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DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 71

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 § 17-101(4), 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           (4) "Foreign limited partnership" includes a partnership formed under the laws of any state or under the laws of  
4 any foreign country or other foreign jurisdiction consisting of 2 or more persons and having as ~~partners~~-1 or more general  
5 partners and 1 or more limited partners. When used in this title in reference to a foreign limited partnership, the terms  
6 "partnership agreement," "partnership interest," "general partner" or "limited partner" shall mean a partnership agreement,  
7 partnership interest, general partner or limited partner, respectively, under the laws of the state or foreign country or other  
8 foreign jurisdiction under which the foreign limited partnership is formed.

9           Section 2. Amend § 17-101(8), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike  
10 through and insertions as shown by underline as follows:

11           (8) "Limited partner" means a person who is admitted to a limited partnership as a limited partner as provided in §  
12 17-301 of this title ~~or, in the case of a foreign limited partnership, in accordance with the laws of the state or foreign~~  
13 ~~country or other foreign jurisdiction under which the limited partnership is formed.~~

14           Section 3. Amend § 17-102(5), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike  
15 through and insertions as shown by underline as follows:

16           (5) Shall not contain the word "bank," or any variation thereof, except for the name of a bank reporting to and under  
17 the supervision of the State Bank Commissioner of this State or a subsidiary of a bank or savings association (as those terms are  
18 defined in the Federal Deposit Insurance Act, as amended, at 12 U.S.C. § 1813), or a limited partnership regulated under the  
19 Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or the Home Owners' Loan Act, as amended, 12  
20 U.S.C. § 1461 et seq.; provided, however, that this section shall not be construed to prevent the use of the word "bank," or any

variation thereof, in a context clearly not purporting to refer to a banking business or otherwise likely to mislead the public about the nature of the business of the limited partnership or to lead to a pattern and practice of abuse that might cause harm to the interests of the public or ~~the~~this State as determined by the Division of Corporations in the Department of State.

Section 4. Amend § 17-104(b), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(b) A registered agent may change the address of the registered office of the limited partnership(s) for which it is registered agent to another address in the State of Delaware by paying a fee as set forth in § 17-1107(a)(2) of this title and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the address at which such registered agent has maintained the registered office for each of the limited partnerships for which it is a registered agent, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the limited partnerships for which it is a registered agent. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the State of Delaware of each of the limited partnerships for which the agent is a registered agent shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a limited partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, and the address at which such registered agent has maintained the registered office for each of the limited partnerships for which it is a registered agent, and shall pay a fee as set forth in § 17-1107(a)(2) of this title. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the certificate under his or her hand and seal of office. A change of name of any person acting as a registered agent of a limited partnership as a result of a merger or consolidation of the registered agent, with or into another person which succeeds to its assets and liabilities by operation of law, shall be deemed a change of name for purposes of this section. Filing a certificate under this section shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby and each such limited partnership shall not be required to take any further action with respect thereto, to amend its certificate of limited partnership under § 17-202 of this title. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each limited partnership affected thereby.

Section 5. Amend § 17-104(g), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

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

Section 6. Amend § 17-104(i)(4), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(4) Upon the entry of an order by the court enjoining any person or entity from acting as a registered agent, the Secretary of State shall mail or deliver notice of such order to each general partner of each affected domestic or foreign limited partnership at the address of such general partner specified in the affected domestic limited partnership's certificate of limited partnership. ~~If such a limited partnership is~~ or the affected foreign limited partnership's application for registration. If such a domestic limited partnership ~~and~~ fails to obtain and designate a new registered agent within 30 days after such notice is given, the certificate of limited partnership and statement of qualification (as applicable) of such limited partnership shall be canceled. If such a ~~limited partnership is~~ a foreign limited partnership ~~and~~ fails to obtain and designate a new registered agent within 30 days after such notice is given, such foreign limited partnership shall not be permitted to do business in the State of Delaware, and its registration shall be canceled. If the court enjoins a person or entity from acting as a registered agent as provided in this section and no new registered agent shall have been obtained and designated in the time and manner aforesaid by an affected domestic or foreign limited partnership, service of legal process against the domestic or foreign limited partnership for which the registered agent had been acting shall thereafter be upon the Secretary of State in accordance with §

17-105 or § 17-911 of this title. The Court of Chancery may, upon application of the Secretary of State on notice to the former registered agent, enter such orders as it deems appropriate to give the Secretary of State access to information in the former registered agent's possession in order to facilitate communication with the domestic and foreign limited partnerships the former registered agent served.

Section 7. Amend § 17-201, Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(e) A certificate of limited partnership substantially complies with § 17-201(a)(2) of this title if it contains the name of the registered agent and the address of the registered office even if the certificate of limited partnership does not expressly designate such person as the registered agent or such address as the registered office or the address of the registered agent.

Section 8. Amend § 17-211(a), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section, "other business entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, a limited liability company, or an any other incorporated or unincorporated business or entity, including a partnership (whether general (including a limited liability partnership) or limited (including a foreign limited liability limited partnership), but excluding a domestic limited partnership). As used in this section and in §§ 17-212 and 17-301 of this title, "plan of merger" means a writing approved by a domestic limited partnership, in the form of resolutions or otherwise, that states the terms and conditions of a merger under subsection (l) of this section.

Section 9. Amend § 17-215(a), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section and in § 17-204 of this title, "non-United States entity" means a foreign limited partnership (other than ~~one~~ 1 formed under the laws of a state) (including a foreign limited liability limited partnership (other than ~~one~~ 1 formed under the laws of a state)), a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other incorporated or unincorporated business or entity, including a general partnership (including a limited liability partnership) or a limited liability company, formed, incorporated, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than any state).

Section 10. Amend § 17-216(b)(6), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(6) In the case of a certificate of transfer, (i) that the existence of the limited partnership as a limited partnership of the State of Delaware shall cease when the certificate of transfer becomes effective and (ii) the agreement of the limited partnership that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the limited partnership arising while it was a limited partnership of the State of Delaware, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

Section 11. Amend § 17-217(a), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section and in § 17-204 of this title, the term "other entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other incorporated or unincorporated business or entity, including a general partnership (including a limited liability partnership) or a foreign limited partnership (including a foreign limited liability limited partnership) or a limited liability company.

Section 12. Amend § 17-219(a), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) Upon compliance with this section, a domestic limited partnership may convert to a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust or any other incorporated or unincorporated business or entity, including a general partnership (including a limited liability partnership) or a foreign limited partnership (including a foreign limited liability limited partnership) or a limited liability company.

Section 13. Amend § 17-303(b)(1), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(1) To be an independent contractor for or to transact business with, including being a contractor for, or to be an agent or employee of, the limited partnership or a general partner, or to be an officer, director, ~~or~~ stockholder, or interest holder of a corporate general partner, or to be a partner or interest holder of a partnership that is a general partner of the limited partnership, or to be a trustee, administrator, executor, custodian, ~~or other~~ fiduciary, ~~or~~ beneficiary, or interest holder of an estate or trust which is a general partner, or to be a trustee, officer, advisor, stockholder, ~~or~~ beneficiary, beneficial owner, or interest holder of a business trust or a statutory trust which is a general partner or to be a member, manager, agent, ~~or~~ employee, or interest holder of a limited liability company which is a general partner;

Section 14. Amend § 17-403(c), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) Unless otherwise provided in the partnership agreement, a general partner of a limited partnership has the power and authority to delegate to 1 or more other persons any or all of the general partner's rights, ~~and~~ powers and duties to

139 manage and control the business and affairs of the limited partnership, ~~including to delegate~~. Any such delegation may be  
140 to agents, officers, and employees of the general partner or the limited partnership and ~~to delegate~~ by a management  
141 agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the partnership  
142 agreement, such delegation by a general partner of a limited partnership shall be irrevocable if it states that it is irrevocable.  
143 Unless otherwise provided in the partnership agreement, such delegation by a general partner of a limited partnership shall  
144 not cause the general partner to cease to be a general partner of the limited partnership or cause the person to whom any  
145 such rights, ~~and powers~~ and duties have been delegated to be a general partner of the limited partnership. No other  
146 provision of this chapter shall be construed to restrict a general partner's power and authority to delegate any or all of its  
147 rights, powers, and duties to manage and control the business and affairs of the limited partnership.

148 Section 15. Amend § 17-902(1)(b), Chapter 17, Title 6 of the Delaware Code by making deletions as shown by  
149 strike through and insertions as shown by underline as follows:

150 (b) The ~~State~~state, territory, possession or other jurisdiction or country where organized, the date of its  
151 organization and a statement from a general partner that, as of the date of filing, the foreign limited partnership validly  
152 exists as a limited partnership under the laws of the jurisdiction of its organization;

153 Section 16. This Act shall become effective August 1, 2017.

#### 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 through 6, 10 and 15. These sections amend Sections 17-101(4), 17-101(8), 17-102(5), 17-104(b), 17-104(g), 17-104(i)(4), 17-216(b)(6) and 17-902(1)(b) of the Act to clarify and confirm the distinction between domestic limited partnerships and foreign limited partnerships and to make certain other conforming changes.

Section 7. This section adds subsection (e) to Section 17-201 of the Act to confirm and clarify that a certificate of limited partnership substantially complies with Section 17-201(a)(2) if it contains the name of the registered agent and the address of the registered office even if the certificate of limited partnership does not expressly designate such person as the registered agent or such address as the registered office or the address of the registered agent.

Section 8. This section amends Section 17-211(a) of the Act relating to mergers and consolidations to confirm that "other business entity" includes any incorporated or unincorporated business or entity (other than a domestic limited partnership).

Section 9. This section amends Section 17-215(a) of the Act relating to the domestication of non-United States entities to confirm that the term "non-United States entity" includes any incorporated or unincorporated non-United States business or entity.

Section 11. This section amends Section 17-217(a) of the Act relating to conversions to a limited partnership to confirm that the term "other entity" includes any incorporated or unincorporated business or entity (other than a domestic limited partnership).

Section 12. This section amends Section 17-219(a) of the Act relating to a conversion of a limited partnership to confirm that a domestic limited partnership may convert to any incorporated or unincorporated business or entity (other than a domestic limited partnership).

Section 13. This section amends Section 17-303(b)(1) of the Act to confirm that limited partners may hold any type of interest in a general partner without participating in the control of the business of a limited partnership.

Section 14. This section amends Section 17-403(c) of the Act to confirm and clarify the broad power and authority of a general partner to delegate any or all of the general partner's rights, powers, and duties to manage and control the business and affairs of a limited partnership, including any core governance functions.

Section 16. This section provides that the proposed amendments of the Act shall become effective August 1, 2017.

