

TITLE 53
PARTNERSHIP

CHAPTER 4
MINING PARTNERSHIP

53-401. WHEN MINING PARTNERSHIP EXISTS. A mining partnership exists when two (2) or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same.

[(53-401) R.S., sec. 3300; reen. R.C. & C.L., sec. 3361; C.S., sec. 5856; I.C.A., sec. 52-401.]

53-402. EXPRESS AGREEMENT NOT NECESSARY. An express agreement to become partners or to share the profits and losses of mining is not necessary to the formation or existence of a mining partnership. The relation arises from the ownership of shares or interest in the mine and working the same for the purpose of extracting the minerals therefrom.

[(53-402) R.S., sec. 3301; reen. R.C. & C.L., sec. 3362; C.S., sec. 5857; I.C.A., sec. 52-402.]

53-403. SHARING PROFITS AND LOSSES. A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine, bears to the whole partnership capital or whole number of shares.

[(53-403) R.S., sec. 3302; reen. R.C. & C.L., sec. 3363; C.S., sec. 5858; I.C.A., sec. 52-403.]

53-404. LIEN OF PARTNERS AND CREDITORS. Each member of a mining partnership has a lien on the partnership property for the debts due to the creditors thereof, and for money advanced by him for its use. A lien exists in favor of the creditors notwithstanding there is an agreement among the partners that it must not.

[(53-404) R.S., sec. 3303; reen. R.C. & C.L., sec. 3364; C.S., sec. 5859; I.C.A., sec. 52-404.]

53-405. MINE PARTNERSHIP PROPERTY. The mining ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property.

[(53-405) R.S., sec. 3304; reen. R.C. & C.L., sec. 3365; C.S., sec. 5860; I.C.A., sec. 52-405.]

53-406. SALE OF INTEREST BY PARTNER. One of the partners in a mining partnership may convey his interest in the mine and business without dissolving the partnership. The purchaser, from the date of his purchase, becomes a member of the partnership.

[(53-406) R.S., sec. 3305; reen. R.C. & C.L., sec. 3366; C.S., sec. 5861; I.C.A., sec. 52-406.]

53-407. LIABILITY OF PURCHASER FOR PARTNERS' LIENS FOR DEBTS AND ADVANCEMENTS. A purchaser of an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership unless he purchased in good faith, for a valuable consideration, without notice of such lien.

[(53-407) R.S., sec. 3306; reen. R.C. & C.L., sec. 3367; C.S., sec. 5862; I.C.A., sec. 52-407.]

53-408. LIABILITY OF PURCHASER FOR LIENS RESULTING FROM RELATION OF PARTNERS TO EACH OTHER. A purchaser of the interest of a partner in a mine when the partnership is engaged in working it, takes with notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership.

[(53-408) R.S., sec. 3307; reen. R.C. & C.L., sec. 3368; C.S., sec. 5863; I.C.A., sec. 52-408.]

53-409. MEMBERS CANNOT BIND PARTNERSHIP. No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership except by express authority derived from the members thereof.

[(53-409) R.S., sec. 3308; reen. R.C. & C.L., sec. 3369; C.S., sec. 5864; I.C.A., sec. 52-409.]

53-410. MAJORITY OF SHARES GOVERNS. The decision of the members, owning a majority of the shares or interests in a mining partnership, binds it in the conduct of its business.

[(53-410) R.S., sec. 3309; reen. R.C. & C.L., sec. 3370; C.S., sec. 5865; I.C.A., sec. 52-410.]

53-411. PARTNERSHIP CONTRACTS MAY BE RECORDED. Written contracts relating to prospecting or mining, or the formation of copartnership for that purpose, when signed by the parties thereto and indorsed by at least one witness, may be recorded in the office of the county recorder of the county wherein it is proposed to prosecute the business of said copartnership, or where the property affected by such contract is situated.

[(53-411) 1899, p. 366, sec. 1; reen. R.C. & C.L., sec. 3371; C.S., sec. 5866; I.C.A., sec. 52-411.]

53-412. RECORD CONSTRUCTIVE NOTICE. Such record shall be constructive notice to all persons of the matters contained in such contract or copartnership agreement.

[(53-412) 1899, p. 366, sec. 2; reen. R.C. & C.L., sec. 3372; C.S., sec. 5867; I.C.A., sec. 52-412.]