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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 115

AN ACT TO AMEND 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:

Section 1. Amend § 15-101, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 15-101. Definitions.

As used in this chapter unless the context otherwise requires:

(10) "Foreign partnership" means a partnership that is formed under laws other than laws of the State of Delaware.

~~(14)~~ (15) "Partnership agreement" means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement. A partnership is not required to execute its partnership agreement. A partnership is bound by its partnership agreement whether or not the partnership executes the partnership agreement. A partnership agreement is not subject to any statute of frauds (including § 2714 of this title). A partnership agreement may provide rights to any person, including a person who is not a party to the partnership agreement, to the extent set forth therein. A partner of a partnership or a transferee of an economic interest is bound by the partnership agreement whether or not the partner or transferee executes the partnership agreement. A written partnership agreement or another written agreement or writing may consist of 1 or more agreements, instruments or other writings and may include or incorporate 1 or more schedules, supplements or other writings containing provisions as to the conduct of the business and affairs of the partnership.

Section 2. Amend Subchapter II, Chapter 15, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 15-208. Irrevocability of subscription.

20 For all purposes of the laws of the State of Delaware, a subscription for a partnership interest, whether submitted
21 in writing, by means of electronic transmission, or as otherwise permitted by applicable law, is irrevocable if the
22 subscription states that it is irrevocable to the extent provided by the terms of the subscription.

23 Section 3. Amend § 15-902, Title 6 of the Delaware Code by making deletions as shown by strike through and
24 insertions as shown by underline as follows:

25 § 15-902. Merger or consolidation.

26 (g) An agreement of merger or consolidation or a plan of merger approved in accordance with subsection (b) of
27 this section may (1) effect any amendment to the partnership agreement or (2) effect the adoption of a new partnership
28 ~~agreement~~ agreement, in either case, for a domestic partnership if it is the surviving or resulting partnership in the merger or
29 consolidation. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to
30 the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective
31 notwithstanding any provision of the partnership agreement relating to amendment or adoption of a new partnership
32 agreement, other than a provision that by its terms applies to an amendment to the partnership agreement or the adoption of
33 a new partnership agreement, in either case, in connection with a merger or consolidation. The provisions of this subsection
34 shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other
35 means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including that the
36 partnership agreement of any constituent domestic partnership to the merger or consolidation (including a domestic
37 partnership formed for the purpose of consummating a merger or consolidation) shall be the partnership agreement of the
38 surviving or resulting domestic partnership.

39 Section 4. Amend § 15-1003, Title 6 of the Delaware Code by making deletions as shown by strike through and
40 insertions as shown by underline as follows:

41 § 15-1003. Annual report.

42 (b) An annual report must be filed by June 1 of each year following the calendar year in which a statement of
43 qualification filed by a partnership becomes effective or a foreign limited liability partnership becomes authorized to
44 transact business in the State of Delaware.

45 Section 5. This Act takes effect August 1, 2023.

SYNOPSIS

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

 Section 1 amends § 15-101 of the GP Act (i) to add a new definition of “foreign partnership,” which term appears in the GP Act, and (ii) to fix a typographical error.

Section 2 adds a new § 15-208 to the GP Act to clarify that a subscription for a partnership interest may be irrevocable if the subscription states it is irrevocable to the extent provided by the terms of the subscription.

Section 3 amends § 15-902(g) of the GP Act. Currently, § 15-902(g) of the GP Act permits a duly approved agreement of merger or consolidation or plan of merger to effect any amendment to the partnership agreement or effect the adoption of a new partnership agreement. This amendment to § 15-902(g) confirms that an amendment to a partnership agreement or adoption of a new partnership agreement effected under § 15-902(g) of the GP Act may be effected only with respect to the partnership agreement of the surviving or resulting partnership and not with respect to the partnership agreement of a constituent partnership that is not a surviving or resulting partnership.

Section 4 amends § 15-1003(b) of the GP Act to confirm that this section of the GP Act applies to foreign limited liability partnerships.

Section 5 provides that the amendments to the GP Act take effect August 1, 2023.

Author: Senator Gay