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SPONSOR: Rep. M. Smith & Sen. Blevins  
Reps. Carson, Hudson, J. Johnson, Lee, Mitchell, Walker,  
D.P. Williams, Willis, Wilson; Sens. DeLuca, Henry,  
McDowell, Simpson, Sorenson

HOUSE OF REPRESENTATIVES  
146th GENERAL ASSEMBLY

HOUSE BILL NO. 340

AN ACT TO AMEND 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 § 17-102, Title 6 of the Delaware Code by making insertions as shown by underlining and  
2 deletions as shown by strike through as follows:

3 The name of each limited partnership as set forth in its certificate of limited partnership:

4 (1) Shall contain the words "Limited Partnership" or the abbreviation "L.P." or the designation "LP" or, in the case  
5 of a limited partnership that is formed as or becomes a limited liability limited partnership, shall contain the words,  
6 abbreviation or designation required by § 17-214(a) of this title;

7 (2) May contain the name of a partner;

8 (3) Must be such as to distinguish it upon the records in the office of the Secretary of State from the name on such  
9 records of any corporation, partnership, limited partnership, statutory trust or limited liability company reserved, registered,  
10 formed or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign  
11 corporation, foreign limited partnership, foreign statutory trust, foreign partnership or foreign limited liability company in  
12 the State of Delaware; provided, however, that a limited partnership may register under any name which is not such as to  
13 distinguish it upon the records in the office of the Secretary of State from the name on such records of any domestic or  
14 foreign corporation, partnership, statutory trust, or limited liability company or foreign limited partnership reserved,  
15 registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation,  
16 partnership, statutory trust, limited liability company or foreign limited partnership, which written consent shall be filed  
17 with the Secretary of State; provided further, that, if on July 31, 2011, a limited partnership is registered (with the consent  
18 of another limited partnership) under a name which is not such as to distinguish it upon the records in the office of the  
19 Secretary of State from the name on such records of such other domestic limited partnership, it shall not be necessary for  
20 any such limited partnership to amend its certificate of limited partnership to comply with this subsection; and

21 (4) May contain the following words: "Company," "Association," "Club," "Foundation," "Fund," "Institute,"  
22 "Society," "Union," "Syndicate," "Limited" or "Trust" (or abbreviations of like import); and

23 (5) Shall not contain the word "bank," or any variation thereof, except for the name of a bank reporting to and  
24 under the supervision of the State Bank Commissioner of this State or a subsidiary of a bank or savings association (as  
25 those terms are defined in the Federal Deposit Insurance Act, as amended, at 12 U.S.C. § 1813), or a limited partnership  
26 regulated under the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or the Home Owners' Loan  
27 Act, as amended, 12 U.S.C. § 1461 et seq.; provided, however, that this section shall not be construed to prevent the use of  
28 the word "bank," or any variation thereof, in a context clearly not purporting to refer to a banking business or otherwise  
29 likely to mislead the public about the nature of the business of the limited partnership or to lead to a pattern and practice of  
30 abuse that might cause harm to the interests of the public or the State as determined by the Division of Corporations in the  
31 Department of State.

32 Section 2. Amend § 17-201(d), Title 6 of the Delaware Code by making insertions as shown by underlining and  
33 deletions as shown by strike through as follows:

34 (d) A partnership agreement shall be entered into or otherwise existing either before, after or at the time of the  
35 filing of a certificate of limited partnership and, whether entered into or otherwise existing before, after or at the time of  
36 such filing, may be made effective as of ~~the formation of the limited partnership~~ effective time of such filing or at such  
37 other time or date as provided in or reflected by the partnership agreement.

38 Section 3. Amend § 17-211(c)(1), Title 6 of the Delaware Code by making insertions as shown by underlining and  
39 deletions as shown by strike through as follows:

40 (1) The name, ~~and jurisdiction of formation or organization~~ and type of entity of each of the domestic limited  
41 partnerships and other business entities which is to merge or consolidate;

42 Section 4. Amend § 17-214, Title 6 of the Delaware Code by making insertions as shown by underlining and  
43 deletions as shown by strike through as follows:

44 (a) A limited partnership may be formed as, or may become, a limited liability limited partnership pursuant to this  
45 section. A limited partnership may become a limited liability limited partnership as permitted by the limited partnership's  
46 partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's  
47 becoming a limited liability limited partnership, with the approval (i) by all general partners, and (ii) by the limited  
48 partners, or, if there is more than 1 class or group of limited partners, then by each class or group of limited partners, in  
49 either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits  
50 of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as

51 appropriate. To be formed or to become, and to continue as, a limited liability limited partnership, a limited partnership  
52 shall, in addition to complying with the requirements of this chapter:

53 (1) File a statement of qualification as provided in § 15-1001 of this title and thereafter an annual report  
54 as provided in § 15-1003 of this title; and

55 (2) Have as the last words or letters of its name the words "Limited Liability Limited Partnership," or the  
56 abbreviation "L.L.L.P.," or the designation "LLLP."

57 (b) In applying the Delaware Revised Uniform Partnership Act [Chapter 15 of this title] to a limited liability  
58 limited partnership for the purposes of subsections (a) and (c) of this section:

59 (1) Any statement shall be executed by at least 1 general partner of the limited partnership; and

60 (2) All references to partners mean general partners only.

61 (c) If a statement of cancellation of a statement of qualification is filed and the limited partnership shall remain a  
62 domestic limited partnership, an amendment to the certificate of limited partnership removing the "Limited Liability  
63 Limited Partnership", "L.L.L.P." or "LLLP" designation from the name of the limited partnership shall be filed  
64 simultaneously with the filing of such statement of cancellation of the statement of qualification. As changed, such name  
65 must also comply with § 17-102 of this chapter.

66 ~~(e)-(d)~~ If a limited partnership is a limited liability limited partnership, (i) its partners who are liable for the debts,  
67 liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of limited  
68 liability partnerships under the Delaware Revised Uniform Partnership Act [Chapter 15 of this title], and (ii) no limited  
69 partner of the limited partnership shall have any liability for the obligations of the limited partnership under § 17-303(a) of  
70 this title.

71 ~~(d)-(e)~~ Except as provided in subsections (a), (b) and ~~(e)-(d)~~ of this section, a limited liability limited partnership  
72 shall be governed by this chapter, including, without limitation, § 17-1105 of this chapter.

73 ~~(e)-(f)~~ Notwithstanding anything in this chapter to the contrary, a limited partnership having, on December 31,  
74 1999, the status of a registered limited liability limited partnership under predecessor law shall have the status of a limited  
75 liability limited partnership under this chapter as of January 1, 2000, and to the extent such limited partnership has not filed  
76 a statement of qualification pursuant to § 15-1001 of the Delaware Revised Uniform Partnership Act, the latest application  
77 or renewal application filed by such limited partnership under such predecessor law shall constitute a statement of  
78 qualification filed under § 15-1001 of the Delaware Revised Uniform Partnership Act.

79 Section 5. Amend § 17-216(b)(7), Title 6 of the Delaware Code by making insertions as shown by underlining as  
80 follows:

81           (7) The address (which may not be that of the limited partnership's registered agent without the written consent of  
82 the limited partnership's registered agent, such consent to be filed with the certificate of transfer) to which a copy of the  
83 process referred to in paragraph (b)(6) of this section shall be mailed to it by the Secretary of State. Process may be served  
84 upon the Secretary of State under paragraph (b)(6) of this section by means of electronic transmission but only as  
85 prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to  
86 such service as the Secretary of State deems necessary or appropriate. In the event of service hereunder upon the Secretary  
87 of State, the procedures set forth in § 17-911(c) of this title shall be applicable, except that the plaintiff in any such action,  
88 suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address  
89 that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the  
90 Secretary of State shall notify the limited partnership that has transferred or domesticated or continued out of the State of  
91 Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 17-911(c) of this  
92 title; and

93           Section 6. Amend § 17-217(c)(2), Title 6 of the Delaware Code by making insertions as shown by underlining as  
94 follows:

95           (2) The name and type of entity of the other entity immediately prior to the filing of the certificate of conversion to  
96 limited partnership;

97           Section 7. Amend § 17-505, Title 6 of the Delaware Code by making insertions as shown by underlining as  
98 follows:

99           No obligation of a partner of a limited partnership to the limited partnership, or to a partner of the limited  
100 partnership, arising under the partnership agreement or a separate agreement or writing, and no note, instrument or other  
101 writing evidencing any such obligation of a partner, shall be subject to the defense of usury, and no partner shall interpose  
102 the defense of usury with respect to any such obligation in any action.

103           Section 8. This Act shall become effective August 1, 2012.

#### 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 amends § 17-102 of the Act to confirm the practice of restricting the use of the word "bank" or any variation thereof in the name of a limited partnership.

Section 2 amends § 17-201(d) of the Act to clarify as of when a partnership agreement may be made effective.

Section 3 amends § 17-211(c)(1) of the Act by adding a new requirement to provide the type of business entity involved in a merger or consolidation.

Section 4 adds a new § 17-214(c) clarifying that the designation "Limited Liability Limited Partnership", "L.L.L.P." or "LLLP" must be removed from the name of a limited partnership that cancels its statement of qualification and remains a domestic limited partnership in the State of Delaware.

Section 5 amends § 17-216(b)(7) of the Act to clarify that the address provided for service of process may not be

that of the limited partnership's registered agent without the written consent of such registered agent.

Section 6 amends § 17-217(c)(2) of the Act by adding a new requirement to provide the type of entity converting to a Delaware limited partnership.

Section 7 amends § 17-505 of the Act to provide that obligations between or among partners arising under a partnership agreement or other writing are not subject to the defense of usury.

Section 8 provides that the proposed amendments of the Act shall become effective August 1, 2012.