# STATE OF NEW YORK

3361

2019-2020 Regular Sessions

# IN SENATE

February 6, 2019

Introduced by Sens. KRUEGER, HOYLMAN, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the limited liability company law and the partnership law, in relation to certain publication requirements and fees; to amend the state finance law, in relation to establishing the department of state modernization fund; to repeal subdivision (a-1) of section 102 and section 206 of the limited liability company law and subdivision (a-1) of section 121-101 of the partnership law, relating to affidavits of publication; to repeal subdivision (s) of section 1101 of the limited liability company law and subdivision (f) of section 121-1300 of the partnership law, relating to fees for filing certificates of publication; to repeal subdivision b of section 802, paragraph 2 of subdivision (c) of section 1203 and subdivision (d) of section 1206 of the limited liability company law and subdivision (c) of section 121-201, subdivision (d) of section 121-902, paragraph (II) of subdivision (a) of section 121-1500 and paragraph (II) of subdivision (f) of section 121-1502 of the partnership law, in relation to publication requirements; to repeal subdivision (e-1) of section 102 of the limited liability company law and subdivision (a-2) of section 121-101 of the partnership law, relating to certificates of publication; and to repeal subdivision 4 of section 23.03 of the arts and cultural affairs law, relating to theatrical production company publication requirements

**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

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

LBD06563-02-9

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:

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 Section 206 of the limited liability company law is REPEALED.

§ 3. Subdivision (s) of section 1101 of the limited liability company law is REPEALED.

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

§ 209. Filing with the department of state. **(a)** 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.

**(b) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.**

**(c) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the limited liability company; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the limited liability company; (3) the county within the state, in which the office of the limited liability company is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the limited liability company upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the limited liability company is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the limited liability company upon whom process against it may be served; (7) if the limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the limited liability company is to dissolve; and (8) the character or purpose of the business of such limited liability company.**

§ 5. Subdivision (b) of section 802 of the limited liability law is REPEALED and a new subdivision (b) is added to read as follows:

(b)(i) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(ii) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the foreign limited liability company; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the foreign limited liability company; (3) the county within the state, in which the office of the foreign limited liability company is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign limited liability company upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign limited liability company is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the foreign limited liability company upon whom process against it may be served; (7) if the foreign limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the foreign limited liability company is to dissolve; and (8) the character or purpose of the business of such foreign limited liability company.

§ 6. Paragraph 2 of subdivision (c) of section 1203 of the limited liability law is REPEALED and a new paragraph 2 is added to read as follows:

(2) (A) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(B) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the professional service limited liability company; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the professional service limited liability company; (3) the county within the state, in which the office of the professional service limited liability company is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the professional service limited liability company upon whom process against it may be served and

the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the professional service limited liability company is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the professional service limited liability company upon whom process against it may be served; (7) if the professional service limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the professional service limited liability company is to dissolve; and (8) the character or purpose of the business of such professional service limited liability company.

§ 7. Subdivision (d) of section 1306 of the limited liability law is REPEALED and a new subdivision (d) is added to read as follows:

(d)(i) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(ii) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the foreign professional service limited liability company; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the foreign professional service limited liability company; (3) the county within the state, in which the office of the foreign professional service limited liability company is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign professional service limited liability company is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the foreign professional service limited liability company upon whom process against it may be served; (7) if the foreign professional service limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the foreign professional service limited liability company is to dissolve; and (8) the character or purpose of the business of such foreign professional service limited liability company.

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

(w) For the electronic publication of any documents required to be filed with the department pursuant to section two hundred nine, eight hundred two, twelve hundred three or thirteen hundred six of this chapter, fifty dollars.

§ 9. Subdivisions (a-1) and (e-1) of section 102 of the limited liability company law are REPEALED.

§ 10. Subdivision (c) of section 121-201 of the partnership law is REPEALED and a new subdivision (c) is added to read as follows:

(c)(i) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(ii) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the limited partnership; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the limited partnership; (3) the county within the state, in which the office of the limited partnership is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the limited partnership upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the limited partnership is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the limited partnership upon whom process against it may be served; (7) if the limited partnership is to have a specific date of dissolution in addition to the events of dissolution set forth in article six of this chapter, the latest date upon which the limited partnership is to dissolve; and (8) the character or purpose of the business of such limited partnership.

§ 11. Subdivision (d) of section 121-902 of the partnership law is REPEALED and a new subdivision (d) is added to read as follows:

(d) (i) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(ii) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the foreign limited partnership; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the foreign limited partnership; (3) the county within the state, in which the office of the foreign limited partnership is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign limited partnership upon whom process against it may be served and the

post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign limited partnership is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the foreign limited partnership upon whom process against it may be served; (7) if the foreign limited partnership is to have a specific date of dissolution in addition to the events of dissolution set forth in article six of this chapter, the latest date upon which the foreign limited partnership is to dissolve; and (8) the character or purpose of the business of such foreign limited partnership.

§ 12. Paragraph (II) of subdivision (a) of section 121-1500 of the partnership law is REPEALED and a new paragraph (II) is added to read as follows:

(II)(A) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(B) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the limited liability partnership; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the limited liability partnership; (3) the county within the state, in which the office of the limited liability partnership is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the limited liability partnership upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the limited liability partnership is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the limited liability partnership upon whom process against it may be served; (7) if the limited liability partnership is to have a specific date of dissolution in addition to the events of dissolution set forth in article six of this chapter, the latest date upon which the limited liability partnership is to dissolve; and (8) the character or purpose of the business of such limited liability partnership.

§ 13. Paragraph (II) of subdivision (f) of section 121-1502 of the partnership law is REPEALED and a new paragraph (II) is added to read as follows:

(II)(A) The department of state shall make such instruments available on its state register website, and must maintain electronic copies of the instruments in a fully searchable format that is available to the public. The department of state shall also transmit a copy of such instrument to the department of law within seven days of filing. The department of law shall publish the instrument on its "NY Open Government" website or analogous website no more than seven days after receipt from the department of state.

(B) The department of state shall publish notice of article filings and any signed certificate of amendment or other certificates filed pursuant to this chapter on its state register website, which shall include without limitation: (1) the name of the foreign limited liability partnership; (2) the date of filing of the articles of organization with the department of state and, if the date of the formation is not the date of filing of the articles of organization, the date of formation of the foreign limited liability partnership; (3) the county within the state, in which the office of the foreign limited liability partnership is located; (4) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign limited liability partnership upon whom process against it may be served and the post office address within or without the state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign limited liability partnership is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be the agent of the foreign limited liability partnership upon whom process against it may be served; (7) if the foreign limited liability partnership is to have a specific date of dissolution in addition to the events of dissolution set forth in article six of this chapter, the latest date upon which the foreign limited liability partnership is to dissolve; and (8) the character or purpose of the business of such foreign limited liability partnership.

§ 14. Subdivision (f) of section 121-1300 of the partnership law is REPEALED.

§ 15. Section 121-1300 of the partnership law is amended by adding a new subdivision (t) to read as follows:

(t) For the electronic publication of any documents required to be filed with the department pursuant to section 121-202, 121-902, 121-1500 or 121-1502 of this chapter, fifty dollars.

§ 16. Subdivisions (a-1) and (a-2) of section 121-101 of the partnership law are REPEALED.

§ 17. Subdivision 4 of section 23.03 of the arts and cultural affairs law is REPEALED.

§ 18. The state finance law is amended by adding a new section 89-j to read as follows:

§ 89-j. Department of state modernization fund. 1. There is hereby established in the custody of the comptroller a special fund to be known as the "department of state modernization fund". The moneys in such fund shall be available for payment of any and all costs and expenditures incurred in performing modernization and security of the department of state's public-facing website, and for developing alternatives to physical publication of documents required to be filed pursuant to article eleven of the limited liability company law, including costs and expenses incidental and appurtenant thereto.

2. Moneys in the fund shall be kept separately from and shall not be commingled with any other moneys in the custody of the state comptroller.

3. The fund shall consist of the revenues required to be deposited therein pursuant to the provisions of subdivision (w) of section eleven hundred one of the limited liability company law and subdivision (t) of section 121-1300 of the partnership law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

4. The moneys in such fund shall be appropriated by the legislature and paid out on the warrant of the state comptroller.

§ 19. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.