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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KELLNER, BING, LUPARDO, GOTTFRIED, MAGNARELLI, JAFFEE, HEVESI -- Multi-Sponsored by -- M. of A. CROUCH, FINCH, GABRYSZAK, ORTIZ, REILLY, SAYWARD -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the limited liability company law and the arts and cultural affairs law, in relation to publication requirements; and to repeal section 206 of the limited liability company law, relating to affidavits of publication

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The opening paragraph of subdivision (e) of section 1006 of
2 the limited liability company law, as amended by chapter 375 of the laws
3 of 1998, is amended to read as follows:
4 In connection with any conversion approved under subdivision (c) of
5 this section, the partnership or limited partnership shall file with the
6 department of state a signed certificate entitled "Certificate of
7 Conversion of ... (name partnership or limited partnership) to ... (name
8 of limited liability company) under section one thousand six of the
9 Limited Liability Company Law" [and shall also satisfy the publication
10 requirements of section two hundred six of this chapter]. Such certif-
11 icate shall include either:
12 S 2. Section 206 of the limited liability company law is REPEALED.
13 S 3. Subdivision (s) of section 1101 of the limited liability company
14 law, as amended by chapter 767 of the laws of 2005, is amended to read
15 as follows:
16 (s) For filing a certificate of publication with affidavits of publi-
17 cation annexed thereto pursuant to section [two hundred six,] eight
18 hundred two, twelve hundred three or thirteen hundred six of this chap-
19 ter, fifty dollars.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 4. Section 209 of the limited liability company law is amended to
2 read as follows:

3 S 209. Filing with the department of state. A signed articles of
4 organization and any signed certificate of amendment or other certifi-
5 cates filed pursuant to this chapter or of any judicial decree of
6 amendment or cancellation shall be delivered to the department of state.
7 If the instrument that is delivered to the department of state for
8 filing complies as to form with the requirements of law and the filing
9 fee required by any statute of this state in connection therewith has
10 been paid, the instrument shall be filed and indexed by the department
11 of state. The department of state shall not review such articles or
12 certificates for legal sufficiency; its review shall be limited to
13 determining that the form has been completed. THE DEPARTMENT OF STATE
14 SHALL PROMULGATE RULES AND REGULATIONS FOR THE ON-LINE FILING OF SUCH
15 ARTICLES OR CERTIFICATES FILED PURSUANT TO THIS CHAPTER OR SUCH AMEND-
16 MENT OR CANCELLATION THEREOF.

17 S 5. Section 1101 of the limited liability company law is amended by
18 adding a new subdivision (w) to read as follows:

19 (W) FOR THE ON-LINE FILING OF ANY DOCUMENTS REQUIRED TO BE FILED WITH
20 THE DEPARTMENT PURSUANT TO THIS CHAPTER, FIFTY DOLLARS.

21 S 6. Subdivisions (a-1) and (e-1) of section 102 of the limited
22 liability company law, subdivision (a-1) as amended by chapter 44 of the
23 laws of 2006 and subdivision (e-1) as added by chapter 767 of the laws
24 of 2005, are amended to read as follows:

25 (a-1) "Affidavit of publication" means the affidavit of the printer or
26 publisher of a newspaper in which a publication pursuant to sections
27 [two hundred six,] eight hundred two, one thousand two hundred three,
28 and one thousand three hundred six of this chapter has been made. The
29 affidavit of publication shall be in a form substantially as follows:

30 "Affidavit of Publication Under Section _____ (specify applicable
31 section) of the Limited Liability Company Law
32 State of New York,
33 County of _____, ss.:

34 The undersigned is the printer (or publisher) of _____ (name
35 of newspaper), a _____ (daily or weekly) newspaper published in
36 _____, New York. A notice regarding _____ (name of
37 limited liability company) was published in said newspaper once in each
38 week for six successive weeks, commencing on _____ and ending on
39 _____. The text of the notice as published in said newspaper is as
40 set forth below, or in the annexed exhibit. This newspaper has been
41 designated by the Clerk of _____ County for this purpose.

42 _____ (signature)
43 _____(printed name),
44 (jurat)"

45 The text of the notice set forth in or annexed to each affidavit of
46 publication shall: (i) include only the text of the published notice,
47 (ii) be free of extraneous marks, and (iii) if submitted in paper form,
48 be printed on paper of such size, weight and color, and in ink of such
49 color, and in such font, and be in such other qualities and form not
50 inconsistent with any other provision of law as, in the judgment of the
51 secretary of state, will not impair the ability of the department of
52 state to include a legible and permanent copy thereof in its official
53 records. Nothing in this subdivision shall be construed as requiring the
54 department of state to accept for filing a document submitted in elec-
55 tronic form.

(e-1) "Certificate of publication" means a certificate presented on behalf of the applicable limited liability company to the department of state together with the affidavits of publication pursuant to section [two hundred six,] eight hundred two, one thousand two hundred three, or one thousand three hundred six of this chapter. The certificate of publication shall be in a form substantially as follows:

"Certificate of Publication of _____ (name of limited liability company) Under Section _____ (specify applicable section) of the Limited Liability Company Law

The undersigned is the _____ (title) of _____ (name of limited liability company). The published notices described in the annexed affidavits of publication contain all of the information required by the above-mentioned section of the Limited Liability Company Law. The newspapers described in such affidavits of publication satisfy the requirements set forth in the Limited Liability Company Law and the designation made by the county clerk. I certify the foregoing statements to be true under penalties of perjury.

Date

Signature

Printed Name"

S 7. Subdivision 4 of section 23.03 of the arts and cultural affairs law, as amended by chapter 767 of the laws of 2005, is amended to read as follows:

4. A limited partnership that is a theatrical production company is exempt from the requirement for publishing its certificate or notice under sections ninety-one, 121-201 and 121-902 of the partnership law so long as the words "limited partnership" appear in its name. A limited liability company that is a theatrical production company is exempt from the requirement for publishing its articles of organization, application for authority or a notice containing the substance thereof under [sections two hundred six and] SECTION eight hundred two of the limited liability company law so long as the words "limited liability company" appear in its name.

S 8. This act shall take effect immediately.