or erroneously signed, sealed, acknowledged, or verified, the record may be corrected by filing a statement of correction.
2. A statement of correction:
  - a. Must:
    - (1) Be signed by:
      - (a) The person that signed the original record; or
      - (b) By a person authorized to sign on behalf of that person;
    - (2) Set forth the name of the limited liability partnership that filed the record;
    - (3) Identify the record to be corrected by description and by the date of its filing with the secretary of state;
    - (4) Identify the inaccuracy, error, or defect to be corrected; and
    - (5) Set forth a statement in corrected form of the portion of the record to be corrected.
  - b. May not revoke or nullify the record.
3. The statement of correction must be filed with the secretary of state.
4. With respect to the effective date of correction:
  - a. A certificate issued by the secretary of state before a record is corrected, with respect to the effect of filing the original record, is considered to be applicable to the record as corrected as of the date the record as corrected is considered to have been filed under this subsection.
  - b. After a statement of correction has been filed with the secretary of state, the original record as corrected is considered to have been filed:
    - (1) On the date the statement of correction was filed:
      - (a) As to persons adversely affected by the correction; and
      - (b) For the purposes of subsections 3 and 4 of section 45-10.2-06; and
    - (2) On the date the original record was filed as to all other persons and for all other purposes.

**45-22-24. Certificates and certified copies to be received in evidence.**

1. All copies of documents filed in accordance with this chapter, when certified by the secretary of state, may be taken and received in all courts, public offices, and official bodies as evidence of the facts stated.
2. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to domestic limited liability partnerships or foreign limited liability partnerships which would not appear from a certified copy of any of the foregoing documents or certificates, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated.
3. Any certificate or certified copy issued by the secretary of state under this section may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form.

**45-22-25. Forms to be furnished by the secretary of state.**

Every annual report must be made on forms prescribed by the secretary of state. Upon request, the secretary of state may furnish forms for all other documents to be filed in the office of the secretary of state. However, the use of these documents, unless otherwise specifically required by law, is not mandatory.

**45-22-26. Audit reports and audit of limited liability partnerships receiving state subsidies for production of alcohol or methanol for combination with gasoline.**

Any limited liability partnership that produces agricultural ethyl alcohol or methanol within this state and which receives a production subsidy from the state, whether in the form of reduced taxes or otherwise, shall submit an annual audit report, prepared by a certified public accountant based on an audit of all records and accounts of the limited liability partnership, to the legislative audit and fiscal review committee. The audit must be submitted within ninety days of the close of the taxable year of the limited liability partnership. Upon request of the legislative audit and fiscal review committee, the state auditor shall conduct an audit of the records and accounts of any limited liability partnership required to submit an annual report under this section.

**45-22-27. Foreign trade zones.**

1. As used in this section, unless the context otherwise requires:
  - a. "Act of Congress" means the Act of Congress approved June 18, 1934, entitled an act to provide for the establishment, operation, and maintenance of foreign trade zones and ports of entry of the United States, to expedite and encourage foreign commerce and for other purposes, as amended, and commonly known as the Foreign Trade Zone Act of 1934 [48 Stat. 998; 19 U.S.C. 81a et seq.], as amended.
  - b. "Private limited liability partnership" means a domestic limited liability partnership or foreign limited liability partnership, one of the purposes of which is to establish, operate, and maintain a foreign trade zone by itself or in conjunction with a public corporation.
  - c. "Public corporation" means this state, any political subdivision of this state, any public agency of this state or any political subdivision of this state, or any corporate instrumentality of this state.
2. Any private limited liability partnership or public corporation may apply to the proper authorities of the United States for a grant of the privilege of establishing, operating, and maintaining foreign trade zones and foreign trade subzones and to do all things necessary and proper to carry into effect the establishment, operation, and maintenance of such zones, in accordance with the Act of Congress and other applicable laws and rules.