

**ANALYSIS OF 2002 AMENDMENTS TO THE
DELAWARE REVISED UNIFORM
LIMITED PARTNERSHIP ACT**

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Introduction

The Delaware Revised Uniform Limited Partnership Act, 6 *Del. C.* § 17-101 *et seq.* (the “LP Act”), was amended in 2002, as it is periodically, for the purpose of keeping it current and maintaining its preeminence. The 2002 amendments to the LP Act were contained in Delaware State Senate Bill No. 362, and became effective August 1, 2002. *See* 73 *Del. Laws*, c. 297.¹ Senate Bill No. 362 amended provisions of the LP Act concerning (among other things): the partnership agreement; powers of a Delaware limited partnership; the certificate of cancellation of the certificate of limited partnership; certificates filed with the Delaware Secretary of State; appraisal rights; limited liability limited partnerships; preemptive rights; delegation of management rights and powers; the name, registered office, and registered agent of a foreign limited partnership; and notice of the cancellation of the certificate of limited partnership.

The Partnership Agreement [§ 17-101]. Section 17-101(12) of the LP Act defines “partnership agreement” for purposes of the LP Act. Senate Bill No. 362 amended Section 17-101(12) to confirm that, whether or not a Delaware limited partnership executes its partnership agreement, the limited partnership is bound by such agreement.

Powers of a Delaware Limited Partnership [§ 17-106]. The 2002 amendment to Section 17-106 of the LP Act confirms and clarifies the broad powers of a Delaware limited partnership. Specifically, the amendment makes clear that, subject to any standards and restrictions set forth in its partnership agreement, a Delaware limited partnership has power and authority to make contracts of guaranty and suretyship, and to 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.

Certificate of Cancellation of Certificate of Limited Partnership [§ 17-203]. Senate Bill No. 362 amended Section 17-203 of the LP Act to delete the requirement of setting forth in the certificate of cancellation the reason for the filing thereof.

Filed Certificates [§ 17-206]. Section 17-206 of the LP Act was amended in 2002 to confirm that information from certificates filed with the Delaware Secretary of State pursuant to the LP Act is permanently maintained as a public record.

¹ Other amendments to the LP Act, conforming certain terminology to that of the newly amended Delaware Statutory Trust Act, 12 *Del. C.* § 3801 *et seq.*, were contained in Delaware State Senate Bill No. 412, and became effective September 1, 2002. *See* *Del. Laws*, c. 329.

Appraisal Rights [§ 17-212]. The 2002 amendment to Section 17-212 of the LP Act confirms the ability to provide for contractual appraisal rights in certain circumstances, namely, in connection with the conversion or transfer or domestication of a Delaware limited partnership.

Limited Liability Limited Partnerships [§ 17-214]. Section 17-214 of the LP Act, specifically, subsection (c) thereof, was amended by Senate Bill No. 362 to confirm the liability protections afforded to limited partners in a limited liability limited partnership.

Preemptive Rights [§§ 17-301 and 17-401]. A new subsection (e) has been added to Section 17-301, and a new subsection (c) has been added to Section 17-401 of the LP Act. These amendments confirm that, unless otherwise provided in a partnership agreement or another agreement, neither a limited partner nor a general partner has any preemptive rights.

Delegation of Management Rights and Powers [§ 17-403]. Subsection (c) of Section 17-403 of the LP Act addresses the delegation of rights and powers to manage and control the business and affairs of a Delaware limited partnership. As amended by Senate Bill No. 362, Section 17-403(c) confirms that such delegation by a general partner will not cause the delegatee to be a general partner.

Name, Registered Office, and Registered Agent of a Foreign Limited Partnership [§ 17-904]. Subsection (a) of Section 17-904 of the LP Act deals with the name under which a foreign limited partnership may register in Delaware. This subsection has been amended to clarify its intended meaning.

Senate Bill No. 362 also amended subsections (c), (d), and (e) of Section 17-904 in their entirety. These amendments clarify procedures relating to a change in the address of the registered office, a change in the name of the registered agent, and a resignation of the registered agent, of a foreign limited partnership.

Notice of Cancellation of Certificate of Limited Partnership [§ 17-1110]. The 2002 amendment to subsection (b) of Section 17-1110 of the LP Act permits the Delaware Secretary of State to carry out, through the use of electronic communication, its obligation to provide notice of the cancellation (pursuant to Section 17-1110(a)) of the certificate of limited partnership of a Delaware limited partnership.