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HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 124

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 § 17-104(d), Title 6 of the Delaware Code by making insertions as shown by underlining as
2 follows:

3 (d) The registered agent of 1 or more limited partnerships may resign without appointing a successor registered
4 agent by paying a fee as set forth in § 17-1107(a)(2) of this title and filing a certificate of resignation with the Secretary of
5 State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain
6 a statement that written notice of resignation was given to each affected limited partnership at least 30 days prior to the
7 filing of the certificate by mailing or delivering such notice to the limited partnership at its address last known to the
8 registered agent and shall set forth the date of such notice. After receipt of the notice of the resignation of its registered
9 agent, the limited partnership for which such registered agent was acting shall obtain and designate a new registered agent
10 to take the place of the registered agent so resigning. If such limited partnership fails to obtain and designate a new
11 registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the
12 certificate of resignation, the certificate of limited partnership and statement of qualification (as applicable) of such limited
13 partnership shall be canceled. After the resignation of the registered agent shall have become effective as provided in this
14 section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of
15 legal process against each limited partnership for which the resigned registered agent had been acting shall thereafter be
16 upon the Secretary of State in accordance with § 17-105 of this title.

17 Section 2. Amend § 17-104(i)(4), Title 6 of the Delaware Code by making insertions as shown by underlining as
18 follows:

19 (4) Upon the entry of an order by the court enjoining any person or entity from acting as a registered agent, the
20 Secretary of State shall mail or deliver notice of such order to each general partner of each affected limited partnership at

21 the address of such general partner specified in the affected limited partnership's certificate of limited partnership. If such a
22 limited partnership is a domestic limited partnership and fails to obtain and designate a new registered agent within 30 days
23 after such notice is given, the certificate of limited partnership and statement of qualification (as applicable) of such limited
24 partnership shall be canceled. If such a limited partnership is a foreign limited partnership and fails to obtain and designate
25 a new registered agent within 30 days after such notice is given, such foreign limited partnership shall not be permitted to
26 do business in the State of Delaware and its registration shall be canceled. If the court enjoins a person or entity from
27 acting as a registered agent as provided in this section and no new registered agent shall have been obtained and designated
28 in the time and manner aforesaid by an affected limited partnership, service of legal process against the limited partnership
29 for which the registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 17-105 or
30 § 17-911 of this title. The Court of Chancery may, upon application of the Secretary of State on notice to the former
31 registered agent, enter such orders as it deems appropriate to give the Secretary of State access to information in the former
32 registered agent's possession in order to facilitate communication with the limited partnerships the former registered agent
33 served.

34 Section 3. Amend § 17-211(b), Title 6 of the Delaware Code by making insertions as shown by underlining as
35 follows:

36 (b) Pursuant to an agreement of merger or consolidation, 1 or more domestic limited partnerships may merge or
37 consolidate with or into 1 or more domestic limited partnerships or 1 or more other business entities formed or organized
38 under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign
39 jurisdiction, or any combination thereof, with such domestic limited partnership or other business entity as the agreement
40 shall provide being the surviving or resulting domestic limited partnership or other business entity. Unless otherwise
41 provided in the partnership agreement, an agreement of merger or consolidation or a plan of merger shall be approved by
42 each domestic limited partnership which is to merge or consolidate (1) by all general partners, and (2) by the limited
43 partners or, if there is more than 1 class or group of limited partners, then by each class or group of limited partners, in
44 either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits
45 of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as
46 appropriate. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a limited
47 partnership or other business entity which is a constituent party to the merger or consolidation may be exchanged for or
48 converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited partnership or other
49 business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or
50 securities of, or interests in, a limited partnership or other business entity which is not the surviving or resulting limited

51 partnership or other business entity in the merger or consolidation, may remain outstanding or may be cancelled.
52 Notwithstanding prior approval, an agreement of merger or consolidation or a plan of merger may be terminated or
53 amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation
54 or plan of merger.

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

57 (a) A limited partnership may be formed as, or may become, a limited liability limited partnership pursuant to this
58 section. A limited partnership may become a limited liability limited partnership as permitted by the limited partnership's
59 partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's
60 becoming a limited liability limited partnership, with the approval (i) by all general partners, and (ii) by the limited
61 partners, or, if there is more than 1 class or group of limited partners, then by each class or group of limited partners, in
62 either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits
63 of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as
64 appropriate. To be formed or to become, and to continue as, a limited liability limited partnership, a limited partnership
65 shall, in addition to complying with the requirements of this chapter:

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

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

70 (b) In applying the Delaware Revised Uniform Partnership Act [Chapter 15 of this title] to a limited liability
71 limited partnership for the purposes of subsections (a) ~~and (e)~~, (d), (f), (g), (l) and (m) of this section:

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

73 (2) All references to partner or partners mean general partners only; ~~;~~

74 (3) All references to a limited liability partnership shall be deemed references to a limited liability limited
75 partnership;

76 (4) All references to a partnership shall be deemed references to a limited partnership;

77 (5) All references to foreign partnerships, foreign limited liability partnerships or statements of foreign
78 qualification shall be disregarded; and

79 (6) The reference to "certificate" in § 15-1207(a)(1) shall be disregarded.

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

85 (d) If a limited partnership is a limited liability limited partnership, (i) its partners who are liable for the debts,
86 liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of
87 limited liability partnerships under the Delaware Revised Uniform Partnership Act [Chapter 15 of this title], and (ii) no
88 limited partner of the limited partnership shall have any liability for the obligations of the limited partnership under § 17-
89 303(a) of this title.

90 (e) The status of a limited partnership as a limited liability limited partnership is effective on the later of the filing
91 of the statement of qualification or a future effective date or time specified in the statement of qualification. The status as a
92 limited liability limited partnership remains effective, regardless of changes in the limited partnership, until the statement of
93 qualification is canceled or revoked.

94 (f) The provisions of § 15-105 and § 15-118 of this title shall apply to a limited liability limited partnership insofar
95 as such sections have application to a statement of qualification.

96 (g) A limited partnership is a limited liability limited partnership if there has been substantial compliance with the
97 requirements of this section. The status of a limited partnership as a limited liability limited partnership and the liability of
98 its partners is not affected by errors or later changes in the information required to be contained in the statement of
99 qualification under subsection (c) of § 15-1001 of this title.

100 (h) The filing of a statement of qualification establishes that a limited partnership has satisfied all conditions
101 precedent to the qualification of the limited partnership as a limited liability limited partnership.

102 (i) An amendment or cancellation of a statement of qualification is effective when it is filed or on a future effective
103 date or time specified in the amendment or cancellation.

104 (j) If a person is included in the number of general partners of a limited liability limited partnership set forth in a
105 statement of qualification or an annual report, the inclusion of such person shall not be admissible as evidence in any
106 action, suit or proceeding, whether civil, criminal, administrative or investigative, for the purpose of determining whether
107 such person is liable as a general partner of such limited liability limited partnership. The status of a limited partnership as
108 a limited liability limited partnership and the liability of a partner of such limited liability limited partnership shall not be

109 adversely affected if the number of general partners stated in a statement of qualification or an annual report is erroneously
110 stated provided that the statement of qualification or the annual report was filed in good faith.

111 (k) A limited partnership whose statement of qualification has been canceled pursuant to § 17-104(d) or § 17-
112 104(i)(4) of this title may apply to the Secretary of State for reinstatement after the effective date of the cancellation. The
113 application must state:

114 (1) The name of the limited partnership and the effective date of the cancellation and, if such name is not
115 available at the time of reinstatement, the name under which the statement of qualification is to be reinstated; and

116 (2) That the limited partnership has obtained and designated a new registered agent as required by § 17-
117 104(a) of this title and the name and address of such new registered agent and the address of the limited partnership's
118 registered office in the state of Delaware.

119 A reinstatement under this subsection (k) relates back to and takes effect as of the effective date of the cancellation, and the
120 limited partnership's status as a limited liability limited partnership continues as if the cancellation had never occurred.

121 (l) Section 15-1003 of this title shall apply to a limited liability limited partnership, except that the reference to
122 § 15-111 in § 15-1003(a)(2) shall be deemed for purposes of this section as a reference to § 17-104.

123 (m) Subsections (a)(1) and (a)(3) of § 15-1207 of this title shall apply to a limited liability limited partnership.

124 (en) Except as provided in subsections (a), (b), (d), (f), (g), (l) and (~~em~~) of this section, a limited liability limited
125 partnership shall be governed by this chapter, including, without limitation, § 17-1105 of this chapter.

126 (fo) Notwithstanding anything in this chapter to the contrary, a limited partnership having, on December 31, 1999,
127 the status of a registered limited liability limited partnership under predecessor law shall have the status of a limited
128 liability limited partnership under this chapter as of January 1, 2000, and to the extent such limited partnership has not filed
129 a statement of qualification pursuant to § 15-1001 of the Delaware Revised Uniform Partnership Act, the latest application
130 or renewal application filed by such limited partnership under such predecessor law shall constitute a statement of
131 qualification filed under § 15-1001 of the Delaware Revised Uniform Partnership Act.

132 Section 5. Amend § 17-215(j), Title 6 of the Delaware Code by making insertions as shown by underlining as
133 follows:

134 (j) In connection with a domestication hereunder, rights or securities of, or interests in, the non-United States
135 entity that is to be domesticated as a domestic limited partnership may be exchanged for or converted into cash, property,
136 rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be
137 exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership
138 or other entity, may remain outstanding or may be cancelled.

139 Section 6. Amend § 17-216(f), Title 6 of the Delaware Code by making insertions as shown by underlining as
140 follows:

141 (f) In connection with a transfer or domestication or continuance of a domestic limited partnership to or in another
142 jurisdiction pursuant to subsection (a) of this section, rights or securities of, or interests in, such limited partnership may be
143 exchanged for or converted into cash, property, rights or securities of, or interests in, the entity or business form in which
144 the limited partnership will exist in such other jurisdiction as a consequence of the transfer or domestication or continuance
145 or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or
146 interests in, another entity or business form, may remain outstanding or may be cancelled.

147 Section 7. Amend § 17-217(i), Title 6 of the Delaware Code by making insertions as shown by underlining as
148 follows:

149 (i) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be
150 converted to a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of,
151 or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted
152 into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity, may remain
153 outstanding or may be cancelled.

154 Section 8. Amend § 17-219(d), Title 6 of the Delaware Code by making insertions as shown by underlining as
155 follows:

156 (d) In connection with a conversion of a domestic limited partnership to another entity or business form pursuant
157 to this section, rights or securities of or interests in the domestic limited partnership which is to be converted may be
158 exchanged for or converted into cash, property, rights or securities of or interests in the entity or business form into which
159 the domestic limited partnership is being converted or, in addition to or in lieu thereof, may be exchanged for or converted
160 into cash, property, rights or securities of or interests in another entity or business form, may remain outstanding or may be
161 cancelled.

162 Section 9. Amend § 17-703(d), Title 6 of the Delaware Code by making insertions as shown by underlining as
163 follows:

164 (d) The entry of a charging order is the exclusive remedy by which a judgment creditor of a partner or of a
165 partner's assignee may satisfy a judgment out of the judgment debtor's partnership interest and attachment, garnishment,
166 foreclosure or other legal or equitable remedies are not available to the judgment creditor.

167 Section 10. Except for Sections 1, 2 and 4 hereof, this Act shall become effective August 1, 2013. Sections 1, 2
168 and 4 of this Act shall become effective April 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.

Sections 1, 2 and 4 amend provisions of the Act relating to limited liability limited partnerships to confirm and clarify such provisions.

Section 3 amends the provisions of the Act relating to mergers to confirm that rights or securities of, or interests in, a constituent party that is the surviving entity in a merger may remain outstanding in connection with the merger.

Sections 5, 6, 7 and 8 amend the provisions of the Act relating to domestication, transfer, continuance and conversion to confirm that in connection with a domestication, transfer, continuance or conversion, rights or securities of, or interests in, an entity that is domesticating or converting to a limited partnership and rights or securities of, or interests in, a limited partnership that is transferring to or domesticating or continuing in another jurisdiction or converting to a different type of entity or another jurisdiction may remain outstanding in connection with such domestication, transfer, continuance or conversion.

Section 9 amends § 17-703(d) of the Act to confirm that a charging order is the sole and exclusive remedy by which a judgment creditor of a partner or a partner's assignee may satisfy a judgment out of the judgment debtor's partnership interest and that attachment, garnishment, foreclosure or other legal or equitable remedies are not available to the judgment creditor.

Section 10 provides that Sections 1, 2 and 4 of the Act shall become effective April 1, 2014 and the other Sections shall become effective August 1, 2013.