

### **362.437 Liability of limited partners to third parties.**

- (1) Except as provided in subsection (4) of this section, a limited partner shall not be liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the business. However, if the limited partner participates in the control of the business, he shall be liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.
- (2) A limited partner shall not participate in the control of the business within the meaning of subsection (1) solely by doing one (1) or more of the following things:
  - (a) Being a contractor for, or an agent or employee of, the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation;
  - (b) Consulting with or advising a general partner with respect to the business of the limited partnership;
  - (c) Acting as surety, guarantor or endorser for the limited partnership, guaranteeing or assuming one (1) or more specific obligations of the limited partnership or providing collateral for the limited partnership;
  - (d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;
  - (e) Requesting, attending or participating in a meeting of partners;
  - (f) Proposing, approving, or disapproving, by voting or otherwise, one (1) or more of the following matters:
    1. The dissolution and winding up of the limited partnership;
    2. The sale, exchange, lease, mortgage, assignment, pledge, or other transfer of, or granting of a security interest in, all, or substantially all, of the assets of the limited partnership;
    3. The incurrence, renewal, refinancing, payment or other discharge of indebtedness by the limited partnership other than in the ordinary course of its business;
    4. A change in the nature of the business;
    5. The admission or removal of a general partner;
    6. The admission or removal of a limited partner;
    7. A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;
    8. An amendment to the partnership agreement or certificate of limited partnership; and
    9. A matter related to the business of the limited partnership not otherwise enumerated in this subsection which the partnership agreement states in writing is subject to the approval or disapproval of limited partners;

- (g) Winding up the limited partnership pursuant to KRS 362.491; or
  - (h) Exercising any right or power permitted to limited partners under KRS 362.403 to 362.525 and not specifically enumerated in this subsection.
- (3) The enumeration in subsection (2) of this section shall not mean that the possession or exercise by a limited partner of any power other than a power enumerated in that subsection constitutes participation by him in the business of the limited partnership.
- (4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under a circumstance permitted by KRS 362.403(2), shall be liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

**Effective:** June 26, 2007

**History:** Repeal the prior repeal contained in 2006 Ky. Acts ch. 149, sec. 239, which was to have been effective January 1, 2008, 2007 Ky. Acts ch. 137, sec. 180, effective June 26, 2007. -- Repealed 2006 Ky. Acts ch. 149, sec. 239, effective January 1, 2008. -- Created 1988 Ky. Acts ch. 284, sec. 19, effective July 15, 1988.