

Delaware Limited Partnerships are governed by Chapters 15 and 17 of Title 6 of the Delaware Code. Chapter 15 governs general partnerships, while Chapter 17 governs limited partnerships. However, pursuant to § 17-1105 of the Code, Chapter 15 also applies to limited partnerships to the extent it is not inconsistent with anything provided for in Chapter 17:

**§ 17-1105. Cases not provided for in this chapter.**

In any case not provided for in this chapter, the Delaware Uniform Partnership Law in effect on July 11, 1999 [6 Del. C. § 1501, et seq.] and the rules of law and equity, including the Law Merchant, shall govern.

Chapter 17 grants Delaware limited partnerships the powers set out in § 17-1105, but does not specify that limited partnerships are not separate legal persons:

**§ 17-106. Nature of business permitted; powers.**

- (a) A limited partnership may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8.
- (b) A limited partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited partnership.
- (c) Notwithstanding any provision of this chapter to the contrary, without limiting the general powers enumerated in subsection (b) above, a limited partnership shall, subject to such standards and restrictions, if any, as are set forth in its partnership agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements or other agreements similar to any of the foregoing.
- (d) Unless otherwise provided in a partnership agreement, a limited partnership has the power and authority to

grant, hold or exercise a power of attorney, including an irrevocable power of attorney.

§ 15-201 of Chapter 15 is therefore applicable to limited partnerships and provides that they are a separate legal entity, distinct from their partners, unless the limited partnership's partnership agreement and statement of partnership existence or statement of qualification provide otherwise:

**§ 15-201. Partnership as entity.**

- (a) A partnership is a separate legal entity which is an entity distinct from its partners unless otherwise provided in a statement of partnership existence or a statement of qualification and in a partnership agreement.
- (b) A limited liability partnership continues to be the same partnership that existed before the filing of a statement of qualification under § 15-1001 of this title.

Shell Energy North America (US), L.P. confirms that there are no restrictions on its status as a separate legal person set out its partnership agreement, its statement of partnership existence, or its statement of qualification.

Attached hereto are true copies of the following portions of the Delaware Code:

- Title 6, Chapter 17, Subchapter XI (containing § 17-1105);
- Title 6, Chapter 17, Subchapter I (containing § 17-106); and
- Title 6, Chapter 15, Subchapter II (containing § § 15-201).



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## TITLE 6

### Commerce and Trade

#### SUBTITLE II

#### Other Laws Relating to Commerce and Trade

### CHAPTER 17. LIMITED PARTNERSHIPS

#### Subchapter XI. Miscellaneous

#### **§ 17-1101. Construction and application of chapter and partnership agreement.**

(a) This chapter shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

(b) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(c) It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements.

(d) To the extent that, at law or in equity, a partner or other person has duties (including fiduciary duties) to a limited partnership or to another partner or to another person that is a party to or is otherwise bound by a partnership agreement, the partner's or other person's duties may be expanded or restricted or eliminated by provisions in the partnership agreement; provided that the partnership agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

(e) Unless otherwise provided in a partnership agreement, a partner or other person shall not be liable to a limited partnership or to another partner or to another person that is a party to or is otherwise bound by a partnership agreement for breach of fiduciary duty for the partner's or other person's good faith reliance on the provisions of the partnership agreement.

(f) A partnership agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties (including fiduciary duties) of a partner or other person to a limited partnership or to another partner or to another person that is a party to or is otherwise bound by a partnership agreement; provided, that a partnership agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

(g) Sections 9-406 and 9-408 of this title do not apply to any interest in a limited partnership, including all rights, powers and interests arising under a partnership agreement or this chapter. This provision prevails over §§ 9-406 and 9-408 of this title.

(h) Action validly taken pursuant to 1 provision of this chapter shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this chapter but fails to satisfy 1 or more requirements prescribed by such other provision.

(i) A partnership agreement that provides for the application of Delaware law shall be governed by and construed under the laws of the State of Delaware in accordance with its terms.

*6 Del. C. 1953, § 1729; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 67 Del. Laws, c. 348, § 27; 69 Del. Laws, c. 258, § 47; [72 Del. Laws, c. 386, § 27](#); [73 Del. Laws, c. 222, § 2](#); [74 Del. Laws, c. 265, §§ 15, 16](#); [77 Del. Laws, c. 69, § 5](#); [77 Del. Laws, c. 288, § 29](#);*

### **§ 17-1102. Short title.**

This chapter may be cited as the "Delaware Revised Uniform Limited Partnership Act".

*6 Del. C. 1953, § 1728; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1;*

### **§ 17-1103. Severability.**

If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

*63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1;*

### **§ 17-1104. Effective date and extended effective date.**

(a) All limited partnerships formed on or after January 1, 1983, the "effective date," shall be governed by this chapter.

(b) Except as provided in subsections (e) and (f) of this section, all limited partnerships formed on or after July 1, 1973, and prior to the effective date, under Chapter 17 of this title as hereby repealed, shall continue to be governed by that chapter until January 1, 1985, the "extended effective date," at which time such limited partnerships shall be governed by this chapter.

(c) Except as provided in subsection (e) of this section, a limited partnership formed prior to July 1, 1973, shall continue to be governed by Chapter 17 of this title in effect prior to the adoption of Chapter 17 of this title as hereby repealed, except that such limited partnership shall not be renewed except under this chapter.

(d) Except as provided in subsection (e) of this section, subchapter IX of this chapter, dealing with foreign limited partnerships, is not effective until the extended effective date.

(e) Any limited partnership formed prior to the effective date, and any foreign limited

partnership, may elect to be governed by this chapter before the extended effective date by filing with the Secretary of State a certificate of limited partnership or an application for registration as a foreign limited partnership which complies with this chapter or a certificate of amendment which would cause its certificate of limited partnership to comply with this chapter and which specifically states that it is electing to be so bound.

(f) With respect to a limited partnership formed on or after July 1, 1973, and prior to the effective date:

(1) On and after the extended effective date, such limited partnership need not file with the Secretary of State a certificate of amendment which would cause its certificate of limited partnership to comply with this chapter until the occurrence of an event which, under this chapter, requires the filing of a certificate of amendment;

(2) Sections 17-501 and 17-502 of this title shall apply only to contributions and distributions made after the effective date; and

(3) Section 17-704 of this title shall apply only to assignments made after the effective date.

*6 Del. C. 1953, § 1731; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 66 Del. Laws, c. 316, § 66.;*

#### **§ 17-1105. Cases not provided for in this chapter.**

**In any case not provided for in this chapter, the Delaware Uniform Partnership Law in effect on July 11, 1999 [6 Del. C. § 1501, et seq.] and the rules of law and equity, including the Law Merchant, shall govern.**

*6 Del. C. 1953, § 1730; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 73 Del. Laws, c. 73, § 27.;*

#### **§ 17-1106. Prior law.**

Except as set forth in § 17-1104 of this title, Chapter 17 of this title is hereby repealed.

*63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1.;*

#### **§ 17-1107. Fees.**

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Delaware:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to § 17-103(b) of this title, a fee in the amount of \$75.

(2) Upon the receipt for filing of a certificate under § 17-104(b) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 17-104(c) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 17-104(d) of this title, a fee in the amount of \$2.00.

(3) Upon the receipt for filing of a certificate of limited partnership domestication

under § 17-215 of this title, a certificate of transfer or a certificate of transfer and domestic continuance under § 17-216 of this title, a certificate of conversion to limited partnership under § 17-217 of this title, a certificate of conversion to a non-Delaware entity under § 17-219 of this title, a certificate of limited partnership under § 17-201 of this title, a certificate of amendment under § 17-202 of this title, a certificate of cancellation under § 17-203 of this title, a certificate of merger or consolidation or a certificate of ownership and merger under § 17-211 of this title, a restated certificate of limited partnership under § 17-210 of this title, a certificate of amendment of a certificate with a future effective date or time under § 17-206(c) of this title, a certificate of termination of a certificate with a future effective date or time under § 17-206(c) of this title, a certificate of correction under § 17-213 of this title, or a certificate of revival under § 17-1111 of this title, a fee in the amount of \$200.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$50 for each copy certified.

(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$10 shall be paid for the first page and \$2 for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of \$2 shall be paid therefor. Notwithstanding the State of Delaware's Freedom of Information Act [Chapter 100 of Title 29] or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche or electronic image copies of records in exchange for the fees described above.

(6) Upon the receipt for filing of an application for registration as a foreign limited partnership under § 17-902 of this title, a certificate under § 17-905 of this title or a certificate of cancellation under § 17-906 of this title, a fee in the amount of \$200.

(7) Upon the receipt for filing of a certificate under § 17-904(c) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 17-904(d) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 17-904(e) of this title, a fee in the amount of \$2.00.

(8) For preclearance of any document for filing, a fee in the amount of \$250.

(9) For preparing and providing a written report of a record search, a fee in the amount of \$50.

(10) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (a)(4) of this section, a fee in the amount of \$50, except that for issuing any certificate of the Secretary of State that recites all of a limited partnership's filings with the Secretary of State, a fee of \$175 shall be paid for each such certificate.

(11) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of \$100.

(12) The Secretary of State may in his or her discretion charge a fee of \$60 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

(b) In addition to those fees charged under subsection (a) of this section, there shall be collected by and paid to the Secretary of State the following:

(1) For all services described in subsection (a) of this section that are requested to be completed within 30 minutes on the same day as the day of the request, an additional sum of up to \$7,500 and for all services described in subsection (a) of this section that are requested to be completed within 1 hour on the same day as the day of the request, an additional sum of up to \$1,000 and for all services described in subsection (a) of this section that are requested to be completed within 2 hours on the same day of the request, an additional sum of \$500;

(2) For all services described in subsection (a) of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to \$300; and

(3) For all services described in subsection (a) of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to \$150.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

(c) The Secretary of State may in his or her discretion permit the extension of credit for the fees required by this section upon such terms as the secretary shall deem to be appropriate.

(d) The Secretary of State shall retain from the revenue collected from the fees required by this section a sum sufficient to provide at all times a fund of at least \$500, but not more than \$1,500, from which the secretary may refund any payment made pursuant to this section to the extent that it exceeds the fees required by this section. The funds shall be deposited in a financial institution which is a legal depository of State of Delaware moneys to the credit of the Secretary of State and shall be disbursable on order of the Secretary of State.

(e) Except as provided in this section, the fees of the Secretary of State shall be as provided in § 2315 of Title 29.

*6 Del. C. 1953, § 1733; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 66 Del. Laws, c. 316, §§ 67, 68; 67 Del. Laws, c. 92, § 1; 67 Del. Laws, c. 348, §§ 28-31; 69 Del. Laws, c. 258, §§ 48-52; 70 Del. Laws, c. 78, §§ 25-28; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 362, § 17; [71 Del. Laws, c. 78, § 45](#); [72 Del. Laws, c. 128, §§ 16, 17](#); [73 Del. Laws, c. 73, § 28](#); [74 Del. Laws, c. 52, §§ 13-19](#); [74 Del. Laws, c. 104, § 19](#); [76 Del. Laws, c. 104, § 39](#); [77 Del. Laws, c. 78, §§ 14-22](#); [77 Del. Laws, c. 288, § 30](#);*

### **§ 17-1108. Reserved power of State of Delaware to alter or repeal chapter.**

All provisions of this chapter may be altered from time to time or repealed and all rights of partners are subject to this reservation. Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited partnerships and partners whether or not existing as such at the time of the enactment of any such amendment.

*65 Del. Laws, c. 188, § 1; [72 Del. Laws, c. 128, § 18](#);*

### **§ 17-1109. Annual tax of domestic limited partnership and foreign limited**

**partnership.**

(a) Every domestic limited partnership and every foreign limited partnership registered to do business in the State of Delaware shall pay an annual tax, for the use of the State of Delaware, in the amount of \$250.

(b) The annual tax shall be due and payable on June 1 following the close of the calendar year or upon the cancellation of a certificate of limited partnership. The Secretary of State shall receive the annual tax and pay over all taxes collected to the Department of Finance of the State of Delaware. If the annual tax remains unpaid after the due date established by subsection (d) of this section, the tax shall bear interest at the rate of 11/2% for each month or portion thereof until fully paid.

(c) The Secretary of State shall, at least 60 days prior to the 1st day of June of each year, cause to be mailed to each domestic limited partnership and foreign limited partnership required to comply with the provisions of this section in care of its registered agent in the State of Delaware an annual statement for the tax to be paid hereunder.

(d) In the event of neglect, refusal or failure on the part of any domestic limited partnership or foreign limited partnership to pay the annual tax to be paid hereunder on or before June 1 in any year, such domestic limited partnership or foreign limited partnership shall pay the sum of \$200 to be recovered by adding that amount to the annual tax, and such additional sum shall become a part of the tax and shall be collected in the same manner and subject to the same penalties.

(e) In case any domestic limited partnership or foreign limited partnership shall fail to pay the annual tax due within the time required by this section, and in case the agent in charge of the registered office of any domestic limited partnership or foreign limited partnership upon whom process against such domestic limited partnership or foreign limited partnership may be served shall die, resign, refuse to act as such, remove from the State of Delaware or cannot with due diligence be found, it shall be lawful while default continues to serve process against such domestic limited partnership or foreign limited partnership upon the Secretary of State. Such service upon the Secretary of State shall be made in the manner and shall have the effect stated in § 17-105 of this title in the case of a domestic limited partnership and § 17-910 of this title in the case of a foreign limited partnership and shall be governed in all respects by said sections.

(f) The annual tax shall be a debt due from a domestic limited partnership or foreign limited partnership to the State of Delaware, for which an action at law may be maintained after the same shall have been in arrears for a period of 1 month. The tax shall also be a preferred debt in the case of insolvency.

(g) A domestic limited partnership or foreign limited partnership that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a domestic limited partnership or registered as a foreign limited partnership in the State of Delaware.

(h) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered by reason of the failure to pay an annual tax shall be restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership that is registered in the State of Delaware upon the payment of the annual tax and all penalties and interest thereon for each year for which such domestic limited partnership or foreign limited partnership neglected, refused or failed to pay an annual tax.

(i) The Attorney General, either on the Attorney General's own motion or upon request of



the Secretary of State, whenever any annual tax due under this chapter from any domestic limited partnership or foreign limited partnership shall have remained in arrears for a period of 3 months after the tax shall have become payable, may apply to the Court of Chancery, by petition in the name of the State of Delaware, on 5 days' notice to such domestic limited partnership or foreign limited partnership, which notice may be served in such manner as the Court may direct, for an injunction to restrain such domestic limited partnership or foreign limited partnership from the transaction of any business within the State of Delaware or elsewhere, until the payment of the annual tax, and all penalties and interest due thereon and the cost of the application, which shall be fixed by the Court. The Court of Chancery may grant the injunction, if a proper case appears, and upon granting and service of the injunction, such domestic limited partnership or foreign limited partnership thereafter shall not transact any business until the injunction shall be dissolved.

(j) A domestic limited partnership that has ceased to be in good standing by reason of its neglect, refusal or failure to pay an annual tax shall remain a domestic limited partnership formed under this chapter. The Secretary of State shall not accept for filing any certificate (except a certificate of resignation of a registered agent when a successor registered agent is not being appointed) required or permitted by this chapter to be filed in respect of any domestic limited partnership or foreign limited partnership which has neglected, refused or failed to pay an annual tax, and shall not issue any certificate of good standing with respect to such domestic limited partnership or foreign limited partnership, unless and until such domestic limited partnership or foreign limited partnership shall have been restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership duly registered in the State of Delaware.

(k) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware by reason of its neglect, refusal or failure to pay an annual tax may not maintain any action, suit or proceeding in any court of the State of Delaware until such domestic limited partnership or foreign limited partnership has been restored to and has the status of a domestic limited partnership or foreign limited partnership in good standing or duly registered in the State of Delaware. An action, suit or proceeding may not be maintained in any court of the State of Delaware by any successor or assignee of such domestic limited partnership or foreign limited partnership on any right, claim or demand arising out of the transaction of business by such domestic limited partnership after it has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware until such domestic limited partnership or foreign limited partnership, or any person that has acquired all or substantially all of its assets, has paid any annual tax then due and payable, together with penalties and interest thereon.

(l) The neglect, refusal or failure of a domestic limited partnership or foreign limited partnership to pay an annual tax shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such domestic limited partnership or foreign limited partnership or prevent such domestic limited partnership or foreign limited partnership from defending any action, suit or proceeding in any court of the State of Delaware.

(m) A limited partner of a domestic limited partnership or foreign limited partnership is not liable as a general partner of such domestic limited partnership or foreign limited partnership solely by reason of the neglect, refusal or failure of such domestic limited partnership or foreign limited partnership to pay an annual tax or by reason of such domestic limited partnership or foreign limited partnership ceasing to be in good standing or duly registered.

*66 Del. Laws, c. 316, § 69; 67 Del. Laws, c. 348, §§ 32, 33; 68 Del. Laws, c. 246, § 5; 69*

*Del. Laws, c. 258, §§ 53, 54; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 128, § 19](#); [74 Del. Laws, c. 52, §§ 20, 21](#); [76 Del. Laws, c. 287, § 2](#); [77 Del. Laws, c. 78, § 23](#);*

**§ 17-1110. Cancellation of certificate of limited partnership for failure to pay annual tax.**

(a) The certificate of limited partnership of a domestic limited partnership shall be canceled if the limited partnership shall fail to pay the annual tax due under § 17-1109 of this title for a period of 3 years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) A list of those domestic limited partnerships whose certificates of limited partnership were canceled on June 1 of such calendar year pursuant to § 17-1110(a) of this title shall be filed in the office of the Secretary of State. On or before October 31 of each calendar year, the Secretary of State shall publish such list on the Internet or on a similar medium for a period of 1 week and shall advertise the website or other address where such list can be accessed in at least 1 newspaper of general circulation in the State of Delaware.

*70 Del. Laws, c. 78, § 29; [73 Del. Laws, c. 297, § 12](#); [76 Del. Laws, c. 104, § 40](#);*

**§ 17-1111. Revival of domestic limited partnership.**

(a) A domestic limited partnership whose certificate of limited partnership has been canceled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by § 17-1107(a)(3) of this title and payment of the annual tax due under § 17-1109 of this title and all penalties and interest thereon due at the time of the cancellation of its certificate of limited partnership. The certificate of revival shall set forth:

(1) The name of the limited partnership at the time its certificate of limited partnership was canceled and, if such name is not available at the time of revival, the name under which the limited partnership is to be revived;

(2) The date of filing of the original certificate of limited partnership of the limited partnership;

(3) The address of the limited partnership's registered office in the State of Delaware and the name and address of the limited partnership's registered agent in the State of Delaware;

(4) A statement that the certificate of revival is filed by 1 or more general partners of the limited partnership authorized to execute and file the certificate of revival to revive the limited partnership; and

(5) Any other matters the general partner or general partners executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of limited partnership of the limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate of limited partnership under § 17-202 of this title with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a limited partnership shall be revived with

the same force and effect as if its certificate of limited partnership had not been canceled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited partnership, its partners, employees and agents during the time when its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, with the same force and effect and to all intents and purposes as if the certificate of limited partnership had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited partnership at the time its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, or which were acquired by the limited partnership following the cancellation of its certificate of limited partnership pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, and which were not disposed of prior to the time of its revival, shall be vested in the limited partnership after its revival as fully as they were held by the limited partnership at, and after, as the case may be, the time its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title. After its revival, the limited partnership and its partners shall have the same liability for all contracts, acts, matters and things made, done or performed in the limited partnership's name and on its behalf by its partners, employees and agents as the limited partnership and its partners would have had if the limited partnership's certificate of limited partnership had at all times remained in full force and effect.

*70 Del. Laws, c. 78, § 30; [75 Del. Laws, c. 414, §§ 43, 44](#); [77 Del. Laws, c. 78, § 24.](#);*



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## TITLE 6

### Commerce and Trade

#### SUBTITLE II

#### Other Laws Relating to Commerce and Trade

### CHAPTER 17. LIMITED PARTNERSHIPS

#### Subchapter I. General Provisions

#### § 17-101. Definitions.

As used in this chapter unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in § 17-201 of this title, and the certificate as amended.

(2) "Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in the capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in § 17-402 of this title.

(4) "Foreign limited partnership" includes a partnership formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction and having as partners 1 or more general partners and 1 or more limited partners.

(5) "General partner" means a person who is named as a general partner in the certificate of limited partnership or similar instrument under which a limited partnership is formed if so required and who is admitted to the limited partnership as a general partner in accordance with the partnership agreement or this chapter.

(6) "Knowledge" means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact.

(7) "Limited liability limited partnership" means a limited partnership complying with § 17-214 of this title.

(8) "Limited partner" means a person who is admitted to a limited partnership as a

limited partner as provided in § 17-301 of this title or, in the case of a foreign limited partnership, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the limited partnership is formed.

(9) "Limited partnership" and "domestic limited partnership" mean a partnership formed under the laws of the State of Delaware consisting of 2 or more persons and having 1 or more general partners and 1 or more limited partners, and includes, for all purposes of the laws of the State of Delaware, a limited liability limited partnership.

(10) "Liquidating trustee" means a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership.

(11) "Partner" means a limited or general partner.

(12) "Partnership agreement" means any agreement, written, oral or implied, of the partners as to the affairs of a limited partnership and the conduct of its business. A partner of a limited partnership or an assignee of a partnership interest is bound by the partnership agreement whether or not the partner or assignee executes the partnership agreement. A limited partnership is not required to execute its partnership agreement. A limited partnership is bound by its partnership agreement whether or not the limited 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 written partnership agreement or another written agreement or writing:

a. May provide that a person shall be admitted as a limited partner of a limited partnership, or shall become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned (i) if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee, or (ii) without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) complies with the conditions for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing; and

b. Shall not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in paragraph (12)a. of this section, or by reason of its having been signed by a representative as provided in this title.

(13) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(14) "Person" means a natural person, partnership (whether general or limited), limited liability company, trust (including a common law trust, business trust, statutory trust, voting trust or any other form of trust), estate, association (including any group, organization, co-tenancy, plan, board, council or committee), corporation, government (including a country, state, county or any other governmental subdivision, agency or instrumentality), custodian, nominee or any other individual or entity (or series thereof) in its own or any representative capacity, in each case, whether domestic or foreign.

(15) "Personal representative" means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof.

(16) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the State of Delaware.

*6 Del. C. 1953, § 1701; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 66 Del. Laws, c. 316, §§ 1-3; 67 Del. Laws, c. 348, §§ 1, 2; 69 Del. Laws, c. 258, § 1; 70 Del. Laws, c. 186, § 1; [71 Del. Laws, c. 78, § 1](#); [71 Del. Laws, c. 340, §§ 1, 2](#); [72 Del. Laws, c. 228, § 1](#); [73 Del. Laws, c. 73, §§ 1, 2](#); [73 Del. Laws, c. 297, § 1](#); [74 Del. Laws, c. 265, § 1](#); [75 Del. Laws, c. 31, § 1](#); [75 Del. Laws, c. 414, § 1](#); [76 Del. Laws, c. 104, §§ 1-3](#); [76 Del. Laws, c. 386, §§ 1, 2](#); [77 Del. Laws, c. 288, § 1.](#)*

### **§ 17-102. Name set forth in certificate.**

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

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

(2) May contain the name of a partner;

(3) Must be such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any corporation, partnership, limited partnership, statutory trust or limited liability company reserved, registered or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign corporation, foreign limited partnership, foreign statutory trust, foreign partnership or foreign limited liability company in the State of Delaware; provided, however, that a limited partnership may register under any name which is not such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, limited partnership, statutory trust, or limited liability company reserved, registered or organized under the laws of the State of Delaware with the written consent of the other corporation, partnership, statutory trust, or limited liability company, which written consent shall be filed with the Secretary of State; and

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

*6 Del. C. 1953, § 1705; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 66 Del. Laws, c. 316, § 4; 69 Del. Laws, c. 258, § 2; 70 Del. Laws, c. 78, § 1; [72 Del. Laws, c. 386, § 1](#); [73 Del. Laws, c. 73, § 3](#); [73 Del. Laws, c. 329, § 17](#); [75 Del. Laws, c. 414, § 2.](#)*

### **§ 17-103. Reservation of name.**

(a) The exclusive right to the use of a name may be reserved by:

(1) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(2) Any domestic limited partnership or any foreign limited partnership registered in the State of Delaware which, in either case, proposes to change its name;

(3) Any foreign limited partnership intending to register in the State of Delaware and adopt that name; and

(4) Any person intending to organize a foreign limited partnership and intending to have it register in the State of Delaware and adopt that name.

(b) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use by a domestic or foreign limited partnership, the Secretary shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120 day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be cancelled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be cancelled and the name and address of the applicant or transferee. Unless the Secretary of State finds that any application, notice of transfer, or notice of cancellation filed with the Secretary of State as required by this subsection does not conform to law, upon receipt of all filing fees required by law, the Secretary shall prepare and return to the person who filed such instrument a copy of the filed instrument with a notation thereon of the action taken by the Secretary of State.

(c) A fee as set forth in § 17-1107(a)(1) of this title shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

*6 Del. C. 1953, § 1705; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 69 Del. Laws, c. 258, § 3; 70 Del. Laws, c. 186, § 1.;*

#### **§ 17-104. Registered office; registered agent.**

(a) Each limited partnership shall have and maintain in the State of Delaware:

(1) A registered office, which may but need not be a place of its business in the State of Delaware; and

(2) A registered agent for service of process on the limited partnership, having a business office identical with such registered office, which agent may be any of

a. The limited partnership itself,

b. An individual resident in the State of Delaware,

c. A domestic limited liability company, a domestic corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (other than the limited partnership itself, including a limited liability limited partnership)), or a domestic statutory trust, or

d. A foreign corporation, a foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a foreign limited liability company, or a foreign statutory trust.

(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 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.

(c) The registered agent of 1 or more limited partnerships may resign and appoint a successor registered agent by paying a fee as set forth in § 17-1107(a)(2) of this title and filing a certificate with the Secretary of State stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement of each affected limited partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such limited partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such limited partnership's registered office in the State of Delaware. The Secretary of State shall then issue a certificate that the successor registered agent has become the registered agent of the limited partnerships so ratifying and approving such change and setting out the names of such limited partnerships. Filing of such certificate of resignation 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.

(d) The registered agent of 1 or more limited partnerships may resign without appointing a successor registered 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 State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain a statement that written notice of resignation was given to each affected limited partnership at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the limited partnership at its address last known to the registered agent and shall set forth



the date of such notice. After receipt of the notice of the resignation of its registered agent, the limited partnership for which such registered agent was acting shall obtain and designate a new registered agent to take the place of the registered agent so resigning. If such limited partnership fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the certificate of resignation, the certificate of such limited partnership shall be canceled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against each limited partnership for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 17-105 of this title.

(e) Every registered agent shall:

(1) If an entity, maintain a business office in the State of Delaware which is generally open, or if an individual, be generally present at a designated location in the State of Delaware, at sufficiently frequent times to accept service of process and otherwise perform the functions of a registered agent;

(2) If a foreign entity, be authorized to transact business in the State of Delaware;

(3) Accept service of process and other communications directed to the limited partnerships and foreign limited partnerships for which it serves as registered agent and forward same to the limited partnership or foreign limited partnership to which the service or communication is directed; and

(4) Forward to the limited partnerships and foreign limited partnerships for which it serves as registered agent the statement for the annual tax described in § 17-1109 of this title or an electronic notification of same in a form satisfactory to the Secretary of State.

(f) Any registered agent, who at any time serves as registered agent for more than 50 entities (a "commercial registered agent"), whether domestic or foreign, shall satisfy and comply with the following qualifications.

(1) A natural person serving as a commercial registered agent shall:

a. Maintain a principal residence or a principal place of business in the State of Delaware;

b. Maintain a Delaware business license;

c. Be generally present at a designated location within the State of Delaware during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (e) of this section; and

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such commercial registered agent as the Secretary of State shall require.

(2) A domestic or foreign corporation, a domestic or foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a domestic or foreign limited liability company, or a domestic or foreign statutory trust serving as a commercial registered agent shall:

a. Have a business office within the State of Delaware which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (e) of this section;

b. Maintain a Delaware business license;

c. Have generally present at such office during normal business hours an officer, director or managing agent who is a natural person; and

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such commercial registered agent as the Secretary of State shall require.

(3) For purposes of this subsection and paragraph (i)(2)a. of this section, a "commercial registered agent" shall also include any registered agent which has an officer, director or managing agent in common with any other registered agent or agents if such registered agents at any time during such common service as officer, director or managing agent collectively served as registered agents for more than 50 entities, whether domestic or foreign.

(g) Every limited partnership formed under the laws of the State of Delaware or 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 limited partnership, who is then authorized to receive communications from the registered agent. Such person shall be deemed the communications contact for the limited partnership. Every registered agent shall retain (in paper or electronic form) the above information concerning the current communications contact for each limited partnership and each foreign limited partnership for which he, she, or it serves as registered agent. If the limited partnership fails to provide the registered agent with a current communications contact, the registered agent may resign as the registered agent for such limited partnership pursuant to this section.

(h) The Secretary of State is authorized to issue such rules and regulations as may be necessary or appropriate to carry out the enforcement of subsections (e), (f) and (g) of this section, and to take actions reasonable and necessary to assure registered agents' compliance with subsections (e), (f) and (g) of this section. Such actions may include refusal to file documents submitted by a registered agent.

(i) Upon application of the Secretary of State, the Court of Chancery may enjoin any person or entity from serving as a registered agent or as an officer, director or managing agent of a registered agent.

(1) Upon the filing of a complaint by the Secretary of State pursuant to this section, the court may make such orders respecting such proceeding as it deems appropriate, and may enter such orders granting interim or final relief as it deems proper under the circumstances.

(2) Any 1 or more of the following grounds shall be a sufficient basis to grant an injunction pursuant to this section:

a. With respect to any registered agent who at any time within 1 year immediately prior to the filing of the Secretary of State's complaint is a commercial registered agent, failure after notice and warning to comply with the qualifications set forth in subsection (e) of this section and/or the requirements of subsection (f) or (g) of this

section above;

b. The person serving as a registered agent, or any person who is an officer, director or managing agent of an entity registered agent, has been convicted of a felony or any crime which includes an element of dishonesty or fraud or involves moral turpitude; or

c. The registered agent has engaged in conduct in connection with acting as a registered agent that is intended to or likely to deceive or defraud the public.

(3) With respect to any order the court enters pursuant to this section with respect to an entity that has acted as a registered agent, the court may also direct such order to any person who has served as an officer, director or managing agent of such registered agent. Any person who, on or after January 1, 2007, serves as an officer, director or managing agent of an entity acting as a registered agent in the State of Delaware shall be deemed thereby to have consented to the appointment of such registered agent as agent upon whom service of process may be made in any action brought pursuant to this section, and service as an officer, director or managing agent of an entity acting as a registered agent in the State of Delaware shall be a signification of the consent of such person that any process when so served shall be of the same legal force and validity as if served upon such person within the State of Delaware, and such appointment of the registered agent shall be irrevocable.

(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 limited partnership at the address of such general partner specified in the affected limited partnership's certificate of limited partnership. If such a limited partnership is 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 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 limited partnership, service of legal process against the 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 limited partnerships the former registered agent served.

(j) The Secretary of State is authorized to make a list of registered agents available to the public, and to establish such qualifications and issue such rules and regulations with respect to such listing as the Secretary of State deems necessary or appropriate.

*63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 67 Del. Laws, c. 348, §§ 3-5; 70 Del. Laws, c. 186, § 1; [71 Del. Laws, c. 78, §§ 2, 3](#); [73 Del. Laws, c. 73, § 4](#); [73 Del. Laws, c. 329, § 18](#); [75 Del. Laws, c. 414, §§ 3, 4](#); [76 Del. Laws, c. 104, §§ 4-9](#);*

#### **§ 17-105. Service of process on domestic limited partnerships.**

(a) Service of legal process upon any domestic limited partnership shall be made by delivering a copy personally to any managing or general agent or general partner of the limited partnership in the State of Delaware or the registered agent of the limited

partnership in the State of Delaware, or by leaving it at the dwelling house or usual place of abode in the State of Delaware of any such managing or general agent, general partner or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the limited partnership in the State of Delaware. If the registered agent be a corporation, service of process upon it as such may be made by serving, in the State of Delaware, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of an officer, managing or general agent, general partner or registered agent, or at the registered office or other place of business of the limited partnership in the State of Delaware, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in his or her return thereto. Process returnable forthwith must be delivered personally to the officer, managing or general agent, general partner or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the limited partnership upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) of this section. Process may be served upon the Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the limited partnership by letter, directed to the limited partnership at the address of a general partner as it appears on the records relating to such limited partnership on file with the Secretary of State or, if no such address appears, at its last registered office. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon the Secretary, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from the receipt of the service of process.

*63 Del. C. 1953, § 1727; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 70 Del. Laws, c. 186, § 1; [77 Del. Laws, c. 288, § 2.](#)*

#### **§ 17-106. Nature of business permitted; powers.**

(a) A limited partnership may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8.

(b) A limited partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities

of the limited partnership.

(c) Notwithstanding any provision of this chapter to the contrary, without limiting the general powers enumerated in subsection (b) above, a limited partnership shall, subject to such standards and restrictions, if any, as are set forth in its partnership agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements or other agreements similar to any of the foregoing.

(d) Unless otherwise provided in a partnership agreement, a limited partnership has the power and authority to grant, hold or exercise a power of attorney, including an irrevocable power of attorney.

*6 Del. C. 1953, § 1703; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 70 Del. Laws, c. 78, § 2; 71 Del. Laws, c. 78, § 4; 72 Del. Laws, c. 128, § 1; 73 Del. Laws, c. 297, § 2; 75 Del. Laws, c. 31, § 2; 77 Del. Laws, c. 288, § 3.;*

#### **§ 17-107. Business transactions of partner with the partnership.**

Except as provided in the partnership agreement, a partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume 1 or more specific obligations of, provide collateral for and transact other business with, the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

*6 Del. C. 1953, § 1713; 59 Del. Laws, c. 105, § 1; 63 Del. Laws, c. 420, § 1; 65 Del. Laws, c. 188, § 1; 66 Del. Laws, c. 316, § 5; 69 Del. Laws, c. 258, § 4.;*

#### **§ 17-108. Indemnification.**

Subject to such standards and restrictions, if any, as are set forth in its partnership agreement, a limited partnership may, and shall have the power to, indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever.

*65 Del. Laws, c. 188, § 1.;*

#### **§ 17-109. Service of process on partners and liquidating trustees.**

(a) A general partner or a liquidating trustee of a limited partnership may be served with process in the manner prescribed in this section in all civil actions or proceedings brought in the State of Delaware involving or relating to the business of the limited partnership or a violation by the general partner or the liquidating trustee of a duty to the limited partnership, or any partner of the limited partnership, whether or not the general partner or the liquidating trustee is a general partner or a liquidating trustee at the time suit is commenced. The filing in the Office of the Secretary of State of a certificate of limited partnership executed, and the execution thereof, by a resident or nonresident of the State of Delaware which names such person as a general partner or a liquidating trustee of a limited partnership, or the acceptance by a general partner or a liquidating trustee after August 1, 1999, of election or appointment as a general partner or a liquidating trustee of a limited partnership, or a general partner or a liquidating trustee of a limited partnership serving in such capacity after August 1, 1999, constitute such person's consent to the appointment of the registered agent of the limited partnership (or, if there is none, the

Secretary of State) as such person's agent upon whom service of process may be made as provided in this section. Such execution and filing, or such acceptance or service, shall signify the consent of such general partner or liquidating trustee that any process when so served shall be of the same legal force and validity as if served upon such general partner or liquidating trustee within the State of Delaware and such appointment of the registered agent (or, if there is none, the Secretary of State) shall be irrevocable.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of State) with 1 copy of such process in the manner provided by law for service of writs of summons. In the event service is made under this subsection upon the Secretary of State, the plaintiff shall pay to the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs of the proceeding if the plaintiff shall prevail therein. In addition, the Prothonotary or the Register in Chancery of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to such general partner or liquidating trustee at the same address that appears in the certificate of limited partnership of the limited partnership, or, if no such address appears, at his or her address last known to the party desiring to make such service.

(c) In any action in which any such general partner or liquidating trustee has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Prothonotary or the Register in Chancery as provided in subsection (b) of this section; however, the court in which such action has been commenced may order such continuance or continuances as may be necessary to afford such general partner or liquidating trustee reasonable opportunity to defend the action.

(d) In a written partnership agreement or other writing, a partner may consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the courts of the State of Delaware, or the exclusivity of arbitration in a specified jurisdiction or the State of Delaware, and to be served with legal process in the manner prescribed in such partnership agreement or other writing. Except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or in the State of Delaware, a limited partner may not waive its right to maintain a legal action or proceeding in the courts of the State of Delaware with respect to matters relating to the organization or internal affairs of a limited partnership.

(e) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

(f) The Court of Chancery and the Superior Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement this section and are not inconsistent with this section.

*66 Del. Laws, c. 316, § 6; 67 Del. Laws, c. 348, § 6; 70 Del. Laws, c. 186, § 1; [71 Del. Laws, c. 78, § 5](#); [72 Del. Laws, c. 128, §§ 2, 3](#); [72 Del. Laws, c. 386, § 2](#);*

### **§ 17-110. Contested matters relating to general partners; contested votes.**

(a) Upon application of any partner, the Court of Chancery may hear and determine the validity of any admission, election, appointment or removal or other withdrawal of a general

partner of a limited partnership, and the right of any person to become or continue to be a general partner of a limited partnership, and, in case the right to serve as a general partner is claimed by more than 1 person, may determine the person or persons entitled to serve as general partners; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited partnership relating to the issue. In any such application, the limited partnership shall be named as a party and service of copies of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership and upon the person or persons whose right to serve as a general partner is contested and upon the person or persons, if any, claiming to be a general partner or claiming the right to be a general partner; and the registered agent shall forward immediately a copy of the application to the limited partnership and to the person or persons whose right to serve as a general partner is contested and to the person or persons, if any, claiming to be a general partner or the right to be a general partner, in a postpaid, sealed, registered letter addressed to such limited partnership and such person or persons at their post-office addresses last known to the registered agent or furnished to the registered agent by the applicant partner. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) Upon application of any partner, the Court of Chancery may hear and determine the result of any vote of partners upon matters as to which the partners of the limited partnership, or any class or group of partners, have the right to vote pursuant to the partnership agreement or other agreement or this chapter (other than the admission, election, appointment or removal or other withdrawal of general partners). In any such application, the limited partnership shall be named as a party and service of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership, and no other party need be joined in order for the Court to adjudicate the result of the vote. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(c) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

*69 Del. Laws, c. 258, § 5; [71 Del. Laws, c. 78, § 6.](#);*

### **§ 17-111. Interpretation and enforcement of partnership agreement.**

Any action to interpret, apply or enforce the provisions of a partnership agreement, or the duties, obligations or liabilities of a limited partnership to the partners of the limited partnership, or the duties, obligations or liabilities among partners or of partners to the limited partnership, or the rights or powers of, or restrictions on, the limited partnership or partners, or any provision of this chapter, or any other instrument, document, agreement or certificate contemplated by any provision of this chapter, may be brought in the Court of Chancery.

*69 Del. Laws, c. 258, § 6; [77 Del. Laws, c. 69, § 1.](#);*





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## TITLE 6

### Commerce and Trade

#### SUBTITLE II

#### Other Laws Relating to Commerce and Trade

### CHAPTER 15. DELAWARE REVISED UNIFORM PARTNERSHIP ACT

#### Subchapter II. Nature of Partnership

#### **§ 15-201. Partnership as entity.**

(a) A partnership is a separate legal entity which is an entity distinct from its partners unless otherwise provided in a statement of partnership existence or a statement of qualification and in a partnership agreement.

(b) A limited liability partnership continues to be the same partnership that existed before the filing of a statement of qualification under § 15-1001 of this title.

*72 Del. Laws, c. 151, § 1; 72 Del. Laws, c. 390, § 11; 76 Del. Laws, c. 106, § 9; 77 Del. Laws, c. 59, § 6.;*

#### **§ 15-202. Formation of partnership; powers.**

(a) Except as otherwise provided in subsection (b), the association of two or more persons (i) to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership, and (ii) to carry on any purpose or activity not for profit, forms a partnership when the persons intend to form a partnership. A limited liability partnership is for all purposes a partnership.

(b) Subject to § 15-1206 of this title, an association formed under a statute other than (i) this chapter, (ii) a predecessor statute or (iii) a comparable statute of another jurisdiction, is not a partnership under this chapter.

(c) In determining whether a partnership is formed under Section 15-202(a)(i), the following rules apply:

(1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.



(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) of a debt by installments or otherwise;

(ii) for services as an independent contractor or of wages or other compensation to an employee;

(iii) of rent;

(iv) of an annuity or other retirement or health benefit to a beneficiary, representative or designee of a deceased or retired partner;

(v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds or increase in value derived from the collateral; or

(vi) for the sale of the goodwill of a business or other property by installments or otherwise.

(d) A partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the partnership.

(e) Notwithstanding any provision of this chapter to the contrary, without limiting the general powers enumerated in subsection (d) of this section, a partnership shall, subject to such standards and restrictions, if any, as are set forth in its partnership agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements, or other agreements similar to any of the foregoing.

(f) Unless otherwise provided in a partnership agreement, a partnership has the power and authority to grant, hold or exercise a power of attorney, including an irrevocable power of attorney.

[72 Del. Laws, c. 151, § 1](#); [72 Del. Laws, c. 390, § 12](#); [73 Del. Laws, c. 296, § 5](#); [77 Del. Laws, c. 289, § 8](#);

### **§ 15-203. Partnership property.**

Unless otherwise provided in a statement of partnership existence or a statement of qualification and in a partnership agreement, property acquired by a partnership is property of the partnership and not of the partners individually.

[72 Del. Laws, c. 151, § 1](#); [72 Del. Laws, c. 390, § 13](#); [77 Del. Laws, c. 59, § 7](#);

**§ 15-204. When property is partnership property.**

(a) Property is partnership property if acquired in the name of:

(1) the partnership; or

(2) one or more persons with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property is acquired in the name of the partnership by a transfer to:

(1) the partnership in its name; or

(2) one or more persons in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more persons with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more persons, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

[72 Del. Laws, c. 151, § 1.](#);

**§ 15-205. Admission without contribution or partnership interest.**

Each person to be admitted as a partner to a partnership formed under either § 15-202(a)(i) or § 15-202(a)(ii) of this title may be admitted as a partner and may receive a partnership interest in the partnership without making a contribution or being obligated to make a contribution to the partnership. Each person to be admitted as a partner to a partnership formed under either § 15-202(a)(i) or § 15-202(a)(ii) of this title may be admitted as a partner without acquiring an economic interest in the partnership. Nothing contained in this section shall affect a partner's liability under § 15-306 of this title.

[72 Del. Laws, c. 151, § 1](#); [72 Del. Laws, c. 390, § 14.](#);

**§ 15-206. Form of contribution.**

The contribution of a partner may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

[72 Del. Laws, c. 151, § 1.](#);

**§ 15-207. Liability for contribution.**

(a) A partner is obligated to the partnership to perform any promise to contribute cash or property or to perform services, even if the partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution

of property or services, the partner is obligated at the option of the partnership to contribute cash equal to that portion of the value of the contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the partnership may have against such partner under the partnership agreement or applicable law.

(b) A partnership agreement may provide that the partnership interest of any partner who fails to make any contribution that the partner is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting partner's interest in the partnership, subordinating the partner's partnership interest to that of nondefaulting partners, a forced sale of the partner's partnership interest, forfeiture of the partner's partnership interest, the lending by other partners of the amount necessary to meet the partner's commitment, a fixing of the value of the partner's partnership interest by appraisal or by formula and redemption or sale of the partner's partnership interest at such value, or other penalty or consequence.

[72 Del. Laws, c. 151, § 1.](#);