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SPONSOR: Sen. DeLuca & Rep. M. Marshall

DELAWARE STATE SENATE  
145th GENERAL ASSEMBLY

SENATE BILL NO. 83

AN ACT TO AMEND CHAPTER 15, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- 1                   Section 1. Amend § 15-101(16), Chapter 15, Title 6 of the Delaware Code by inserting "(including a  
2 common law trust, business trust, statutory trust, voting trust or any other form of trust)" immediately after the word "trust".
- 3                   Section 2. Amend § 15-103(c), Chapter 15, Title 6 of the Delaware Code by inserting the words "or a  
4 statement of qualification" immediately after the words "statement of partnership existence".
- 5                   Section 3. Amend § 15-105(c), Chapter 15, Title 6 of the Delaware Code by inserting the words "or  
6 certificates" immediately after the words "Other statements" in the second sentence thereof, by deleting the words "other  
7 authorized person" in the second sentence thereof and by inserting in lieu thereof the words "one or more authorized  
8 persons or, in the case of a certificate of conversion to partnership or a certificate of partnership domestication, by any  
9 person authorized to execute such certificate on behalf of the other entity or non-United States entity, respectively, except  
10 that a certificate of merger or consolidation filed by a surviving or resulting other business entity shall be executed by any  
11 person authorized to execute such certificate on behalf of such other business entity", by deleting the words "an individual  
12 as, or on behalf of, a partner or other person named as a partner in a statement or certificate" in the third sentence thereof  
13 and by inserting in lieu thereof the words "a person who is authorized by this chapter to execute such statement or  
14 certificate", and by deleting the words "the individual's" in the third sentence thereof and by inserting in lieu thereof the  
15 words "such person's".
- 16                   Section 4. Amend § 15-106(c), Chapter 15, Title 6 of the Delaware Code by inserting the words "or a  
17 statement of qualification" immediately after the words "statement of partnership existence".
- 18                   Section 5. Amend § 15-122, Chapter 15, Title 6 of the Delaware Code by inserting the words "or any  
19 provision of this chapter, or any other instrument, document, agreement or certificate contemplated by any provision of this  
20 chapter," immediately after the words "such partnership or partners,".

21 Section 6. Amend § 15-201(a), Chapter 15, Title 6 of the Delaware Code by inserting the words "or a  
22 statement of qualification" immediately after the words "statement of partnership existence".

23 Section 7. Amend § 15-203, Chapter 15, Title 6 of the Delaware Code by inserting the words "or a  
24 statement of qualification" immediately after the words "statement of partnership existence".

25 Section 8. Amend § 15-407(e), Chapter 15, Title 6 of the Delaware Code by inserting the words "  
26 including as permitted by § 15-902(g) of this title" immediately after the words "as otherwise permitted by law" in the first  
27 sentence thereof and by inserting the words ", including as permitted by § 15-902(g) of this title" immediately before the "."  
28 in the second sentence thereof.

29 Section 9. Amend § 15-501, Chapter 15, Title 6 of the Delaware Code by inserting the words "or a  
30 statement of qualification" immediately after the words "statement of partnership existence".

31 Section 10. Amend § 15-901(a), Chapter 15, Title 6 of the Delaware Code by inserting the words "and in  
32 § 15-105" immediately after the words "As used in this section" and before the first ",".

33 Section 11. Amend § 15-902(a), Chapter 15, Title 6 of the Delaware Code by inserting the words "and in  
34 § 15-105" immediately after the words "As used in this section" and before the first ",".

35 Section 12. Amend § 15-902(c)(4), Chapter 15, Title 6 of the Delaware Code by inserting the words "  
36 registered office or registered agent" immediately after the words "to change its name".

37 Section 13. Amend § 15-902(g), Chapter 15, Title 6 of the Delaware Code by inserting the words "and  
38 shall be effective notwithstanding any provision of the partnership agreement relating to amendment or adoption of a new  
39 partnership agreement, other than a provision that by its terms applies to an amendment to the partnership agreement or the  
40 adoption of a new partnership agreement, in either case, in connection with a merger or consolidation" immediately before  
41 the "." in the second sentence thereof.

42 Section 14. Amend § 15-904(a), Chapter 15, Title 6 of the Delaware Code by inserting the words "and in  
43 § 15-105" immediately after the words "As used in this section" and before the first ",".

44 Section 15. Amend § 15-1001(c)(3), Chapter 15, Title 6 of the Delaware Code by inserting the words "at  
45 the time of the effectiveness of the statement of qualification" immediately after the word "partnership".

46 Section 16. Amend § 15-1201, Chapter 15, Title 6 of the Delaware Code by inserting a new sentence at  
47 the end of such section reading as follows: "Action validly taken pursuant to one provision of this chapter shall not be  
48 deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to  
49 some other provision of this chapter but fails to satisfy one or more requirements prescribed by such other provision."

50 Section 17. This Act shall become effective August 1, 2009.

## SYNOPSIS

This bill continues the practice of amending periodically the Delaware Revised Uniform Partnership Act (the "Act") to keep it current and to maintain its national preeminence. The following is a section-by-section review of the proposed amendments of the Act.

Section 1. This section amends § 15-101(16) of the Act to confirm the intended broad scope of the term "trust" as used in the definition of "Person".

Sections 2, 6, 7 and 9. These sections amend §§ 15-103(c), 15-201(a), 15-203 and 15-501 of the Act to permit a limited liability partnership to use its statement of qualification rather than a statement of partnership existence to opt-out of the default rules provided for in those subsections.

Section 3. This section amends § 15-105(c) of the Act to clarify that a certificate of conversion to partnership and a certificate of partnership domestication may be executed either by at least one partner, by one or more authorized persons or by any person authorized to execute such certificate on behalf of the other entity or non-United States entity, respectively, and that a certificate of merger or consolidation filed by a surviving or resulting other business entity must be executed by any person authorized to execute such certificate on behalf of such other business entity.

Section 4. This section amends § 15-106(c) of the Act to provide that a limited liability partnership that does not file a statement of partnership existence but does file a statement of qualification may receive the benefits of § 15-106(c) of the Act.

Section 5. This section amends § 15-122 of the Act to clarify the jurisdiction of the Court of Chancery with respect to matters pertaining to partnerships formed under Delaware law or doing business in Delaware.

Section 8. This section amends § 15-407(e) of the Act to confirm that each reference in such section to "as otherwise permitted by law" includes an amendment made as permitted by § 15-902(g) of the Act.

Section 10. This section amends § 15-901(a) of the Act to make changes conforming to the amendment to § 15-105 of the Act.

Section 11. This section amends § 15-902(a) of the Act to make changes conforming to the amendment to § 15-105 of the Act.

Section 12. This section amends § 15-902(c)(4) of the Act to permit a change of the registered office or registered agent to be set forth in a certificate of merger filed by a surviving domestic partnership.

Section 13. This section amends § 15-902(g) of the Act to confirm the ability by merger or consolidation to amend a partnership agreement or adopt a new partnership agreement for a domestic partnership that is the surviving or resulting partnership in a merger or consolidation by obtaining the approval required by § 15-902(b) of the Act, unless the partnership agreement by its terms limits such amendment or adoption.

Section 14. This section amends § 15-904(a) of the Act to make changes conforming to the amendment to § 15-105 of the Act.

Section 15. This section amends § 15-1001(c)(3) of the Act to clarify the intended meaning of this subsection.

Section 16. This section amends § 15-1201 of the Act to clarify that the doctrine of independent legal significance, as developed in Delaware corporation law, applies in the context of Delaware partnerships. The amendment is not intended to limit development or application, with respect to Delaware partnerships, of the doctrine of independent legal significance as developed in cases arising under Delaware corporation law.

Section 17. This section provides that the proposed amendments of the Act shall become effective August 1, 2009.

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