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CHAP. I.

TITLE XXXI.
PARTNERSHIP.

CHAPTER 1.

PARTNERSHIP.

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1836-7.
PAMPH. 121.

An Act to authorize limited partnerships.

Passed February 9, 1837.

Limited partnerships may be formed.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That limited partnerships, for the transaction of any mercantile, mechanical, or manufacturing business, within this state, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities, herein prescribed; but the provisions of this act shall not be construed to authorize any such partnership for the purpose of banking or making insurance.

Liabilities of partners.

2. *And be it enacted,* That such partnerships may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible, as general partners now are by law, and of one or more persons, who shall contribute, in actual cash payments, a specific sum, as capital, to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership, beyond the fund so contributed by him or them to the capital.

General partners, only, to transact business.

3. *And be it enacted,* That the general partners only, shall be authorized to transact business, and sign for the partnership, and to bind the same.

4. *And be it enacted*, That the persons desirous of forming such partnership shall make and severally sign a certificate, which shall contain :

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Contents of
certificate to
be signed by
partners.

1st. The name or firm under which such partnership is to be conducted.

2d. The general nature of the business intended to be transacted.

3d. The names of all the general and special partners interested therein, distinguishing which are general, and which are special partners, and their respective places of residence.

4th. The amount of capital which each special partner shall have contributed to the common stock.

5th. The period at which the partnership is to commence, and the period at which it will terminate.

5. *And be it enacted*, That the certificate shall be acknowledged by the several persons signing the same, before an officer authorized by law to take the acknowledgment and proof of deeds &c., in this state, and certified in the same manner as the acknowledgment of conveyances of land.

Certificate to
be acknow-
ledged.

6. *And be it enacted*, That the certificate so acknowledged and certified shall be filed in the office of the clerk of the county in which the principal place of the business of the partnership shall be situated, and shall also be recorded by him at large, in a book to be kept for that purpose, open to public inspection ; if the partnership shall have places of business situated in different counties, a transcript of the certificate, and of the acknowledgment thereof, duly certified by the clerk in whose office it shall be filed, under his official seal, shall be filed and recorded in like manner in the office of the clerk of every such county.

Certificate to
be filed, etc.

7. *And be it enacted*, That at the time of filing the original certificate, with the evidence of the acknowledgment thereof, as before directed, an affidavit of one or more of the general partners shall also be filed in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners to the common stock, have been actually and in good faith paid in cash.

Affidavit of
general part-
ner to be
filed with
certificate.

8. *And be it enacted*, That no such partnership shall be deemed to have been formed until a certificate shall have been made, acknowledged, filed, and recorded, nor until an affidavit shall have been filed, as above directed ; and if any false statements be made in such certificate or affidavit, all the persons interested in such partnership shall be liable for all the engagements thereof, as general partners.

Partnership
not formed if
certificate
and affidavit
not filed.

9. *And be it enacted*, That the partners shall publish the terms

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Terms of
partnership
to be pub-
lished.

Affidavits of
publication
may be filed.

Renewal of
partnership
to be certifi-
ed, etc.

What deem-
ed a dissolu-
tion of part-
nership.

Names of
general part-
ners to be
firm of com-
pany.

Suits may be
brought a-
gainst gen-
eral partners.

Special part-
ners may re-
ceive inter-
est and pro-
fits.

of the partnership, when registered, for at least six weeks immedi-
ately after such registry, in a newspaper or newspapers published
in the county or counties in which their business shall be carried
on; and if no newspaper be published in the same, then in a news-
paper of the county nearest to their place of business; and if such
publication be not made, the partnership shall be deemed general.

10. *And be it enacted*, That affidavits of the publication of such
notice, by the printers of the newspapers in which the same shall
be published, may be filed with the clerk directing the same, and
shall be evidence of the facts therein contained.

11. *And be it enacted*, That every renewal or continuance of
such partnership beyond the time originally fixed for its duration,
shall be certified, acknowledged, and recorded, and an affidavit of
a general partner be made and filed, and notice be given in the man-
ner herein required for its original formation; and every such part-
nership, which shall be otherwise renewed or continued, shall be
deemed a general partnership.

12. *And be it enacted*, That every alteration which shall be
made in the names of the partners, in the nature of the business,
or in the capital or shares thereof, or in any other matter specified
in the original certificate, shall be deemed a dissolution of the part-
nership; and every such partnership, which shall in any manner
be carried on after such alteration shall have been made, shall be
deemed a general partnership, unless renewed as a special part-
nership, according to the provisions of the preceding section.

13. *And be it enacted*, That the business of the partnership shall
be conducted under a firm, in which the names of the general
partners only, shall be inserted, without the addition of the word
“company” or any other general term; and if the name of any
special partner shall be used in such firm, with his privity, he shall
be deemed a general partner.

14. *And be it enacted*, That suits in relation to the business of
the partnership may be brought and conducted by and against the
general partners, in the same manner as if there was no special
partners.

15. *And be it enacted*, That no part of the sum which any spe-
cial partner shall have contributed to the capital stock, shall be
withdrawn by him, or paid or transferred to him in the shape of
the dividends, profits, or otherwise, at any time during the contin-
uance of the partnership; but any partner may annually receive
lawful interest on the sum so contributed by him, if the payment
of such interest shall not reduce the original amount of such capital;
and if, after the payment of such interest, any profits shall remain
to be divided, he may also receive his portion of such profits.

16. *And be it enacted*, That if it shall appear that, by the payment of interest or profits to any special partner, the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest.

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Reduction of capital to be made good.

17. *And be it enacted*, That a special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney, or otherwise: if he shall interfere contrary to these provisions he shall be deemed a general partner.

Special partner may examine state of partnership concerns.

18. *And be it enacted*, That the general partners shall be liable to account to each other, and to their special partners, for their management of the concerns, both in law and equity, as other partners now are by law.

Accountability of general partners.

19. *And be it enacted*, That every partner who shall be guilty of any fraud in the affairs of the partnership shall be liable, civilly, to the party injured to the extent of his damage; and shall also be liable to an indictment for a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

Liability and penalty for fraud of partner.

20. *And be it enacted*, That every sale, assignment, or transfer of any property or effects of such partnership, when insolvent, or in contemplation of insolvency, made by such partnership, or after, or in contemplation of, the insolvency of any partner with the intent of giving a preference to any creditor of such partnership or insolvent partner over other creditors of such partnerships; and every judgment confessed, lien created, or security given by such partnership, under the like circumstances and with the like intent, shall be void, as against the creditors of such partnership.

Assignment of partnership property, when void.

21. *And be it enacted*, That every such sale, assignment, or transfer of any of the property or effects of a general or special partner, made by such general or special partner when insolvent, or in contemplation of insolvency, or after, or in contemplation of, the insolvency of the partnership, with the intent of giving to any creditor of his own, or of the partnership, a preference over creditors of the partnership; and every judgment confessed, lien created, or security given, by any such partner, under the like circumstances, and with the like intent, shall be void, as against the creditors of the partnership.

Assignment of property of partner, when void.

22. *And be it enacted*, That every special partner who shall violate any provision of the two last preceding sections, or who shall concur in, or assent to any such violation, by the partnership, or by any individual partner, shall be liable as a general partner.

When special, liable as a general partner.

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23. *And be it enacted*, That, in the case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor, until the claims of all the other creditors of the partnership shall be satisfied.

Special partner not to claim as creditor till others are satisfied.

Partnership may be dissolved before time limited.

24. *And be it enacted*, That no dissolution of such partnership, by the acts of the parties, shall take place previous to the time specified in the certificates of its formation, or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the clerk's office in which the original certificate was recorded, and published once in each week, for four weeks, in a newspaper circulating in each of the counties where the partnership may have places of business.