

# SANDON'S TOP RULES: WILLS, CORPORATIONS, PARTNERSHIPS

## 1. WILLS

**Strict Per Stirpes: Stirpital Shares Always Determined at First Generational Level** even if there are no living takers at the level.

*Diagram 1*

*Diagram 2*

**Adoption** of a child typically severs all rights of the child to inherit from the natural parents. However, **adoption of a child by the spouse of a natural parent** who married the natural parent after the death of the other natural parent has no effect on inheritance rights between the child and the family of the deceased natural parent. Also, adoption of a child by a close relative has no effect on the relationship between the child and the families of the deceased natural parents. [F.P.C. 732.108(1)(b)(c)]

*Diagram*

### INTESTATE SHARE OF SURVIVING SPOUSE

- **Surviving Descendants are all Descendants of Surviving Spouse: Spouse Takes Entire Estate**

*(All children and remote descendants are products of the marriage)*

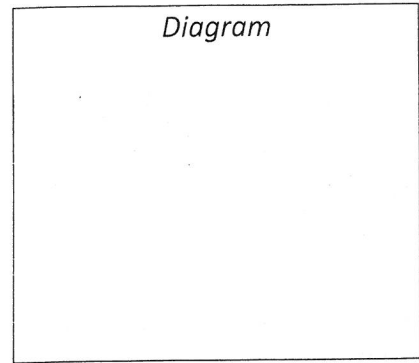
If the decedent is survived by a spouse and descendants, all of whom are also descendants of the surviving spouse (e.g., children, grandchildren, etc., of the one marriage), and the surviving spouse has no other descendants, the surviving spouse takes the entire intestate estate.

*Diagram*

- **Not all Surviving Descendants are Descendants of Surviving Spouse: Spouse Takes One Half**

*(Dead spouse has children/descendants from outside of the marriage)*

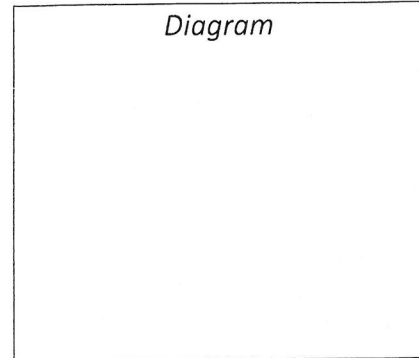
If the decedent is survived by one or more children or more remote descendants who are not the descendants of the surviving spouse (e.g., children or grandchildren by a first marriage), the surviving spouse takes one-half of the estate and the other one-half passes to the descendants per stirpes.



- **Surviving Spouse Has Descendants Who are Not Descendants of the Decedent: Spouse Takes One Half**

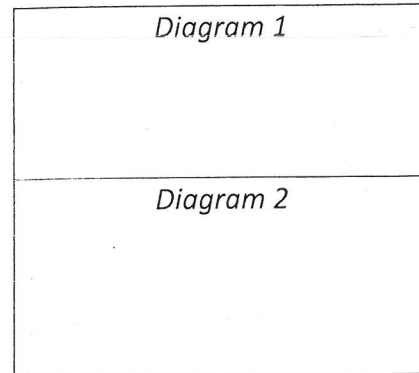
*(There are some marital children/descendants, but the surviving spouse also has children/descendants from outside of the marriage)*

If there are one or more surviving descendants of the decedent, all of whom are also descendants of the surviving spouse, and the surviving spouse has one or more descendants, who are not descendants of the decedent, the surviving spouse takes one-half of the intestate estate.



**Half Bloods:** Half Bloods are brothers and sisters who only have one common parent. In Florida, Half Bloods take Half as Much as Whole Bloods

Where property passes to collateral kindred of the intestate, if some of the kindred are of the half blood of the intestate and others are of the whole blood, those of the half-blood inherit only half as much as those of the whole blood.



### Advancement of Intestate Share

An advancement is a gift made to a next of kin during life, with the intent that the gift be applied against any share that the next of kin will inherit from the donor's estate.

- **Proof of Advancement Must Be in Writing**

No gift is considered an advancement unless the intention to have it so treated is declared in a contemporaneous writing by the decedent or acknowledged in writing as such by the heir. [F.P.C. §733-806]

- **Valuation of advancement**

The value of the advancement is determined at the time of the gift, not the time of probate. So if the value of the item has increased or decreased at the time of death, we disregard that.

- **"Hotchpot"**

When valuing an advancement, we take the value of the advancement at the time of the gift, we add it to the value of the estate, and then divide by the number of beneficiaries.

**EXAMPLE:** Uncle gives a gift of \$10,000 to nephew, and documents it properly as an advancement. At the time of Uncle's death, his estate is worth \$40,000 and his will directs that it be divided equally between nephew and niece. We take the value of the advancement (\$10,000), add it to the value of the estate (\$40,000+\$10,000) and divide by the number of beneficiaries (2).  $\$50,000/2 = \$25,000$ . Niece gets \$25,000 and Nephew gets \$25,000.

### Holographic Wills Not Recognized in Florida

The UPC and statutes in about half the states give effect to holographic wills-i.e., wills entirely in the testator's **handwriting** and signed by the testator but **not witnessed** by attesting witnesses. Florida does not recognize holographic wills, even those validly executed in another state. In Florida, all must be witnessed by two attesting witnesses under the procedures described below.

**Uniform Simultaneous Death Act (USDA)** If two spouses die simultaneously (or the exact times of death cannot be determined), the USDA states that each spouse will be treated as if they pre-deceased the other. In other words, we look at Husband's estate and pretend that Wife died first. His estate passes to his heirs. Then we look at Wife's estate and pretend that Husband died first. Her estate passes to her heirs.

- **120-Hour Rule Not Adopted in Florida:** The majority rule and the revised version of the USDA provide that a person must survive the decedent by 120 hours in order to take as a will beneficiary, intestate heir, life insurance beneficiary, or surviving joint tenant (absent a contrary provision). [UPC §2-104]. In other words, if one spouse survives for less than 120 hours after the death of the first spouse, the USDA treats it as a simultaneous death. Florida DID NOT adopt the 120-hour rule. If it can be proved one spouse survived for one second longer than the other spouse, the USDA does not apply in Florida (i.e., it was not a "simultaneous death"). In Florida, the USDA only applies if the deaths were actually simultaneous, or the order of death cannot be determined.
- **Uniform Simultaneous Death Act (USDA) Applies Unless Testamentary Instrument Provides Otherwise:** No one is forced to have the USDA's presumption apply to her estate. Under the statute, the presumption does not apply if "a contrary intention appears in the governing instrument." (e.g., the will or trust states that the USDA should not apply).

### **Wrongful Conduct of Heir or Beneficiary: Slayer Statute (Killer Forfeits All Rights in Victim's Estate)**

A person who unlawfully and intentionally kills or participates in procuring the death of the decedent is not entitled to any benefits under the decedent's will or under the Probate Code. The estate of the decedent passes as if the killer had predeceased the decedent. [F.P.C. §732.802] However, the statute does not bar the killer's child from succeeding to property that otherwise would have passed to the killer.

- **Greater Weight of Evidence**

In the absence of a conviction of murder in any degree, the court may determine by the greater weight of evidence whether the killing was unlawful and intentional.

### **Personal representatives**

A personal representative is a fiduciary who shall observe the standards of care applicable to trustees. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of the decedent's will and this code as expeditiously and efficiently as is consistent with the best interests of the estate, and shall do so without adjudication, order, or direction of the court. A personal representative may invoke the jurisdiction of the court to resolve questions concerning the estate or its administration.

**The personal representative must typically be a Florida resident. The only nonresidents who are qualified to serve as personal representatives are:**

- (i) a grandparent or descendant of a grandparent of the decedent;
- (ii) an adopted child or adoptive parent of the decedent
- (iii) the decedent's spouse or a person related by lineal consanguinity to the decedent's spouse (parent, grandparent, child, grandchild); or
- (iv) a spouse of any of the foregoing persons. [F.P.C. 733.304]

The list includes the decedent's brother or nephew, but not a brother-in-law or a nephew of the decedent's wife.

**Formal Requirements of a Will:** The Florida Will execution statute is very stringent. There are six formal requisites that must be satisfied in order to validly execute a will or codicil. [F.P.C. 732.502].

Note that three requirements apply to the testator and three requirements apply to the witnesses.

- (i) The will or codicil must be **signed by the testator**, or by another person at the testator's direction in her presence.
- (ii) The **testator** must **sign at the end** of the will.
- (iii) The **testator** must sign (or acknowledge her previous signature) in the **witnesses' presence**.
- (iv) **Two attesting witnesses** are required. In Florida, there is no **minimum age requirement for witnesses** to a will. A witness is "competent" if he has the ability to observe the testator affix her signature to the will and the ability to comprehend the nature of the act.
- (v) The **witness** must sign **in the testator's presence**.
- (vi) The **witnesses** must sign **in the presence of each other**.

- Notice that the witnesses must sign in the testator's presence, and in the presence of the other witnesses. However, the testator can "pre-sign" before the witnesses are present and merely affirm to the witnesses that the signature is authentic.

**Self-Proving Affidavit:** Florida is one of many states that permit a will to be made self-proved at the time it is executed. [F.P.C. 732.503] The testator and the attesting witnesses sign the will, and then sign a sworn affidavit before a notary public reciting that the testator declared to the witnesses that the instrument was her will, and that the testator and the witnesses all signed in the presence of each other, present at the same time. (The affidavit can be executed at any time subsequent to the will's execution, but standard practice is to execute both the will and the self-proving affidavit in one ceremony.). Self-proving affidavits remove the need to bring witnesses to court to authenticate the signatures at probate.

- **Note:** Self-proving affidavits must be notarized. However, the will itself does not require notarization. A will without a self-proving affidavit is still valid, and does not require a notary.
- **Lost/Destroyed wills:** In order to probate an estate where the will is lost or destroyed, the personal representative must produce 2 witnesses to testify as to the contents of the will, or 1 witness and a correct copy of the will. The self-proving affidavit does not eliminate the need for witnesses when the will is missing at probate. The self-proving affidavit only operates if the will is being probated under normal circumstances, and the only purpose of the witnesses is to authenticate the will itself (not describe its contents). If the will is missing, we still need witnesses (even with a self-proving affidavit).
- **Compare: Attestation Clause:** An attestation clause in a will is prima facie evidence that the will was executed properly (in case a witness can't recall the events). It merely verifies that the signature is authentic. The attestation clause does not replace a self-proving affidavit. They are different.

**Creditors' Claims:** In insolvent estates, assets are paid to creditors in the following order [F.P.C. 733.707]

- **Class 1** Costs, expenses of administration, compensation of personal representatives and their attorneys, and attorneys' fees awarded from the estate.
- **Class 2** Reasonable funeral, interment, and grave marker expenses not to exceed \$6,000.
- **Class 3** Debts and taxes with preference under federal law, Medicaid claims and claims in favor of the state for unpaid court costs, fees, or fines.
- **Class 4** Reasonable and necessary medical and hospital expenses of the last 60 days of the last illness of the decedent.

**In Florida No-Contest Clauses are Unenforceable:** A provision in a will purporting to penalize a person for contesting the will or instituting other proceedings relating to the estate is unenforceable.

**No Partial Revocation by Physical Act in Florida:** Most states permit partial revocations by a physical act of the testator, as by crossing out one clause in the will. However, in Florida a will cannot be partially revoked by physical act; the cross-out is disregarded.

**Revocation by Proxy Permitted:** Florida permits a will to be revoked by physical act by another person, provided that the revocation is (1) at the **testator's direction**, and (2) in the **testator's presence**.

**Caveats:** Any interested person who is apprehensive that an estate, either testate or intestate will be administered or that a will may be admitted to probate without his knowledge may file a caveat with the court. A **noncreditor** may file a caveat **before or after** the death of the person for whom the estate will be, or is being, administered. A **creditor** may file a caveat only **after** the person's death. [F.P.C. 731.110(1)]

## 2. Corporations

607.0202 **Articles of Incorporation: Mandatory Provisions:** The articles must be in writing and contain the following elements:

1. The **name** of the corporation, which must be distinguishable from all other entities authorized to do business in Florida and must contain the word "corporation," "company," or "incorporated," or the abbreviation "Corp.," "Co.," or "Inc.," or words or abbreviations of like import which clearly indicate it is a corporation. Note: In Florida, the word "Limited" implies partnership, not a corporation. 607.0401
2. **Address** of the initial principal office and, if different, the mailing address of the corporation;
3. Number of **shares authorized** to be issued;
4. Name and address of the **registered office/agent**;
5. Names and addresses of the **incorporators**; **AND**
6. If shareholders are to be given **preemptive rights** to acquire shares issued subsequently by the corporation, a provision setting for the extent of such rights must be included. In the absence of any provision in the articles, shareholders have no preemptive rights. 607.0630(1)

607.0206 **Bylaws:** There are no restrictions on the contents of the contents of the bylaws (except illegality). If there is a conflict between the bylaws and the articles, the articles will prevail.

607.1622 **Annual Report:** Corporations are also required to file an annual report, setting forth certain pertinent information. A Florida corporation that fails to file an annual report is barred from bringing or defending any action in the Florida courts until the report is filed, and is also subject to involuntary dissolution.

### **Penalties for Foreign Corporations Transacting Business Without Authority:**

1. **Cannot Bring Suit:** A foreign corporation transacting business without authority cannot bring any action in any court in Florida, until the corporation obtains authority. However, the corporation is not barred from **defending** any action in Florida 607.1502(1), (5).
2. **Contracts Not Impaired:** The failure of a foreign corporation to obtain authority to transact business in Florida does not impair the validity of any contract or corporate act.

607.0833 **Insider Loans:** Corporations have the ability to lend money to or use its credit to assist its officers and employees, when such may reasonably be expected to benefit the corporation.

- Note that non-for profits are prohibited from making loans to insiders.

**Liquidation Preference:** On liquidation, the **preferred** shareholders are usually accorded the right to receive a stated value for their shares, plus any accumulated but unpaid dividends, before the **common** shareholders receive anything on their shares.

**Subscription Agreements:** A subscription agreement is a contract by which the subscriber agrees to purchase a certain number of shares of stock of the corporation at the subscription price specified in the agreement. The Florida statute provides that a written pre-incorporation agreement is irrevocable for six months unless it provides otherwise, or unless all of the subscribers consent to revocation.

**Restrictions on Transfer of Stock:** Restrictions on sale must be reasonable. It is quite common in close corporations to have buy-sell agreements and agreements giving a right of first refusal on the sale of stock. Generally, restrictions on the sale of stock will be enforced as long as they are reasonable.

#### **Shareholder Meetings:**

- An **annual meeting** of the shareholders is held (at a time stated in, or fixed in accordance with, the bylaws) for the election of directors and such other business as may be necessary or appropriate.
  - If the annual meeting is not held within any 13 month period, any shareholder may apply to the court for an order requiring the meeting to be held. 607.0703
- **Special meetings** may also be called by the board of directors, by a call of 1/10 of all shares, OR By persons authorized in the bylaws.
- **10 days notice** is required for ALL shareholder meetings. Notice of special meetings must describe the purpose of the meeting.

**Proxies:** Every shareholder entitled to vote, or express consent or dissent, may authorize another person to act for him by written proxy. A shareholder (or the shareholder's properly appointed agent) may appoint a proxy by signing an appointment form or by transmitting a telegram or other electronic communication. Under the Florida statute, proxies expire after 11 months unless otherwise expressly provided. Proxies are revocable at the pleasure of the shareholder unless the proxy provides it is irrevocable and the proxy holder has an interest in the shares, such as a pledgee, purchaser, or employee. A proxy may be revoked, even if otherwise irrevocable, by a bona fide purchaser of the shares without notice of the proxy. 607.07022. Death of the shareholder does not revoke the proxy.

**Cumulative Voting:** The articles may provide for cumulative voting. This is intended to aid minority shareholders in obtaining some representation on the board of directors.

Example: A owns 100 voting shares and three directors are to be elected. A is entitled to 300 votes (100 shares x 3 directors) and he may cast all 300 votes for the same candidate or spread them among any number of candidates.

**Legality of Dividend Payment:** The Florida statute sets forth two standards (solvency tests) for payment of dividends, **both** of which must be met in every instance. 607.06401

- a. **Equity Test:** The first standard is the traditional equity or cash flow test. A dividend is permissible only if, after giving it effect, the corporation will be able to pay its debts as they become due in the usual course of business.
- b. **Balance Sheet Test:** The second standard is the so-called bankruptcy or balance sheet test. Dividends are limited to the amount by which total assets of the corporation exceed the sum of total liabilities and the liquidation preferences of preferred shares.



**Inspection for Proper Purpose:** Any shareholder may inspect and copy the following records of the corporation if he gives the corporation written notice of his demand at least five business days before the date on which he wishes to inspect and copy and (i) his demand is made in **good faith** and for a **proper purpose**; (ii) he **describes** with reasonable particularity his **purpose** and the records he desires to inspect; and (iii) the records are **directly** connected with his purpose:

- (i) **Minutes of any meeting of the board**, and records of any action of a committee of the board while acting in place of the board.
- (ii) **Accounting records** of the corporation;
- (iii) **The record of shareholders**; and
- (iv) **Any other books and records**.

**Appraisal Rights** are not available for holders of any class or series of shares that:

- (i) is **traded on a national securities exchange** (on the theory that the shareholder is adequately protected by his ability to sell his stock at the market prices) or
- (ii) has **at least 2,000 shareholders** and the outstanding shares of the class or series have a market value of **at least \$10 million** (excluding the value of shares held by subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of such shares).

**Dismissal of Derivative Suit by Corporation:** On motion by the corporation, the court may dismiss a derivative proceeding if the court finds that one of the following groups has made a good faith determination, after conducting a reasonable investigation, that maintenance of the derivative suit is not in the best interest of the corporation:

- (i) **Majority vote of independent directors** present, if the independent directors constitute a quorum;
- (ii) **Majority vote of a committee** consisting of two or more independent directors appointed by majority vote of the independent directors; or
- (iii) **A panel of one or more individual persons appointed by the court** upon motion of the corporation.

607.07401(3)

#### **Director Meetings:**

- **Time and Place Requirements:** Meeting may be held within or outside of the state. Special meetings may be called by the chairman of the board or the president unless otherwise provided in the articles or bylaws. 607.0820
- **Phone Conference Meeting Valid:** The Florida statute expressly provides that directors may participate in a meeting by means of conference telephone (or similar communications equipment) and that such participation constitutes personal presence (quorum) at the meeting. 607.0820(4).
- **Notice:** Meeting need not be formal and **no notice of regular meetings** is required. However, unless otherwise provided in the bylaws, **written notice of special meetings must be given at least two days before the meeting**. The notice may be delivered by mail or personally and need not specify the purpose of the meeting. 607.0141, .0822

- **Quorum:** Unless the articles or bylaws require a greater number, a majority of the total number of directors authorized (counting vacancies as absent) is necessary to constitute a quorum. 607.0824(1). A director who participated by conference telephone is deemed present.
  - The articles of incorporation can establish a smaller quorum size, but it must be at least 1/3 of the authorized directors.

**Compensation of directors:** Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

**Involuntary Liquidation and Dissolution:** A Florida corporation may also be liquidated and dissolved involuntarily under judicial supervision. The courts have full power to liquidate the assets and business of a corporation in an action by a shareholder when either:

- (i) the directors are **deadlocked in the management** of corporate affairs and the shareholders are unable to breach the deadlock **and** the corporation is suffering or threatened with irreparable injury; **or**
- (ii) the shareholders are **deadlocked in voting** power and have failed to elect successors to directors whose terms have expired. etc

**Not for Profit Corporations:** The provisions to be set forth in **the articles of incorporation** are substantially the same as those for corporations for profit except the articles must set forth the purpose or purposes for which the corporation is organized. 617.0202.

- **Not for Profit Directors:** A board of directors must consist of three or more individuals, with the number specified in, or fixed in accordance with, the articles of incorporation or the bylaws.
- **No Loans to Directors or Officers:** Loans may not be made by a not for profit corporation to its directors or officers, or to any other entity in which one or more of its directors or officers is a director or officer or holds substantial interest, except loans "between certain corporations exempt from federal income taxation." (i.e., other nonprofits) 617. 0833.
- **Dissolution of a not for Profit Corporation and Distribution of Assets:** A board of directors may dissolve the not for profit corporation by a majority vote. If the corporation has members entitled to vote on dissolution, a majority vote of those members is also required. There must be a **plan of distribution of assets**.

#### **Service of Process for Domestic and Qualified Foreign Corporations**

**Officers and Business Agents:** Process may be served on a corporation by personally serving any one of the following officers or agents. Service must be made on a person in (i) below, if possible, and only in their absence can service be had on a person in (ii) and so on down the list.

- i. President, vice president, or other head of the corporation;
- ii. Cashier, treasurer, secretary, or general manager
- iii. Any director;
- iv. Any officer or business agent **resident** in Florida. 48.081(1)

If a **foreign** corporation has none of the above persons in Florida, process may be served of any agent **transacting business** for it within the state. 48. 081(2).

### 3. Partnerships

**“Partnership” defined:** Florida has adopted the Revised Uniform Partnership Act (“R.U.P.A.”), which defines partnership, as an association of two or more persons to carry on as co-owners a business for profit. (R.U.P.A, 101) The R.U.P.A. is based on the law of contracts and agency.

**Relations between Partners: Right to participate in Management:** Absent an agreement to the contrary, all partners have **equal rights** in the management of the partnership business. [R.U.P.A. 401(f)] Decisions regarding matters within the **ordinary course of business** of the partnership may be controlled by a **majority vote**, but matters, **outside the ordinary course of business** require the consent of **all partners**. [R.U.P.A 401(j)]

**Rights of partners in Partnership property:** A partner is not a co-owner of partnership property and has no interest in partnership property. Thus, a partner’s creditors may not reach partnership property to satisfy the personal obligations of a partner.

**Charge of the transferable interest (attachment)**

On application to a court with jurisdiction, the creditor of a partner may charge (attach) the transferable interest of the debtor partner to satisfy the judgment. The charging order becomes a lien on the interest. The court may also appoint a receiver of the debtor’s share of the distribution due to or to become due from the partnership.

**Partners’ Accounts:** Each partner is deemed to have an account that is credited with the net amount equal to the partner’s contribution, plus or minus the partner’s share of any profits or losses, less any partnership liabilities.

**Partnerships Profits:** Absent an agreement to the contrary, profits are shared equally; Losses are shared in the same way as profits.

**Remuneration:** Absent agreement to the contrary, a partner is not entitled to remuneration except for reasonable compensation for services rendered in winding up the partnership business.

**Indemnification and other payment:** The partnership must indemnify partners for payments reasonably made and obligations reasonably incurred by a partner in carrying on the business of the partnership. Similarly, if a partner makes any payment or advance on behalf of the partnership beyond the amount the partner agreed to contribute, the partnership must repay the partner. In any case, such payment, obligations, and advances constitute loans to the partnership, which must be repaid with interest.

**Partner Who Pays More than His Share of Debt Entitled to Contribution:** If a partner fails to contribute to the partnership's debt, all of the other partners must contribute the additional amount necessary in the proportion in which the partners share losses. [R.U.P.A. 807] Where a partner is forced to pay more than his share of the partnership's debt, he is entitled to **contribution** from the others to equalize it.

**Apparent Authority:** The act or contract of any individual partner will **bind** the partnership if the action was in the ordinary course of the partnership business (or was a type of action that the business ordinarily conducts) **unless:** the partner had no authority to act for the partnership in the particular manner; **and** the person with **whom the partner was dealing knew or had received notification that the partner lacked authority.**

**Liability of Partners:** All partners are **jointly and severally** liable for all obligations of the partnership including **contracts** made by the partnership and **torts** committed by any partner in the ordinary course of the partnership. Each partner is **personally and individually** liable for the entire amount of partnership obligations.

#### **Change of Partnership Membership as Affects Partners' Liability**

- **Liability of Incoming Partner:** A person admitted as a partner into an existing partnership is **not personally liable** for any partnership obligation incurred before the person's admission as a partner (of course, any property or capital the incoming partner contributes to the partnership is at risk for satisfying existing partnership debts.) [R.U.P.A. 306].
- **Liability of Outgoing (Dissociated) Partner:** In general, the partner also is liable for acts done not only until he has withdrawn from the partnership, but also until 90 days after he has filed a notice of dissociation with the department of state. A dissociated partner may be liable for certain debts arising within one year after the date of dissociation if the other party to the transaction (i) reasonably believed when entering the transaction that the dissociated partner was still a partner and (ii) did not have notice of the partner's dissociation.

**Liability of Limited Partner:** A limited partner is not personally liable for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership. [Fla. Stat. 620.1303]

**Right to Distributions in a Limited Partnership:** Unless otherwise provided in the partnership agreement, distributions in a **Limited Partnership** are made on the basis of the partners' contributions (in proportion to the value of each partner's contributions) Fla. Stat. 620. 1503 Note this is different from the rule for General Partnerships, which provides that profits and losses are to be shared equally.

**Derivative Action:** A partner may maintain a derivative action to enforce the right of a limited partnership if (1) the partner first makes a demand on the general partners to bring an action to enforce the right and the general partners do not bring the action within a reasonable time or (2) making such a demand would be futile. Fla. Stat. 620.2002

The R.U.P.A. allows the creation of **Limited Liability Partnerships**. The major advantage of operating as a limited liability partnership (LLP) is that the partners are **not personally liable** for the limited liability partnership's obligations. A partner in a limited liability partnership is **not personally liable** (directly, indirectly, or by way of contribution) for the obligations of the partnership or other partners, whether arising in contract, tort, or otherwise, solely by reason of being or acting as a partner. [Fla. Stat. 620.8306] However, a partner remains personally liable for her **own wrongful acts**.

**Limited Liability Limited Partnerships:** Limited liability limited partnership (LLLLP) is a status elected by limited partnerships (LPs). The partnership continues to be the same entity that existed before the filing of the statement of qualification (i.e., it is a change in status from LP to LLLL, not creation of a new entity). The limitations on liability of partners in an LLLL apply to both general and limited partners (unlike the original LP, where only limited partners were protected). Fla. Stat. 620.1404(3).