

## LEGISLATIVE BILL 589

Approved by the Governor February 19, 1982

Introduced by Banking, Commerce and Insurance Committee,  
DeCamp, 40, Chpn.; Haberman, 44; Remmers, 1;  
Clark, 47; Labeledz, 5; Landis 46

AN ACT to amend sections 67-237, 67-243, 67-251, 67-253,  
and 67-254, Revised Statutes Supplement, 1981,  
relating to limited partnerships; to provide  
rights for particular limited partnerships; to  
change record-keeping requirements; to  
harmonize provisions; to repeal the original  
sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 67-237, Revised Statutes  
Supplement, 1981, be amended to read as follows:

67-237. Each limited partnership shall keep at  
the office referred to in section 67-236 the following:  
(1) A current list of the full name and last-known  
business address of each partner set forth in  
alphabetical order; (2) a copy of the certificate of  
limited partnership and all certificates of amendment  
thereto, together with executed copies of any powers of  
attorney pursuant to which any certificate has been  
executed; (3) copies of the limited partnership's  
federal, state, and local income tax returns and reports,  
if any, for the three most recent years; and (4) copies  
of any then effective written partnership agreements and  
of any financial statements of the limited partnership  
for the three most recent years. In the case of a  
limited partnership described in subdivision (3) of  
section 67-253, the list described in subdivision (1) of  
this section and the powers of attorney described in  
subdivision (2) of this section may be kept at the  
principal place of business of the limited partnership in  
this state or elsewhere in the United States. Those The  
records specified in subdivisions (1), (2), (3), and (4)  
of this section are subject to inspection and copying at  
the reasonable request, and at the expense, of any  
partner during ordinary business hours.

Sec. 2. That section 67-243, Revised Statutes  
Supplement, 1981, be amended to read as follows:

67-243. (a) Each certificate required by  
sections 67-240 to 67-248 to be filed in the office of  
the Secretary of State shall be executed in the following  
manner:

(1) An original certificate of limited partnership must be signed by all partners named therein;

(2) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased; and

(3) A certificate of cancellation must be signed by all general partners.

(b) Any person may sign a certificate by an attorney-in-fact. ~~but In the case of a limited partnership not described in subdivision (3) of section 67-253,~~ a power of attorney to sign a certificate relating to the admission, or increased contribution, of a partner must specifically describe the admission or increase.

(c) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 3. That section 67-251, Revised Statutes Supplement, 1981, be amended to read as follows:

67-251. (a) Except as provided in subsection (d) of this section, a limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of his or her rights and powers as a limited partner, he or she takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercises of the powers of a general partner, he or she is liable only to persons who transact business with the limited partnership with actual knowledge of his or her participation in control.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section solely by doing one or more of the following:

(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner;

(2) Consulting with and advising a general partner with respect to the business of the limited partnership;



- (3) Acting as surety for the limited partnership;
- (4) Approving or disapproving an amendment to the partnership agreement; or
- (5) Voting on one or more of the following matters:

(i) The dissolution and winding up of the limited partnership;

(ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;

(iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(iv) A change in the nature of the business; or

(v) The removal of a general partner; or

(vi) The rights described in subdivision (3) of section 67-253.

(c) The enumeration in subsection (b) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him or her in the business of the limited partnership.

(d) A limited partner who knowingly permits his or her name to be used in the name of the limited partnership, except under circumstances permitted by subdivision (2) (a) of section 67-234, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

Sec. 4. That section 67-253, Revised Statutes Supplement, 1981, be amended to read as follows:

67-253. Each limited partner has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by section 67-237; and

(2) Obtain from the general partners from time to time upon reasonable demand (i) true and full information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after

becoming available, a copy of the limited partnership's federal, state, and local income tax returns for each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable; and

(3) When the limited partnership is an investment company registered under the Investment Company Act of 1940, the limited partner shall have the right to vote (i) in the election of general partners, directors, or trustees of the investment company, (ii) to approve or terminate investment advisory or underwriting contracts, (iii) for approval of auditors, and (iv) on any other matters that the Investment Company Act of 1940, or rules and regulations promulgated thereunder, requires to be approved by the holders of beneficial interests in the investment company. In addition, payment of cash or other assets to limited partners of such an investment company in redemption of redeemable securities of the partnership shall be proper if such payment is made in accordance with the provisions of sections 67-262 and 67-263 and any such payment shall not be subject to the provisions of subsection (a) of section 67-270.

Sec. 5. That section 67-254, Revised Statutes Supplement, 1981, be amended to read as follows:

67-254. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only (1) with the specific written consent of each partner or (2) in the case of a limited partner described in subdivision (3) of section 67-253, as provided in such section.

Sec. 6. That original sections 67-237, 67-243, 67-251, 67-253, and 67-254, Revised Statutes Supplement, 1981, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.