

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 531
HOUSE BILL 1146

AN ACT TO ADOPT TECHNICAL AMENDMENTS TO THE REVISED UNIFORM
LIMITED PARTNERSHIP ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 59-103(d) reads as rewritten:

"(d) ~~The limited partnership name shall not be the same as, or deceptively similar to, the name of any domestic corporation or limited partnership or of any foreign corporation or limited partnership authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved or registered by some other person in the manner prescribed by G.S. 59-104~~ be sufficiently unique to permit separate indexing in the limited partnership records in the Office of the Secretary of State. Filing of name does not confer any right to the use of the name in commerce."

Sec. 2. G.S. 59-105 reads as rewritten:

"**§ 59-105. Registered office and registered agent.**—(a) Each limited partnership shall have and continuously maintain in this State:

- (1) A registered office, which may be, but need not be, its place of business;
- (2) A registered agent, which agent may be either an individual resident of this State whose business office is identical with such registered office, or, a domestic corporation, or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office.

(b) Limited partnerships formed prior to October 1, 1986, shall file a certificate of limited partnership with the Office of the Secretary of State pursuant to G.S. 59-201(a) designating the address of the registered office of the limited partnership and the identity of the registered agent at such address.

(c) Whenever a limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the limited partnership department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of State, he shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the limited partnership at its registered office. Any such

limited partnership so served shall be in court for all purposes from and after the date of such service on the Secretary of State.

(d) The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(e) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law."

Sec. 3. G.S. 59-201 is amended by adding a new subsection to read:

"(c) Domestic limited partnership filings filed prior to October 1, 1986, with the Office of Register of Deeds pursuant to G.S. 59-2(a)(2) shall evidence the existence of limited partnerships formed prior to October 1, 1986, and shall be public notice of only those matters contained in G.S. 59-201(a) and shall be used for no other purpose."

Sec. 4. G.S. 59-202(d) is repealed.

Sec. 5. G.S. 59-206(a)(2) reads as rewritten:

"(2) The original document so signed, together with the conformed copy, shall be delivered to the Secretary of State. Unless he finds that it does not conform to law, the Secretary of State shall, when the proper taxes and fees have been tendered, endorse upon the original the word 'filed' and the hour, day, month and year of the filing thereof and shall file the same in his office. The Secretary of State shall thereupon immediately compare the copy with the original and if he finds that they are identical he shall make upon the conformed copy the same endorsement which appears on the original and shall attach to the copy a certificate stating that attached thereto is a true copy of the document, designated by an appropriate title, filed in his office and showing the date of such filing. He shall thereupon return the copy so certified to the limited partnership or its representatives."

Sec. 6. G.S. 59-403 reads as rewritten:

"§ 59-403. **General powers and liabilities.**—(a) Except as provided in this Article or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions and liabilities of a partner in a partnership without limited partners.

(b) Except as provided in this Article, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this Article or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners."

Sec. 7. G.S. 59-702 reads as rewritten:

"§ 59-702. **Assignment of partnership interest.**—Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. Subject to G.S. 59-801(3) an An—assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the allocation and distribution to which the assignor would be entitled. Except as provided in the

partnership agreement, a limited partner shall continue to be a limited partner after assignment of all or any part of his partnership interest. Except as provided in the partnership agreement, a general partner ceases to be a general partner upon assignment of all his partnership interest."

Sec. 8. G.S. 59-903(a) reads as rewritten:

"§ 59-903. **Issuance of registration.**—(a) If the Secretary of State finds that an application conforms to law he shall, when all requisite ~~taxes and~~ fees have been tendered as in this Article prescribed:

- (1) Endorse on the application the word 'filed', and the hour, day, month and year of the filing thereof;
- (2) File in his office the application;
- (3) Issue a certificate of authority to transact business in this State to which he shall affix the conformed copy of the application; and
- (4) Send to the foreign limited partnership or its representative the certificate of authority, together with the conformed copy of the application affixed thereto."

Sec. 8.1. G.S. 59-902 is amended by adding three new subsections to read:

"(c) Whenever a foreign limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such foreign limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the limited partnership department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of State, he shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the foreign limited partnership at its registered office. Any such foreign limited partnership so served shall be in court for all purposes from and after the date of such service on the Secretary of State.

(d) The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(e) Nothing herein contained shall limit or affect the right to serve any process notice or demand required or permitted by law to be served upon a foreign limited partnership in any other manner now or hereafter permitted by law."

Sec. 9. G.S. 59-1104(a)(2) reads as rewritten:

"(2) G.S. 59-704 applies only to ~~admissions~~ assignments made after the effective date;"

Sec. 10. G.S. 59-1104(a)(5) reads as rewritten:

"(5) The repeal of any prior statutory provision by this Article shall not impair, or otherwise affect, the organization or continued existence of a limited partnership existing at the effective date of this Article, nor shall the repeal by this Article of any such prior provision be construed so as to impair any contract or to affect any right accrued prior to the effective date of this Article; but such limited partnerships shall be

subject to the procedural and other requirements of this Article except as otherwise specified in G.S. 59-1104(a). Provided, that failure to comply with the requirements of this Article by such limited partnerships shall not cause loss of limited liability."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1987.