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## FISCAL IMPACT REPORT

SPONSOR Youngberg DATE TYPED 2/28/05 HB 1049

SHORT TITLE Uniform Limited Partnership Act SB \_\_\_\_\_

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			(\$0.1)		

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 1049 enacts the model “Uniform Limited Partnership Act” (ULPA), put forth by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2001. In a brief summary provided by the commissioners, they state the ULPA provides a more flexible and stable basis for the organization of limited partnerships, helping states stimulate new partnership business ventures. In the commissioner’s prefatory note, they provide further insight into the act.

The new Limited Partnership Act (LPA) is a stand alone act, “delinked” from both the original general partnership act (“UPA”) and the Revised Uniform Partnership Act (“RUPA”). To be able to stand alone, the Limited Partnership incorporates many provisions from RUPA and some from the Uniform Limited Liability Company Act (ULLCA). As a result, the new act is far longer and more complex than its immediate predecessor, the Revised Uniform Limited Partnership Act (RULPA).

The new act has been drafted for a world in which limited liability partnerships (LLP) and limited liability companies (LLC) can meet many of the needs formerly met by limited partnerships. This act therefore targets two types of enterprises that seem largely beyond the scope of LLPs and LLCs: sophisticated, manager-entrenched commercial deals whose participants commit for the long term and estate planning arrangements known as family limited partnerships.

This act accordingly assumes that, more often than not, people utilizing it will want strong centralized management, strongly entrenched and passive investors with little control over or right to exit the entity. The act's rules and particularly its default rules have been designed to reflect these assumptions.

### Significant Issues

HB 1049 seeks to enact most portions of the model ULPA put forward by the commissioners of the NCCUSL in 2001. The bill omits the following provisions from Article 8, governing dissolution of limited partnerships:

- Section 809: Administrative dissolution
- Section 810: Reinstatement following administrative dissolution
- Section 811: Appeal from denial of reinstatement

This bill adds section 119, limited partnership subject to amendment or repeal of the ULPA. This section is not present in the NCCUSL model ULPA.

The following provisions of the act, among others, some of which create or authorize new proceedings, will affect the courts:

A court must grant permission to a judgment creditor to levy execution against the assets of a general partnership or another specified condition must occur in order for a judgment creditor of a general partner to so levy execution.

An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute.

A court may also do the following:

- Charge the transferable interest of the judgment debtor with payment of an unsatisfied amount of a judgment with interest, on application to a court by any judgment creditor of a partner or transferee;
- Appoint a receiver of the share of the distributions due or to become due to the judgment debtor;
- Order a foreclosure upon interest subject to the charging order at any time
- Order dissolution of a limited partnership on application by a partner, if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced proceedings. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **ADMINISTRATIVE IMPLICATIONS**

The AOC states that any new law will increase the workload on employees of the courts.

## **TECHNICAL ISSUES**

The AOC notes in section 105.A, the transition from subsection A to numbers (2) and (3) is awkward.

## **OTHER SUBSTANTIVE ISSUES**

The NCCUSL, now 113 years old, attempts to provide states with non-partisan and well-drafted legislation that brings clarity and stability to critical areas of the law. NCCUSL's work supports the federal system and facilitates the movement of individuals and the business of organizations with rules that are consistent from state to state. While NCCUSL is best known as the drafters of the Uniform Commercial Code (UCC), in recent years it has also promulgated widely-adopted uniform acts on the interstate recognition and enforcement of family law determinations (child support, custody, parentage, and protection orders), uniform acts on arbitration and mediation, revisions to the principal business organizations statutes of the United States (partnerships, limited partnerships, limited liability companies, etc.), acts codifying or recodifying state trust and securities laws, and several acts relating to land use, common interest ownerships, and other real property subjects. Uniform Law Commissioners must be lawyers, qualified to practice law. They are lawyer-legislators, attorneys in private practice, state and federal judges, law professors, and legislative staff attorneys, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote the enactment of uniform state laws in areas where uniformity is desirable and practicable. NCCUSL is funded by, and works on behalf of, state governments.

**DW/lg**