S T A T E O F N E W Y O R K

885

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:

Section 1. The opening paragraph of subdivision (e) of section 1006 of the limited liability company law, as amended by chapter 375 of the laws of 1998, is amended to read as follows:

In connection with any conversion approved under subdivision (c) of this section, the partnership or limited partnership shall file with the department of state a signed certificate entitled "Certificate of Conversion of ... (name partnership or limited partnership) to ... (name of limited liability company) under section one thousand six of the Limited Liability Company Law" [and shall also satisfy the publication requirements of section two hundred six of this chapter]. Such certificate shall include either:

S 2. Section 206 of the limited liability company law is REPEALED.

S 3. Subdivision (s) of section 1101 of the limited liability company law, as amended by chapter 767 of the laws of 2005, is amended to read as follows:

(s) For filing a certificate of publication with affidavits of publication annexed thereto pursuant to section [two hundred six,] eight hundred two, twelve hundred three or thirteen hundred six of this chapter, fifty dollars.

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

LBD00495-01-1

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

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

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

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

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

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

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

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

_____ (signature)
_____(printed name),
(jurat)"

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