

As Introduced

**124th General Assembly
Regular Session
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H. B. No. 349

REPRESENTATIVES Goodman, Seitz, Gilb, Schmidt, Britton

A BILL

To amend section 1775.20 and to enact sections 1775.45 1
to 1745.52, 1782.241, and 1782.242 of the Revised 2
Code to modify the Uniform Partnership Law relative 3
to the accounting a partner must make to the 4
partnership and mergers and consolidations 5
involving a general partnership, and to modify the 6
Limited Partnerships Law relative to the standard 7
of care owed a partnership by the general partners 8
and self-dealing by a partner. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1775.20 be amended and sections 10
1775.45, 1775.46, 1775.47, 1775.48, 1775.49, 1775.50, 1775.51, 11
1775.52, 1782.241, and 1782.242 of the Revised Code be enacted to 12
read as follows: 13

Sec. 1775.20. (A) Every partner ~~must~~, other than a general 14
partner of a limited partnership, shall account to the partnership 15
for any benefit and hold as trustee for it any profits derived by 16
~~him~~ the partner without the consent of the other partners from any 17
transaction connected with the formation, conduct, or liquidation 18
of the partnership or from any use by ~~him~~ the partner of its 19
property. 20

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

Sec. 1775.45. (A) Pursuant to a written agreement of merger
between the constituent entities as provided in this section, a
domestic general partnership and one or more additional domestic
general partnerships or other domestic or foreign entities may be
merged into a surviving domestic general partnership. Pursuant to
a written agreement of consolidation between the constituent
entities as provided in this section, two or more domestic or
foreign entities may be consolidated into a new domestic general
partnership formed by such consolidation. If any constituent
entity is formed or organized under the laws of any state other
than this state or under any chapter of the Revised Code other
than this chapter, the merger or consolidation also must be
permitted by the chapter of the Revised Code under which each
domestic constituent entity exists and by the laws under which
each foreign constituent entity exists.

(B) The written agreement of merger or consolidation of
constituent entities into a surviving domestic general partnership
shall set forth all of the following:

(1) The name and the form of entity of each constituent
entity and the state under the laws of which each constituent
entity exists;

(2) In the case of a merger, that one or more specified
constituent entities will be merged into a specified surviving
domestic partnership, and, in the case of a consolidation, that
the constituent entities will be consolidated into a new domestic
partnership;

(3) All statements and matters required to be set forth in

such an agreement of merger or consolidation by the laws under
which each constituent entity exists;

(4) In the case of a consolidation, the partnership agreement
of the new domestic general partnership or a provision that the
written partnership agreement of a specified constituent general
partnership, a copy of which shall be attached to the agreement of
consolidation, with any amendments that are set forth in the
agreement of consolidation, shall be the agreement of general
partnership of the new domestic general partnership;

(5) The name and address of the statutory agent upon whom any
process, notice, or demand against any constituent entity, the
surviving domestic general partnership, or the new domestic
general partnership may be served;

(6) In the case of a merger, any changes in the general
partners of the surviving domestic general partnership and, in the
case of a consolidation, the general partners of the new domestic
general partnership or a provision specifying the general partners
of one or more specified constituent partnerships that shall
constitute the initial general partners of the new domestic
general partnership;

(7) The terms of the merger or consolidation; the mode of
carrying them into effect; and the manner and basis of converting
the interests or shares in the constituent entities into, or
substituting the interests or shares in the constituent entities
for, interests, evidences of indebtedness, other securities, cash,
rights, or any other property or any combination of interests,
evidences of indebtedness, securities, cash, rights, or any other
property of the surviving domestic general partnership, of the new
domestic general partnership, or of any other entity. No such
conversion or substitution shall be effected if there are
reasonable grounds to believe that the conversion or substitution
would render the surviving or new domestic general partnership

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unable to pay its obligations as they become due in the usual 84
course of its affairs. 85

(C) The written agreement of merger or consolidation of 86
constituent entities into a surviving domestic general partnership 87
may set forth any of the following: 88

(1) The effective date of the merger or consolidation, which 89
date may be on or after the date of the filing of the certificate 90
of merger or consolidation; 91

(2) A provision authorizing one or more of the constituent 92
entities to abandon the proposed merger or consolidation prior to 93
filing the certificate of merger or consolidation pursuant to 94
section 1775.47 of the Revised Code by action of the general 95
partners of a constituent partnership, the directors of a 96
constituent corporation, or the comparable representatives of any 97
other constituent entity; 98

(3) In the case of a merger, any amendments to the agreement 99
of general partnership of the surviving domestic general 100
partnership, or a provision that the written partnership agreement 101
of a specified constituent general partnership other than the 102
surviving domestic general partnership, with any amendments that 103
are set forth in the agreement of merger, shall be the partnership 104
agreement of the surviving domestic general partnership; 105

(4) A statement of, or a statement of the method of 106
determining, the fair value of the assets to be owned by the 107
surviving domestic general partnership; 108

(5) The parties to the agreement of merger or consolidation 109
in addition to the constituent entities; 110

(6) Any additional provision necessary or desirable with 111
respect to the proposed merger or consolidation. 112

(D) To effect the merger or consolidation, the agreement of 113

merger or consolidation shall be adopted by the general partners
of each constituent domestic general partnership, including the
surviving domestic general partnership in the case of a merger,
and shall be adopted by or otherwise authorized by or on behalf of
each other constituent entity in accordance with the laws under
which it exists.

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(E) All partners, whether or not they are entitled to vote or
act, shall be given written notice of any meeting of general
partners of a constituent domestic general partnership or of any
proposed action by general partners of a constituent domestic
general partnership, which meeting or action is to adopt an
agreement of merger or consolidation. The notice shall be given to
the partners either by mail at their addresses as they appear on
the records of the partnership or in person and, unless the
partnership agreement provides a shorter or longer period, shall
be given not less than seven and not more than sixty days before
the meeting or the effective date of the action. The notice shall
be accompanied by a copy or a summary of the material provisions
of the agreement of merger or consolidation.

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(F) The vote or action of the general partners of a
constituent domestic general partnership that is required to adopt
an agreement of merger or consolidation is the unanimous vote or
action of the general partners or such different number or
proportion as provided in writing in the partnership agreement. If
the agreement of merger or consolidation would have an effect or
authorize any action that under any applicable provision of law or
the partnership agreement could be effected or authorized only by
or pursuant to a specified vote or action of partners, or of any
class or group of partners, the agreement of merger or
consolidation also must be adopted or approved by the same vote or
action as would be required to effect that change or authorize
that action. Each person who will continue to be or who will

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become a general partner of a partnership that is the surviving or
new entity in a merger or consolidation shall specifically agree
in writing to continue or to become, as the case may be, a general
partner of the partnership that is the surviving or new entity.

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(G) At any time before the filing of the certificate of
merger or consolidation pursuant to section 1775.47 of the Revised
Code, the merger or consolidation may be abandoned by the general
partners of any constituent partnership, the directors of any
constituent corporation, or the comparable representatives of any
other constituent entity if the general partners, directors, or
other representatives are authorized to do so by the agreement of
merger or consolidation or by the same vote or action as was
required to adopt the agreement of merger or consolidation. The
agreement of merger or consolidation may contain a provision
authorizing less than all of the general partners of any
constituent partnership, the directors of any constituent
corporation, or the comparable representatives of any other
constituent entity to amend the agreement of merger or
consolidation at any time before the filing of the certificate of
merger or consolidation, except that, after the adoption of the
agreement of merger or consolidation by the general partners of
any constituent domestic general partnership, less than all of the
general partners shall not be authorized to amend the agreement of
merger or consolidation to do any of the following:

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(1) Alter or change the amount or kind of interests, shares,
evidences of indebtedness, other securities, cash, rights, or any
other property to be received by general partners of the
constituent domestic general partnership in conversion of, or in
substitution for, their interests;

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(2) Alter or change any term of the partnership agreement of
the surviving or new domestic general partnership, except for
alterations or changes that could otherwise be adopted by the

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general partners of the surviving or new domestic general 178
partnership; 179

(3) Alter or change any other terms and conditions of the 180
agreement of merger or consolidation if any of the alterations or 181
changes, alone or in the aggregate, would materially adversely 182
affect the general partners or any class or group of general 183
partners of the constituent domestic general partnership. 184

Sec. 1775.46. (A) Pursuant to an agreement of merger or 185
consolidation between the constituent entities as provided in this 186
section, a domestic general partnership and one or more additional 187
domestic or foreign entities may be merged into a surviving entity 188
other than a domestic general partnership, or a domestic general 189
partnership together with one or more additional domestic or 190
foreign entities may be consolidated into a new entity other than 191
a domestic general partnership to be formed by such consolidation. 192
The merger or consolidation must be permitted by the chapter of 193
the Revised Code under which each domestic constituent entity 194
exists and by the laws under which each foreign constituent entity 195
exists. 196

(B) The agreement of merger or consolidation shall set forth 197
all of the following: 198

(1) The name and the form of entity of each constituent 199
entity and the state under the laws of which each constituent 200
entity exists; 201

(2) In the case of a merger, that one or more specified 202
constituent domestic general partnerships and other specified 203
constituent entities will be merged into a specified surviving 204
foreign entity or surviving domestic entity other than a domestic 205
general partnership, or, in the case of a consolidation, that the 206
constituent entities will be consolidated into a new foreign 207
entity or a new domestic entity other than a domestic general 208

partnership;

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(3) If the surviving or new entity is a foreign general partnership, all statements and matters that would be required by section 1775.45 of the Revised Code if the surviving or new entity were a domestic general partnership;

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(4) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity;

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(5) All additional statements and matters required to be set forth in such an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

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(6) The consent of the surviving or new foreign entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new foreign entity any obligation of any constituent domestic general partnership or to enforce the rights of a dissenting partner of any constituent domestic general partnership;

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(7) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

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(8) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together

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with all of the information required under section 1782.49 of the
Revised Code when a foreign limited partnership registers to
transact business in this state;

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(9) If the surviving or new entity is a foreign limited
liability company that desires to transact business in this state
as a foreign limited liability company, a statement to that
effect, together with all of the information required under
section 1705.54 of the Revised Code when a foreign limited
liability company registers to transact business in this state.

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(C) The agreement of merger or consolidation also may set
forth any additional provision permitted by the laws of any state
under the laws of which any constituent entity exists, consistent
with the laws under which the surviving entity exists or the new
entity is to exist.

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(D) To effect the merger or consolidation, the agreement of
merger or consolidation shall be adopted by the general partners
of each constituent domestic general partnership, in the same
manner and with the same notice to and vote or action of partners
or of a particular class or group of partners as is required by
section 1775.45 of the Revised Code. The agreement of merger or
consolidation also shall be approved or otherwise authorized by or
on behalf of each constituent entity in accordance with the laws
under which it exists. Each person who will continue to be or who
will become a general partner of a partnership that is the
surviving or new entity in a merger or consolidation shall
specifically agree in writing to continue or to become, as the
case may be, a general partner of the surviving or new entity.

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(E) At any time before the filing of the certificate of
merger or consolidation pursuant to section 1775.47 of the Revised
Code, the merger or consolidation may be abandoned by the general
partners of any constituent partnership, the directors of any
constituent corporation, or the comparable representatives of any

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other constituent entity if the general partners, directors, or 272
comparable representatives are authorized to do so by the 273
agreement of merger or consolidation. The agreement of merger or 274
consolidation may contain a provision authorizing less than all of 275
the general partners of any constituent partnership, the directors 276
of any constituent corporation, or the comparable representatives 277
of any other constituent entity to amend the agreement of merger 278
or consolidation at any time before the filing of the certificate 279
of merger or consolidation, except that after the adoption of the 280
agreement of merger or consolidation by the general partners of 281
any constituent domestic general partnership, less than all of the 282
general partners shall not be authorized to amend the agreement of 283
merger or consolidation to do any of the following: 284

(1) Alter or change the amount or kind of interests, shares, 285
evidences of indebtedness, other securities, cash, rights, or any 286
other property to be received by general partners of the 287
constituent domestic general partnership in conversion of or in 288
substitution for their interests; 289

(2) If the surviving or new entity is a partnership, alter or 290
change any term of the partnership agreement of the surviving or 291
new partnership, except for alterations or changes that otherwise 292
could be adopted by the general partners of the surviving or new 293
partnership; 294

(3) If the surviving or new entity is a corporation or any 295
other entity other than a partnership, alter or change any term of 296
the articles or comparable instrument of the surviving or new 297
corporation or entity, except for alterations or changes that 298
otherwise could be adopted by the directors or comparable 299
representatives of the surviving or new corporation or entity; 300

(4) Alter or change any other terms and conditions of the 301
agreement of merger or consolidation if any of the alterations or 302
changes, alone or in the aggregate, would materially adversely 303

affect the general partners or any class or group of general 304
partners of the constituent domestic general partnership. 305

Sec. 1775.47. (A) Upon the adoption by each constituent 306
entity of an agreement of merger or consolidation pursuant to 307
section 1775.45 or 1775.46 of the Revised Code, a certificate of 308
merger or consolidation shall be filed with the secretary of state 309
that is signed by an authorized representative of each constituent 310
entity. The certificate shall be on a form prescribed by the 311
secretary of state and shall set forth only the information 312
required by this section. 313

(B)(1) The certificate of merger or consolidation shall set 314
forth all of the following: 315

(a) The name and the form of entity of each constituent 316
entity and the state under the laws of which each constituent 317
entity exists; 318

(b) A statement that each constituent entity has complied 319
with all of the laws under which it exists and that the laws 320
permit the merger or consolidation; 321

(c) The name and mailing address of the person or entity that 322
is to provide, in response to any written request made by a 323
shareholder, partner, or other equity holder of a constituent 324
entity, a copy of the agreement of merger or consolidation; 325

(d) The effective date of the merger or consolidation, which 326
date may be on or after the date of the filing of the certificate; 327

(e) The signature of the representative or representatives 328
authorized to sign the certificate on behalf of each constituent 329
entity and the office held or the capacity in which the 330
representative is acting; 331

(f) A statement that the agreement of merger or consolidation 332
is authorized on behalf of each constituent entity and that the 333

persons who signed the certificate on behalf of each entity are
authorized to do so;

(g) In the case of a merger, a statement that one or more
specified constituent entities will be merged into a specified
surviving entity or, in the case of a consolidation, a statement
that the constituent entities will be consolidated into a new
entity;

(h) In the case of a merger, if the surviving entity is a
foreign entity not licensed to transact business in this state,
the name and address of the statutory agent upon whom any process,
notice, or demand may be served;

(i) In the case of a consolidation, the name and address of
the statutory agent upon whom any process, notice, or demand
against any constituent entity or the new entity may be served.

(2) In the case of a consolidation into a new domestic
corporation, limited liability company, or limited partnership,
the articles of incorporation, the articles of organization, or
the certificate of limited partnership of the new domestic entity
shall be filed with the certificate of merger or consolidation.

(3) In the case of a merger into a domestic corporation,
limited liability company, or limited partnership, any amendments
to the articles of incorporation, articles of organization, or
certificate of limited partnership of the surviving domestic
entity shall be filed with the certificate of merger or
consolidation.

(4) If the surviving or new entity is a foreign entity that
desires to transact business in this state as a foreign
corporation, limited liability company, or limited partnership,
the certificate of merger or consolidation shall be accompanied by
the information required by division (B)(7), (8), or (9) of
section 1775.46 of the Revised Code.

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(5) If a foreign or domestic corporation licensed to transact business in this state is a constituent entity and the surviving or new entity resulting from the merger or consolidation is not a foreign or domestic corporation that is to be licensed to transact business in this state, the certificate of merger or consolidation shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code, with respect to each domestic constituent corporation, and by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code, with respect to each foreign constituent corporation licensed to transact business in this state.

(C) If any constituent entity in a merger or consolidation is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, there also shall be filed in the proper office all documents that are required to be filed in connection with the merger or consolidation by the laws of that state or by that chapter.

(D) Upon the filing of a certificate of merger or consolidation and other filings as described in division (C) of this section or at any later date that the certificate of merger or consolidation specifies, the merger or consolidation is effective.

(E) The secretary of state shall furnish, upon request and payment of a fee of ten dollars, the secretary of state's certificate setting forth: the name and form of entity of each constituent entity and the states under the laws of which each constituent entity existed prior to the merger or consolidation; the name and the form of entity of the surviving or new entity and the state under the laws of which the surviving entity exists or

the new entity is to exist; the date of filing of the certificate of merger or consolidation with the secretary of state; and the effective date of the merger or consolidation. The certificate of the secretary of state, or a copy of the certificate of merger or consolidation certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For that recording, the county recorder shall charge and collect the same fee as in the case of deeds.

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Sec. 1775.48. (A) When a merger or consolidation becomes effective, all of the following apply:

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(1) The separate existence of each constituent entity other than the surviving entity in a merger shall cease, except that whenever a conveyance, assignment, transfer, deed, or other instrument or act is necessary to vest property or rights in the surviving or new entity, the general partners, officers, or other authorized representatives of the respective constituent entities shall execute, acknowledge, and deliver such instruments and do such acts. For these purposes, the existence of the constituent entities and the authority of their respective general partners, officers, directors, or other representatives is continued notwithstanding the merger or consolidation.

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(2) In the case of a consolidation, the new entity exists when the consolidation becomes effective and, if the new entity is a domestic general partnership, the written partnership agreement contained in or provided for in the agreement of consolidation shall be its original partnership agreement.

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(3) In the case of a merger in which the surviving entity is a general partnership, the written partnership agreement of the surviving general partnership in effect immediately prior to the time the merger becomes effective shall be its partnership

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agreement after the merger except as otherwise provided in the 428
agreement of merger. 429

(4) The surviving or new entity possesses all of the 430
following, and all of the following are vested in the surviving or 431
new entity without further act or deed: 432

(a) Except to the extent limited by the mandatory provisions 433
of applicable law, the following: 434

(i) All assets and property of every description of each 435
constituent entity, and every interest in the assets and property 436
of each constituent entity, wherever the assets, property, and 437
interests are located. Title to any real estate or any interest in 438
real estate that was vested in any constituent entity shall not 439
revert or in any way be impaired by reason of the merger or 440
consolidation. 441

(ii) The rights, privileges, immunities, powers, franchises, 442
and authority, whether of a public or private nature, of each 443
constituent entity. 444

(b) All obligations belonging to or due to each constituent 445
entity. 446

(5) The surviving or new entity is liable for all the 447
obligations of each constituent entity, including liability to 448
dissenting partners, dissenting shareholders, or other dissenting 449
equity holders. Any claim existing or any action or proceeding 450
pending by or against any constituent entity may be prosecuted to 451
judgment with right of appeal, as if the merger or consolidation 452
had not taken place, or the surviving or new entity may be 453
substituted in place of any constituent entity. 454

(6) All the rights of creditors of each constituent entity 455
are preserved unimpaired, and all liens upon the property of any 456
constituent entity are preserved unimpaired, on only the property 457
affected by such liens immediately before the effective date of 458

the merger or consolidation. If a general partner of a constituent 459
partnership is not a general partner of the entity surviving or 460
the new entity resulting from the merger or consolidation, then 461
the former general partner shall have no liability for any 462
obligation incurred after the merger or consolidation except to 463
the extent that a former creditor of the constituent partnership 464
in which the former general partner was a general partner extends 465
credit to the surviving or new entity reasonably believing that 466
the former general partner continued as a general partner of the 467
surviving or new entity. 468

(B) If a general partner of a constituent partnership is not 469
a general partner of the entity surviving or the new entity 470
resulting from the merger or consolidation, then unless that 471
general partner agrees otherwise in writing the general partner 472
shall be indemnified by the surviving or new entity against all 473
present or future liabilities of the constituent partnership of 474
which the general partner was a general partner. Any amount 475
payable pursuant to section 1775.50 of the Revised Code to a 476
partner of the constituent partnership in which that general 477
partner was a partner shall be a present liability of that 478
constituent partnership. 479

(C) In the case of a merger of a constituent domestic general 480
partnership into a foreign surviving corporation, limited 481
liability company, or general partnership that is not licensed or 482
registered to transact business in this state or in the case of a 483
consolidation of a constituent domestic limited partnership into a 484
new foreign corporation, limited liability company, or limited 485
partnership, if the surviving or new entity intends to transact 486
business in this state and the certificate of merger or 487
consolidation is accompanied by the information described in 488
division (B)(4) of section 1775.47 of the Revised Code, then on 489
the effective date of the merger or consolidation the surviving or 490

new entity shall be considered to have complied with the requirements for procuring a license or for registration to transact business in this state as a foreign corporation, limited liability company, or limited partnership, as the case may be. In such a case, a copy of the certificate of merger or consolidation certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company or foreign limited partnership.

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(D) Any action to set aside any merger or consolidation on the ground that any section of the Revised Code applicable to the merger or consolidation has not been complied with shall be brought within ninety days after the effective date of the merger or consolidation or forever be barred.

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(E) In the case of an entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under the laws of which the entity exists or in which it has property.

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Sec. 1775.49. (A) Unless otherwise provided in writing in the partnership agreement of a constituent domestic general partnership, the following are entitled to relief as dissenting partners as provided in section 1775.50 of the Revised Code:

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(1) Partners of a domestic general partnership that is being merged or consolidated into a surviving or new entity, domestic or foreign, pursuant to section 1775.45 or 1775.46 of the Revised Code;

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(2) In the case of a merger into a domestic general partnership, partners of the surviving domestic general partnership who under section 1775.45 of the Revised Code are entitled to vote or act on the adoption of an agreement or merger, but only as to the interests so entitling them to vote or act.

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(B) Unless otherwise expressly agreed to in writing, a 522
general partner of any constituent partnership shall be liable to 523
the partners of the constituent partnership for any amount payable 524
to them pursuant to section 1775.50 of the Revised Code as if the 525
amount so payable were an existing liability of the constituent 526
partnership at the time of the merger or consolidation. 527

Sec. 1775.50. (A) A partner of a domestic general partnership 528
is entitled to relief as a dissenting partner in respect of the 529
proposals described in section 1775.49 of the Revised Code only in 530
compliance with this section. 531

(B) If the proposal of merger or consolidation is to be 532
submitted to the partners at a meeting, the dissenting partner 533
shall be a partner and a record holder of the partnership 534
interests as to which the dissenting partner seeks relief as of 535
the date fixed for the determination of partners entitled to 536
notice of the meeting, and such interests shall not have been 537
voted in favor of the proposal. Not later than ten days after the 538
date on which the vote on the proposal was taken at the meeting of 539
the partners, the dissenting partner shall deliver to the general 540
partnership a written demand for payment to the dissenting partner 541
of the fair cash value of the interests as to which the dissenting 542
partner seeks relief that states the dissenting partner's address, 543
the number and class of those interests, and the amount claimed by 544
the dissenting partner as the fair cash value of the interests. 545

(C) If the proposal of merger or consolidation is to be 546
submitted to the partners for their written approval or other 547
action without meeting, the dissenting partner shall be a partner 548
and a record holder of the interests of the partnership as to 549
which the dissenting partner seeks relief as of the date such 550
writing was sent to the partners entitled to act or otherwise 551
approve the proposal, and the dissenting partner shall not have 552

indicated approval of the proposal in the dissenting partner's 553
capacity as a holder of such interests. Not later than fifteen 554
days after the date on which request for approval of the proposal 555
was mailed to the partners, the dissenting partner shall deliver 556
to the partnership a written demand for payment to the dissenting 557
partner of the fair cash value of the interests as to which the 558
dissenting partner seeks relief, which demand shall state the 559
dissenting partner's address, the number and class of such 560
interests, and the amount claimed by the dissenting partner as the 561
fair cash value of those interests. 562

(D) In the case of a merger or consolidation, a demand served 563
on the constituent domestic general partnership involved 564
constitutes service on the surviving entity or the new entity, 565
whether the demand is served before, on, or after the effective 566
date of the merger or consolidation. 567

(E) If the interests as to which a dissenting partner seeks 568
relief are represented by certificates and if the domestic general 569
partnership sends to the dissenting partner, at the address 570
specified in the dissenting partner's demand, a request for 571
certificates representing the interests as to which the dissenting 572
partner seeks relief, the dissenting partner, within fifteen days 573
from the date on which the request was sent, shall deliver to the 574
general partnership the certificates requested so that the general 575
partnership may endorse on them a legend to the effect that a 576
demand for the fair cash value of such interests has been made. 577
The general partnership promptly shall return the endorsed 578
certificates to the dissenting partner. The failure of a 579
dissenting partner to deliver such certificates terminates rights 580
as a dissenting partner, at the option of the general partnership, 581
exercised by written notice sent to the dissenting partner within 582
twenty days after the lapse of the fifteen-day period, unless a 583
court for good cause shown otherwise directs. If interests 584

represented by a certificate on which such a legend has been 585
endorsed are transferred, each new certificate issued for them 586
shall bear a similar legend, together with the name of the 587
original dissenting holder of such interests. Upon receiving a 588
demand for payment from a dissenting partner who is a record 589
holder of uncertificated interests, the general partnership shall 590
make an appropriate notation of the demand for payment in its 591
records. If uncertificated interests for which payment has been 592
demanded are to be transferred, any writing sent to evidence the 593
transfer shall bear the legend required for certificated 594
securities as provided in this division. A transferee of the 595
interests receiving a certificate so endorsed, or of 596
uncertificated securities where such a notation has been made, 597
acquires only such rights in the general partnership as the 598
original partner holding such interests had immediately after the 599
service of a demand for payment of the fair cash value of the 600
interests. A request under this division by the general 601
partnership is not an admission by it that the holder of the 602
interest is entitled to relief under this section. 603

(F) Unless the partnership agreement of the constituent 604
domestic general partnership in which the dissenting partner was a 605
partner provides a reasonable basis for determining and paying the 606
fair cash value of the interests as to which the dissenting 607
partner seeks relief or unless that partnership and the dissenting 608
partner have come to an agreement on the fair cash value of the 609
interests as to which the dissenting partner seeks relief, the 610
dissenting partner or the general partnership, which in the case 611
of a merger or consolidation may be the surviving or new entity, 612
within ninety days after the service of the demand by the 613
dissenting partner, may file a complaint under section 1775.51 of 614
the Revised Code. The complaint shall be filed in the court of 615
common pleas of the county in which the principal office of the 616

general partnership that issued the interests is located or was
located when the proposal was adopted by the partners of the
general partnership. Other dissenting partners, within that
ninety-day period, may join as plaintiffs or may be joined as
defendants in any such proceeding, and any two or more such
proceedings may be consolidated.

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(G) The right and obligation of a dissenting partner to
receive such fair cash value and to sell such interests as to
which the dissenting partner seeks relief and the right and
obligation of the domestic general partnership to purchase such
interests and to pay the fair cash value of them terminate if any
of the following applies:

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(1) The dissenting partner has not complied with this
section, unless the general partnership waives such failure.

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(2) The general partnership abandons the merger or
consolidation or is finally enjoined or prevented from carrying it
out, or the partners rescind their adoption or approval of the
merger or consolidation.

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(3) The dissenting partner withdraws the dissenting partner's
demand, with the consent of the general partnership.

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(4) All of the following apply:

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(a) The partnership agreement of the constituent domestic
general partnership in which the dissenting partner was a partner
does not provide a reasonable basis for determining and paying the
dissenting partner the fair cash value of the dissenting partner's
interest.

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(b) The general partnership and the dissenting partner have
not agreed upon the fair cash value of the interest.

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(c) Neither the dissenting partner nor the general
partnership has filed or joined in a complaint under division (F)

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of this section within the period provided in that division. 647

(H) Unless otherwise provided in the partnership agreement of 648
the constituent domestic general partnership in which the 649
dissenting partner was a partner, from the time the dissenting 650
partner gives the demand until either the termination of the 651
rights and obligations arising from it or the purchase of the 652
interests by the general partnership, all other rights accruing 653
from such interests, including voting or distribution rights, are 654
suspended. If, during the suspension, any distribution is paid in 655
money upon interests of such class or any dividend, distribution, 656
or interest is paid in money upon any securities issued in 657
extinguishment of, or in substitution for, such interest, an 658
amount equal to the dividend, distribution, or interest that, 659
except for the suspension, would have been payable upon such 660
interests or securities shall be paid to the holder of record as a 661
credit upon the fair cash value of the interests. If the right to 662
receive fair cash value is terminated other than by the purchase 663
of the interests by the general partnership, all rights of the 664
dissenting partner shall be restored and all distributions that, 665
except for the suspension, would have been made shall be made to 666
the holder of record of the interests at the time of termination. 667

Sec. 1775.51. (A) When authorized by division (F) of section 668
1775.50 of the Revised Code, a dissenting partner or general 669
partnership may file a complaint under this section demanding the 670
relief described in this section. A complaint filed under this 671
section shall contain a brief statement of the facts, including 672
the vote or action by the partners and the facts entitling the 673
dissenting partner to the relief demanded. No answer to such a 674
complaint is required. Upon the filing of such a complaint, the 675
court, on motion of the petitioner, shall enter an order fixing a 676
date for a hearing on the complaint and requiring that a copy of 677
the complaint and a notice of the filing and of the date for the 678

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hearing be given to the respondent or defendant in the manner in which summons is required to be served or substituted service is required to be made in other cases. On the date fixed for the hearing on the complaint or any adjournment of it, the court shall determine from the complaint and from such evidence as is submitted by either party whether the dissenting partner is entitled to be paid the fair cash value of any interests and, if so, the number and class of such interests. If the court finds that the dissenting partner is so entitled, it may appoint one or more persons as appraisers to receive evidence and to recommend a decision on the amount of the fair cash value. The appraisers have such power and authority as is specified in the order of their appointment. The court thereupon shall make a finding as to the fair cash value of the interests and shall render judgment against the general partnership for the payment of it, with interest at such rate and from such date as the court considers equitable. The costs of the proceeding, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable. The proceeding is a special proceeding and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. If, during the pendency of any proceeding under this section, a suit or proceeding is or has been instituted to enjoin or otherwise to prevent the carrying out of the action as to which the partner has dissented, the proceeding instituted under this section shall be stayed until the final determination of the other suit or proceeding. Unless any provision of division (G) of section 1775.50 of the Revised Code is applicable, the fair cash value of the interests that is agreed upon by the parties or fixed under this section shall be paid within thirty days after the date of final determination of such value under this division or the consummation of the merger or

consolidation, whichever occurs last. Upon the occurrence of the
last such event, payment shall be made immediately to a holder of
uncertificated securities entitled to such payment. In the case of
holders of interests represented by certificates, payment shall be
made only upon and simultaneously with the surrender to the
domestic general partnership of the certificates representing the
interests for which the payment is made.

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(B) If the proposal was submitted to the partners of the
general partnership for a vote at a meeting, fair cash value as to
those partners shall be determined as of the day before the day on
which the vote by the partners was taken. If the proposal was
submitted to the partners for written approval or other action,
fair cash value as to those partners shall be determined as of the
day before the day on which the request for the approval or action
was sent. The fair cash value of an interest for purposes of this
section is the amount that a willing seller who is under no
compulsion to sell would be willing to accept and that a willing
buyer who is under no compulsion to purchase would be willing to
pay, but the fair cash value paid to any partner shall not exceed
the amount specified in the demand of that partner. In computing
such fair cash value, any appreciation or depreciation in market
value resulting from the merger or consolidation shall be
excluded.

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Sec. 1775.52. If a domestic general partnership is a
constituent entity to a merger or consolidation that has become
effective, and the domestic general partnership is not the
surviving or resulting entity of the merger or consolidation, a
judgment creditor of a partner of that domestic general
partnership shall not levy execution against the assets of the
partner to satisfy a judgment based on a claim against the
surviving or resulting entity of the merger or consolidation

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unless any of the following applies: 744

(A) The claim is for an obligation of the domestic general partnership for which the partner is liable as provided in this chapter and one of the following applies: 745
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(1) A judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation and a writ of execution on the judgment has been returned unsatisfied in whole or in part. 748
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(2) The surviving or resulting entity of the merger or consolidation is a debtor in bankruptcy. 752
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(3) The partner has agreed that the creditor need not exhaust the assets of the domestic general partnership that was not the surviving or resulting entity of the merger or consolidation. 754
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(4) The partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation. 758
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(B) A court grants permission to the judgment creditor to levy execution against the assets of the partner based on a finding that the assets of the surviving or resulting entity of the merger or consolidation that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers. 761
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(C) Liability is imposed on the partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation. 770
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Sec. 1782.241. (A) A general partner shall perform the duties 773

of a general partner in good faith, in a manner the general 774
partner reasonably believes to be in or not opposed to the best 775
interests of the limited partnership, and with the care that an 776
ordinarily prudent person in a like position would use under 777
similar circumstances. In performing a general partner's duties, a 778
general partner is entitled to rely on information, opinions, 779
reports, or statements, including financial statements and other 780
financial data, that are prepared or presented by either of the 781
following: 782

(1) One or more general partners, employees of the limited 783
partnership, or employees of a general partner, who the general 784
partner reasonably believes are reliable and competent in the 785
matters prepared or presented; 786

(2) Legal counsel, public accountants, or other persons as to 787
matters that the general partner reasonably believes are within 788
the person's professional or expert competence. 789

(B) For purposes of division (A) of this section, the 790
following apply: 791

(1) A general partner shall not be found to have violated the 792
duties of a general partner under division (A) of this section, 793
unless it is proved by clear and convincing evidence that the 794
general partner has not acted in good faith, in a manner the 795
general partner reasonably believes to be in or not opposed to the 796
best interests of the limited partnership, or with the care that 797
an ordinarily prudent person in a like position would use under 798
similar circumstances, in any action brought against the general 799
partner, including actions involving or affecting the general 800
partner's service in any other position or relationship with the 801
limited partnership. 802

(2) A general partner shall not be considered to be acting in 803
good faith if the general partner has knowledge concerning the 804

matter in question that would cause reliance on information,
opinions, reports, or statements that are prepared or presented by
the persons described in divisions (A)(1) and (2) of this section
to be unwarranted.

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Sec. 1782.242. No contract, action, or transaction shall be
void or voidable with respect to a limited partnership for the
reason that the contract, action, or transaction is among or
affects the limited partnership and one or more of its partners,
or that the contract, action, or transaction is among or affects
the limited partnership and any other person in which one or more
of the partners are directors, trustees, officers, or partners, or
have a financial or personal interest, if any of the following
applies:

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(A) The material facts as to the partner or partners and
their relationship or interest and as to the contract, action, or
transaction are disclosed in writing to every partner before that
partner is admitted to the partnership.

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(B) The material facts as to the partner or partners and
their relationship or interest and as to the contract, action, or
transaction are disclosed in writing to all partners; the
contract, action, or transaction is fair as to the limited
partnership; and the disinterested general partners acting in good
faith reasonably justified by the facts, authorize the contract,
action, or transaction by a majority vote, even though the
disinterested general partners constitute less than a majority of
the general partners.

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(C) The contract, action, or transaction is fair as to the
limited partnership as of the time the contract, action, or
transaction is authorized and approved by a majority in interest
of the disinterested limited partners.

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Section 2. That existing section 1775.20 of the Revised Code 835
is hereby repealed. 836