Chapter 68

(1973 reprint)

Uniform Partnership Law

PRELIMINARY PROVISIONS

68.010 Name of law
68.020 Definitions
68.030 Interpretation of knowledge and notice
68.040 Rules of construction
68.050 Rules for cases not provided for in this chapter

NATURE OF A PARTNERSHIP

68.110 Partnership defined
68.120 Rules for determining the existence of a partnership
68.130 Partnership property

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

68.210 Partner agent of partnership as to partnership business
68.220 Conveyance of partnership realty
68.230 Partnership bound by admission of partner
68.240 Partnership charged with knowledge of or notice to partner
68.250 Partnership bound by partner's wrongful act
68.260 Partnership bound by partner's breach of trust
68.270 Nature of partner's liability
68.280 Partner by estoppel
68.290 Liability of incoming partner

RELATIONS OF PARTNERS TO ONE ANOTHER

68.310 Rules determining rights and duties of partners
68.320 Partnership books; inspection
68.330 Duty of partners to render information
68.340 Partner accountable as a fiduciary; section applicable to representative of deceased partner
68.350 Right of partner to account
68.360 Continuation of partnership beyond fixed term

PROPERTY RIGHTS OF A PARTNER

68.410 Property and management rights of a partner
68.420 Nature of a partner's right in specific partnership property
68.430 Nature of partner's interest in the partnership
68.440 Assignment of partner's interest
68.450 Creditor's demands and satisfaction

DISSOLUTION AND WINDING UP

68.510 Dissolution defined
68.520 Partnership not terminated by dissolution
68.530 Causes of dissolution
68.540 Dissolution by decree of court
68.550 Effect of dissolution on authority of partner
68.560 Right of partner to contribution from copartners after dissolution
68.570 Power of partner to bind partnership to third person after dissolution
68.580 Effect of dissolution on partner's existing liability
68.590 Right to wind up affairs
68.600 Rights of partners to application of partnership property
68.610 Rights where partnership is dissolved for fraud or misrepresentation
68.620 Rules for distribution
68.630 Liability of persons continuing the business in certain cases
68.640 Rights of retiring partner or estate of deceased partner when the business is continued
68.650 Right to accounting

CROSS REFERENCES

Doing business under an assumed name, Ch. 648
Employment agency, licensing of partnership, 658.025, 658.062
Real estate brokers and salesmen, licensing of partnership, Ch. 696

68.120

Mining copartnership to be in writing, 517.110
Presumption of contract of partnership, 41.360(29)

68.130

Estates or interest in realty, creation of, 93.020

68.230

Declaration or act of partner as evidence, 41.900(5)

68.270

Tax liability of partners, 308.120

68.620

Valuation of securities held by secured creditors, 33.610

PRELIMINARY PROVISIONS

68.010 Name of law. This chapter may be cited as the Uniform Partnership Law.

68.020 Definitions. In this chapter:

(1) "Court" includes every court and judge having jurisdiction in the case.

(2) "Business" includes every trade, occupation or profession.

(3) "Person" includes individuals, partnerships, corporations and other associations.

(4) "Conveyance" includes every assignment, lease, mortgage or encumbrance.

(5) "Real property" includes land and any interest or estate in land.

68.030 Interpretation of knowledge and notice. (1) A person has "knowledge" of a fact within the meaning of this chapter not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in circumstances show bad faith.

(2) A person has "notice" of a fact within the meaning of this chapter when the person who claims the benefit of the notice:

(a) States the fact to such person, or

(b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

68.040 Rules of construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) The law of estoppel shall apply under this chapter.

(3) The law of agency shall apply under this chapter.

(4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This chapter shall not be construed so as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action or proceedings begun or right accrued before this chapter takes effect.

68.050 Rules for cases not provided for in this chapter. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern.

NATURE OF A PARTNERSHIP

68.110 Partnership defined. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter; but this chapter shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

68.120 Rules for determining the existence of a partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by ORS 68.280 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by instalment or otherwise;

(b) As wages of an employe or rent to a landlord;

(c) As an annuity to a widow or representative of a deceased partner;

(d) As interest on a loan, though the amount of payment varies with the profits of the business;

(e) As the consideration for the sale of the good will of a business or other property by instalments or otherwise.

68.130 Partnership property. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

68.210 Partner agent of partnership as to partnership business. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;

(b) Dispose of the good will of the business;

(c) Do any other act which would make it impossible to carry on the ordinary business of a partnership;

(d) Confess a judgment;

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

68.220 Conveyance of partnership realty. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subsection (1) of ORS 68.210, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of ORS 68.210.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subsection (1) of ORS 68.210, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of ORS 68.210.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights of such property.

68.230 Partnership bound by admission of partner. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership.

68.240 Partnership charged with knowledge of or notice to partner. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired

while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

68.250 Partnership bound by partner's wrongful act. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership, or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

68.260 Partnership bound by partner's breach of trust. The partnership is bound to make good the loss:

(1) Where one partner acting within the scope of his apparent authority received money or property of a third person and misapplies it; and

(2) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in custody of the partnership.

68.270 Nature of partner's liability. All partners are liable:

(1) Jointly and severally for everything chargeable to the partnership under ORS 68.250 and 68.260.

(2) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

68.280 Partner by estoppel. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

68.290 Liability of incoming partner. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

RELATIONS OF PARTNERS TO ONE ANOTHER

68.310 Rules determining rights and duties of partners. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct

of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

68.320 Partnership books; inspection. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

68.330 Duty of partners to render information. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

68.340 Partner accountable as a fiduciary; section applicable to representative of deceased partner. (1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) 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.

68.350 Right of partner to account. Any partner shall have the right to a formal account as to partnership affairs:

(1) If he is wrongfully excluded from the partnership business or possession of its property by his copartners;

(2) If the right exists under the terms of any agreement;

(3) As provided by ORS 68.340;

(4) Whenever other circumstances render it just and reasonable.

68.360 Continuation of partnership beyond fixed term. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

PROPERTY RIGHTS OF A PARTNER

68.410 Property and management rights of a partner. The property rights of a partner are:

(1) His rights in specific partnership property.

(2) His interest in the partnership.

(3) His right to participate in the management.

68.420 Nature of a partner's right in specific partnership property. (1) A partner is co-owner with his partners of specific partnership property, holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in

connection with the assignment of the rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

68.430 Nature of partner's interest in the partnership. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

68.440 Assignment of partner's interest. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

68.450 Creditor's demands and satisfaction. (1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this chapter shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

DISSOLUTION AND WINDING UP

68.510 Dissolution defined. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

68.520 Partnership not terminated by dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

68.530 Causes of dissolution. Dissolution is caused:

(1) Without violation of the agreement between the partners:

(a) By the termination of the definite term or particular undertaking specified in the agreement;

(b) By the express will of any partner when no definite term or particular undertaking is specified;

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking;

(d) By the expulsion of any partner from

the business bona fide in accordance with such a power conferred by the agreement between the partners.

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under ORS 68.540.

68.540 Dissolution by decree of court. (1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared a lunatic on any judicial proceeding or is shown to be of unsound mind;

(b) A partner becomes in any other way incapable of performing his part of the partnership contract;

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him;

(e) The business of the partnership can only be carried on at a loss;

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under ORS 68.440 or 68.450:

(a) After the termination of the specified term or particular undertaking;

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

68.550 Effect of dissolution on authority of partner. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership:

(1) With respect to the partners;

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where ORS 68.560 so requires.

(2) With respect to persons not partners, as declared in ORS 68.570.

68.560 Right of partner to contribution from copartners after dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

68.570 Power of partner to bind partnership to third person after dissolution. (1) After dissolution a partner can bind the partnership except as provided in subsection (3) of this section:

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(A) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(B) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under paragraph (b) of subsection (1) of this section shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriated for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who:

(A) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(B) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in subparagraph (B) of paragraph (b) of subsection (1) of this section.

(4) Nothing in this section shall affect the liability under ORS 68.280 of any person who after dissolution represents himself or consents to another person representing him as a partner in a partnership engaged in carrying on business.

68.580 Effect of dissolution on partner's existing liability. (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

68.590 Right to wind up affairs. Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

68.600 Rights of partners to application of partnership property. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under subsection (2) of ORS 68.580, he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have:

(A) All the rights specified in subsection (1) of this section, and

(B) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under subparagraph (B) of paragraph (a) of subsection (2) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(A) If the business is not continued under the provisions of paragraph (b) of subsection (2) of this section all the rights of

a partner under subsection (1) subject to subparagraph (B) of paragraph (a) of subsection (2) of this section;

(B) If the business is continued under paragraph (b) of subsection (2) of this section, the right as against his copartners and all claiming through them in respect to their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered.

68.610 Rights where partnership is dissolved for fraud or misrepresentation. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled:

(1) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(2) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(3) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

68.620 Rules for distribution. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property;

(b) The contributions of the partners necessary for the payment of all the liabilities specified in subsection (2) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners;

(b) Those owing to partners other than for capital and profits;

(c) Those owing to partners in respect of capital;

(d) Those owing to partners in respect to profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) The partners shall contribute, as provided by subsection (1) of ORS 68.310, the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in subsection (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subsection (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors;

(b) Those owing to partnership creditors;

(c) Those owing to partners by way of contribution.

68.630 Liability of persons continuing the business in certain cases. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued

without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in subsections (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of paragraph (b) of subsection (2) of ORS 68.600, either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

68.640 Rights of retiring partner or estate of deceased partner when the business is continued. When any partner retires or dies, and the business is continued under any of the conditions set forth in subsection (1), (2), (3), (5) or (6) of ORS 68.630, or paragraph (b) of subsection (2) of ORS 68.600, without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by subsection (8) of ORS 68.630.

68.650 Right to accounting. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.