

EXCEPT AS PROVIDED IN THE PARTNERSHIP AGREEMENT, A PARTNER MAY LEND MONEY TO AND TRANSACT OTHER BUSINESS WITH THE LIMITED PARTNERSHIP AND SUBJECT TO OTHER APPLICABLE LAW HAS THE SAME RIGHTS AND OBLIGATIONS WITH RESPECT THERETO AS A PERSON WHO IS NOT A PARTNER.

COMMENT

§ 10-107 makes a number of important changes in § 10-112 of the previous Limited Partnership Act (§ 13 of the prior uniform law). Those sections, in effect, created a special fraudulent conveyance provision applicable to the making of secured loans by limited partners and the repayment by limited partnerships of loans from limited partners. On several occasions, the courts have been required to interpret the intent of those sections and clarify their ambiguities. § 10-107 eliminates the provisions of those sections relating to fraudulent conveyances leaving that area of the law to the Maryland Uniform Fraudulent Conveyance Act found at § 15-201, et seq., of the Commercial Law Article, which specifically covers the conveyance of partnership property. In addition, § 10-107 is expanded to cover both limited and general partners and eliminates the prohibition in those former sections against a general partner (as opposed to a limited partner) sharing pro rata with general creditors in the assets of the limited partnership in the case of an unsecured loan. Of course, other doctrines developed under bankruptcy and insolvency laws may require the subordination of loans by partners under appropriate circumstances.

10-108. APPLICABILITY OF TITLE 9.

THE PROVISIONS OF TITLE 9 OF THIS ARTICLE WITH RESPECT TO PARTNERSHIPS SHALL APPLY TO LIMITED PARTNERSHIPS EXCEPT TO THE EXTENT THAT THOSE PROVISIONS ARE INCONSISTENT WITH OR ARE MODIFIED BY THE PROVISIONS OF THIS TITLE.

COMMENT

This section is consistent with § 9-101(f) of the Maryland Uniform Partnership Act and is nearly identical to § 1105 of the Revised Uniform Limited Partnership Act.

SUBTITLE 2. FORMATION: CERTIFICATE OF LIMITED PARTNERSHIP

10-201. CERTIFICATE OF LIMITED PARTNERSHIP.

(A) CONTENTS. IN ORDER TO FORM A LIMITED PARTNERSHIP TWO OR MORE PERSONS MUST EXECUTE A CERTIFICATE. THE CERTIFICATE SHALL BE FILED WITH THE DEPARTMENT AND SET FORTH:

- (1) THE NAME OF THE LIMITED PARTNERSHIP;
- (2) THE PURPOSES FOR WHICH THE PARTNERSHIP IS FORMED;