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Reps. Brady, J. Johnson, Mitchell, Smyk, Wilson; Sens. Blevins, McDowell, Simpson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 328

AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.

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

1 Section 1. Amend § 17-104(g), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 (g) Every limited partnership formed under the laws of the State of Delaware or qualified to do business in the
4 State of Delaware shall provide to its registered agent and update from time to time as necessary the name, business address
5 and business telephone number of a natural person who is a partner, officer, employee or designated agent of the limited
6 partnership, who is then authorized to receive communications from the registered agent. Such person shall be deemed the
7 communications contact for the limited partnership. A limited partnership, upon receipt of a request by the
8 communications contact delivered in writing or by electronic transmission, shall provide the communications contact with
9 the name, business address and business telephone number of a natural person who has access to the record required to be
10 maintained pursuant to §17-305(g) of this title. Every registered agent shall retain (in paper or electronic form) the above
11 information concerning the current communications contact for each limited partnership and each foreign limited
12 partnership for which he, she, or it serves as registered agent. If the limited partnership fails to provide the registered agent
13 with a current communications contact, the registered agent may resign as the registered agent for such limited partnership
14 pursuant to this section. For purposes of this subsection, the term "electronic transmission" means any form of
15 communication not directly involving the physical transmission of paper that creates a record that may be retained,
16 retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through
17 an automated process.

18 Section 2. Amend § 17-302(e), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike
19 through and insertions as shown by underline as follows:

20 (e) Unless otherwise provided in a partnership agreement, meetings of limited partners may be held by means of
21 conference telephone or other communications equipment by means of which all persons participating in the meeting can
22 hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.
23 Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by
24 limited partners, the limited partners may take such action without a meeting, without prior notice and without a vote if
25 consented to, in writing or by electronic transmission, by limited partners having not less than the minimum number of
26 votes that would be necessary to authorize or take such action at a meeting at which all limited partners entitled to vote
27 thereon were present and voted. Unless otherwise provided in a partnership agreement, if a person (whether or not then a
28 limited partner) consenting as a limited partner to any matter provides that such consent will be effective at a future time
29 (including a time determined upon the happening of an event), then such person shall be deemed to have consented as a
30 limited partner at such future time so long as such person is then a limited partner. Unless otherwise provided in a
31 partnership agreement, on any matter that is to be voted on by limited partners, the limited partners may vote in person or
32 by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by
33 applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by
34 a limited partner or by a person or persons authorized to act for a limited partner shall be deemed to be written and signed
35 for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of
36 communication not directly involving the physical transmission of paper that creates a record that may be retained,
37 retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through
38 an automated process.

39 Section 3. Amend § 17-305, Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike
40 through and insertions as shown by underline as follows:

41 (a) Each limited partner, in person or by attorney or other agent, has the right, subject to such reasonable standards
42 (including standards governing what information and documents are to be furnished, at what time and location and at
43 whose expense) as may be set forth in the partnership agreement or otherwise established by the general partners, to obtain
44 from the general partners from time to time upon reasonable demand for any purpose reasonably related to the limited
45 partner's interest as a limited partner:

46 (1) True and full information regarding the status of the business and financial condition of the limited
47 partnership;

48 (2) Promptly after becoming available, a copy of the limited partnership's federal, state and local income
49 tax returns for each year;

50 (3) A current list of the name and last known business, residence or mailing address of each partner;

51 (4) A copy of any written partnership agreement and certificate of limited partnership and all amendments

52 thereto, together with executed copies of any written powers of attorney pursuant to which the partnership

53 agreement and any certificate and all amendments thereto have been executed;

54 (5) True and full information regarding the amount of cash and a description and statement of the agreed

55 value of any other property or services contributed by each partner and which each partner has agreed to contribute

56 in the future, and the date on which each became a partner; and

57 (6) Other information regarding the affairs of the limited partnership as is just and reasonable.

58 (b) A general partner shall have the right to keep confidential from limited partners for such period of time as the

59 general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade

60 secrets or other information the disclosure of which the general partner in good faith believes is not in the best interest of

61 the limited partnership or could damage the limited partnership or its business or which the limited partnership is required

62 by law or by agreement with a third party to keep confidential.

63 (c) A limited partnership may maintain its records in other than a written form if such form is capable of

64 conversion into written form within a reasonable time.

65 (d) Any demand under this section shall be in writing and shall state the purpose of such demand. In every

66 instance where an attorney or other agent shall be the person who seeks the right to obtain the information described in

67 subsection (a) of this section, the demand shall be accompanied by a power of attorney or such other writing which

68 authorizes the attorney or other agent to so act on behalf of the limited partner.

69 (e) Any action to enforce any right arising under this section shall be brought in the Court of Chancery. If a

70 general partner refuses to permit a limited partner, or attorney or other agent acting for the limited partner, to obtain from

71 the general partner the information described in subsection (a) of this section or does not reply to the demand that has been

72 made within 5 business days (or such shorter or longer period of time as is provided for in a partnership agreement but not

73 longer than 30 business days) after the demand has been made, the limited partner may apply to the Court of Chancery for

74 an order to compel such disclosure. The Court of Chancery is hereby vested with exclusive jurisdiction to determine

75 whether or not the person seeking such information is entitled to the information sought. The Court of Chancery may

76 summarily order the general partner to permit the limited partner to obtain the information described in subsection (a) of

77 this section and to make copies or abstracts therefrom, or the Court of Chancery may summarily order the general partner to

78 furnish to the limited partner the information described in subsection (a) of this section on the condition that the limited

79 partner first pay to the limited partnership the reasonable cost of obtaining and furnishing such information and on such

80 other conditions as the Court of Chancery deems appropriate. When a limited partner seeks to obtain the information
81 described in subsection (a) of this section, the limited partner shall first establish (1) that the limited partner has complied
82 with the provisions of this section respecting the form and manner of making demand for obtaining such information, and
83 (2) that the information the limited partner seeks is reasonably related to the limited partner's interest as a limited partner.
84 The Court of Chancery may, in its discretion, prescribe any limitations or conditions with reference to the obtaining of
85 information, or award such other or further relief as the Court of Chancery may deem just and proper. The Court of
86 Chancery may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be
87 brought within the State of Delaware and kept in the State of Delaware upon such terms and conditions as the order may
88 prescribe.

89 (f) The rights of a limited partner to obtain information as provided in this section may be restricted in an original
90 partnership agreement or in any subsequent amendment approved or adopted by all of the partners or in compliance with
91 any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit
92 the ability to impose restrictions on the rights of a limited partner to obtain information by any other means permitted under
93 this chapter.

94 (g) A limited partnership shall maintain a current record that identifies the name and last known business,
95 residence, or mailing address of each partner.

96 Section 4. Amend § 17-405(d), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike
97 through and insertions as shown by underline as follows:

98 (d) Unless otherwise provided in a partnership agreement, meetings of general partners may be held by means of
99 conference telephone or other communications equipment by means of which all persons participating in the meeting can
100 hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.
101 Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by
102 general partners, the general partners may take such action without a meeting, without prior notice and without a vote if
103 consented to, in writing or by electronic transmission, by general partners having not less than the minimum number of
104 votes that would be necessary to authorize or take such action at a meeting at which all general partners entitled to vote
105 thereon were present and voted. Unless otherwise provided in a partnership agreement, if a person (whether or not then a
106 general partner) consenting as a general partner to any matter provides that such consent will be effective at a future time
107 (including a time determined upon the happening of an event), then such person shall be deemed to have consented as a
108 general partner at such future time so long as such person is then a general partner. Unless otherwise provided in a
109 partnership agreement, on any matter that is to be voted on by general partners, the general partners may vote in person or

110 by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by
111 applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by
112 a general partner or by a person or persons authorized to act for a general partner shall be deemed to be written and signed
113 for purposes of this subsection (d). For purposes of this subsection (d), the term "electronic transmission" means any form
114 of communication not directly involving the physical transmission of paper that creates a record that may be retained,
115 retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through
116 an automated process.

117 Section 5. Amend § 17-806, Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike
118 through and insertions as shown by underline as follows:

119 ~~Notwithstanding~~ If a partnership agreement provides the manner in which a dissolution may be revoked, it may be
120 revoked in that manner and, unless a partnership agreement prohibits revocation of dissolution, then notwithstanding the
121 occurrence of an event set forth in § 17-801(1), (2), (3), (4) or (5) of this title, the limited partnership shall not be dissolved
122 and its affairs shall not be wound up if, prior to the filing of a certificate of cancellation in the office of the Secretary of
123 State, the business of the limited partnership is continued, effective as of the occurrence of such event, ~~pursuant to the~~
124 ~~affirmative vote or written consent of (1) all remaining general partners and all remaining limited partners of the limited~~
125 ~~partnership, (2) all remaining general partners and the personal representative of the last remaining limited partner of the~~
126 ~~limited partnership if there is no remaining limited partner, (3) all remaining limited partners if there is no remaining~~
127 ~~general partner or (4) the personal representative of the last remaining limited partner if there is no remaining limited~~
128 ~~partner and no remaining general partner (and, in each instance, any other person whose approval is required under the~~
129 ~~partnership agreement to revoke a dissolution pursuant to this section), provided, however, if the dissolution was caused by~~
130 ~~a vote or written consent, the dissolution shall not be revoked unless each general partner and limited partner and other~~
131 ~~person (or their respective personal representatives) who voted in favor of, or consented to, the dissolution has voted or~~
132 ~~consented in writing to continue the business of the limited partnership~~ (i) in the case of dissolution effected by the
133 affirmative vote or written consent of the partners or other persons, pursuant to such affirmative vote or written consent
134 (and the approval of any partners or other persons whose approval is required under the partnership agreement to revoke a
135 dissolution contemplated by this clause), (ii) in the case of dissolution under § 17-801(1) or (5) (other than a dissolution
136 effected by the affirmative vote or written consent of the partners or other persons, an event of withdrawal of a general
137 partner or the occurrence of an event that causes the last remaining limited partner to cease to be a limited partner),
138 pursuant to such affirmative vote or written consent that, pursuant to the terms of the partnership agreement, is required to
139 amend the provision of the partnership agreement effecting such dissolution (and the approval of any partners or other

140 persons whose approval is required under the partnership agreement to revoke a dissolution contemplated by this clause),
141 and (iii) in the case of dissolution effected by an event of withdrawal of a general partner or the occurrence of an event that
142 causes the last remaining limited partner to cease to be a limited partner, pursuant to the affirmative vote or written consent
143 of (a) all remaining general partners and (b) the limited partners of the limited partnership or, if there is more than one class
144 or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own
145 more than two-thirds of the then-current percentage or other interest in the profits of the limited partnership owned by all of
146 the limited partners or by the limited partners in each class or group, as appropriate, or if there is no remaining limited
147 partner the personal representative of the last remaining limited partner of the limited partnership or the assignee of all of
148 the limited partners' partnership interests in the limited partnership (and the approval of any partners or other persons whose
149 approval is required under the partnership agreement to revoke a dissolution contemplated by this clause). ~~If there is no~~
150 remaining general partner of the limited partnership and all remaining limited partners or, if there is no remaining limited
151 partner, the personal representative of the last remaining limited partner, vote in favor of or consent to the continuation of
152 the business of the limited partnership, such limited partners or personal representative, as applicable, shall be required to
153 agree in writing to appoint 1 or more general partners effective as of the date of withdrawal of the last general partner, and
154 if there is no remaining limited partner of the limited partnership and the personal representative of the last remaining
155 limited partner votes in favor of or consents to the continuation of the business of the limited partnership, such personal
156 representative shall be required to agree in writing to the admission of the personal representative of such limited partner or
157 its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that
158 caused the last remaining limited partner to cease to be a limited partner. ~~If dissolution is revoked pursuant to clause (iii)~~
159 above and there is no remaining general partner of the limited partnership, one or more general partners shall be appointed,
160 effective as of the date of withdrawal of the last remaining general partner, by the affirmative vote or written consent of the
161 limited partners of the limited partnership or, if there is more than one class or group of limited partners, then by each class
162 or group of limited partners, in either case, by limited partners who own more than two-thirds of the then-current
163 percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited
164 partners in each class or group, as appropriate. ~~If dissolution is revoked pursuant to clause (iii) above and there is no~~
165 remaining limited partner of the limited partnership, a nominee or designee of such personal representative or such
166 assignee, as applicable, shall be appointed as a limited partner, effective as of the occurrence of the event that caused the
167 last remaining limited partner to cease to be a limited partner, by the affirmative vote or written consent of the remaining
168 general partners and such personal representative or such assignee, as applicable. ~~If dissolution is revoked pursuant to~~
169 clause (iii) above and there is no remaining general partner of the limited partnership and no remaining limited partner of

170 the limited partnership, one or more general partners shall be appointed, effective as of the date of withdrawal of the last
171 remaining general partner, and a nominee or designee of such personal representative or such assignee, as applicable, shall
172 be appointed as a limited partner, effective as of the occurrence of the event that caused the last remaining limited partner to
173 cease to be a limited partner, in each case, by the affirmative vote or written consent of such personal representative or such
174 assignee, as applicable. The provisions of this section shall not be construed to limit the accomplishment of a revocation of
175 dissolution by other means permitted by law.

176 Section 6. This Act shall become effective August 1, 2014.

SYNOPSIS

This bill continues the practice of amending periodically the Delaware Revised Uniform Limited 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. Section 1 amends § 17-104(g) of the Act to require a limited partnership, upon the written request of the limited partnership's communications contact, to provide to such communications contact the name, business address and business telephone number of a natural person who has access to the record that contains the name and address of each partner of the limited partnership.

Section 2. Section 2 amends § 17-302(e) of the Act to confirm and clarify that unless otherwise provided in a partnership agreement, a person who is not then a limited partner may consent to any matter as a limited partner provided that such consent will only be effective at a time when such person is a limited partner of the limited partnership.

Section 3. Section 3 amends § 17-305 of the Act to confirm that a limited partner of a limited partnership may make a books and records request in person or by an attorney or other agent. Section 3 also amends § 17-305 of the Act by adding a new subsection 17-305(g) which provides that a limited partnership is required to maintain a current record of the name and last known address of each partner.

Section 4. Section 4 amends § 17-405(d) of the Act to confirm and clarify that, unless otherwise provided in a partnership agreement, a person who is not then a general partner may consent to any matter as a general partner provided that such consent will only be effective at a time when such person is a general partner of the limited partnership.

Section 5. Section 5 amends § 17-806 of the Act to modify and provide additional means by which a dissolution of a limited partnership may be revoked.

Section 6. This section provides that the proposed amendments of the Act shall become effective August 1, 2014.