

STATE OF NEW YORK

2551

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. SEAWRIGHT -- read once and referred 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 1306 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:

- 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

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

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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

1 the instruments in a fully searchable format that is available to the
2 public. The department of state shall also transmit a copy of such
3 instrument to the department of law within seven days of filing. The
4 department of law shall publish the instrument on its "NY Open Govern-
5 ment" website or analogous website no more than seven days after receipt
6 from the department of state.

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

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

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

42 (B) The department of state shall publish notice of article filings
43 and any signed certificate of amendment or other certificates filed
44 pursuant to this chapter on its state register website, which shall
45 include without limitation: (1) the name of the professional service
46 limited liability company; (2) the date of filing of the articles of
47 organization with the department of state and, if the date of the forma-
48 tion is not the date of filing of the articles of organization, the date
49 of formation of the professional service limited liability company; (3)
50 the county within the state, in which the office of the professional
51 service limited liability company is located; (4) the street address of
52 the principal business location, if any; (5) a statement that the secre-
53 tary of state has been designated as agent of the professional service
54 limited liability company upon whom process against it may be served and
55 the post office address within or without the state to which the secre-
56 tary of state shall mail a copy of any process against it served upon

1 him or her; (6) if the professional service limited liability company is
2 to have a registered agent, his or her name and address within the state
3 and a statement that the registered agent is to be the agent of the
4 professional service limited liability company upon whom process against
5 it may be served; (7) if the professional service limited liability
6 company is to have a specific date of dissolution in addition to the
7 events of dissolution set forth in section seven hundred one of this
8 chapter, the latest date upon which the professional service limited
9 liability company is to dissolve; and (8) the character or purpose of
10 the business of such professional service limited liability company.

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

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

21 (ii) The department of state shall publish notice of article filings
22 and any signed certificate of amendment or other certificates filed
23 pursuant to this chapter on its state register website, which shall
24 include without limitation: (1) the name of the foreign professional
25 service limited liability company; (2) the date of filing of the arti-
26 cles of organization with the department of state and, if the date of
27 the formation is not the date of filing of the articles of organization,
28 the date of formation of the foreign professional service limited
29 liability company; (3) the county within the state, in which the office
30 of the foreign professional service limited liability company is
31 located; (4) the street address of the principal business location, if
32 any; (5) a statement that the secretary of state has been designated as
33 agent of the foreign professional service limited liability company upon
34 whom process against it may be served and the post office address within
35 or without the state to which the secretary of state shall mail a copy
36 of any process against it served upon him or her; (6) if the foreign
37 professional service limited liability company is to have a registered
38 agent, his or her name and address within the state and a statement that
39 the registered agent is to be the agent of the foreign professional
40 service limited liability company upon whom process against it may be
41 served; (7) if the foreign professional service limited liability compa-
42 ny is to have a specific date of dissolution in addition to the events
43 of dissolution set forth in section seven hundred one of this chapter,
44 the latest date upon which the foreign professional service limited
45 liability company is to dissolve; and (8) the character or purpose of
46 the business of such foreign professional service limited liability
47 company.

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

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

54 § 9. Subdivisions (a-1) and (e-1) of section 102 of the limited
55 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

1 pursuant to this chapter on its state register website, which shall
2 include without limitation: (1) the name of the foreign limited liabil-
3 ity partnership; (2) the date of filing of the articles of organization
4 with the department of state and, if the date of the formation is not
5 the date of filing of the articles of organization, the date of forma-
6 tion of the foreign limited liability partnership; (3) the county within
7 the state, in which the office of the foreign limited liability partner-
8 ship is located; (4) the street address of the principal business
9 location, if any; (5) a statement that the secretary of state has been
10 designated as agent of the foreign limited liability partnership upon
11 whom process against it may be served and the post office address within
12 or without the state to which the secretary of state shall mail a copy
13 of any process against it served upon him or her; (6) if the foreign
14 limited liability partnership is to have a registered agent, his or her
15 name and address within the state and a statement that the registered
16 agent is to be the agent of the foreign limited liability partnership
17 upon whom process against it may be served; (7) if the foreign limited
18 liability partnership is to have a specific date of dissolution in addi-
19 tion to the events of dissolution set forth in article six of this chap-
20 ter, the latest date upon which the foreign limited liability partner-
21 ship is to dissolve; and (8) the character or purpose of the business of
22 such foreign limited liability partnership.

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

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

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

30 § 16. Subdivisions (a-1) and (a-2) of section 121-101 of the partner-
31 ship law are REPEALED.

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

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

36 § 89-j. Department of state modernization fund. 1. There is hereby
37 established in the custody of the comptroller a special fund to be known
38 as the "department of state modernization fund". The moneys in such fund
39 shall be available for payment of any and all costs and expenditures
40 incurred in performing modernization and security of the department of
41 state's public-facing website, and for developing alternatives to phys-
42 ical publication of documents required to be filed pursuant to article
43 eleven of the limited liability company law, including costs and
44 expenses incidental and appurtenant thereto.

45 2. Moneys in the fund shall be kept separately from and shall not be
46 commingled with any other moneys in the custody of the state comp-
47 troller.

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

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

55 § 19. This act shall take effect on the one hundred eightieth day
56 after it shall have become a law. Effective immediately the addition,

1 amendment and/or repeal of any rule or regulation necessary for the
2 implementation of this act on its effective date are authorized to be
3 made and completed on or before such date.