



The Legislature
of the
State of New Mexico

49th Legislature, First Session

LAWS 2009

CHAPTER 181

SENATE BILL 11, as amended

Introduced by

SENATOR CISCO McSORLEY



FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

Chapter 181

AN ACT

RELATING TO BUSINESS; MAKING TECHNICAL AMENDMENTS TO THE
UNIFORM REVISED LIMITED PARTNERSHIP ACT; AMENDING SECTIONS OF
LAWS 2007; RECTIFYING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 54-2A-101 NMSA 1978 (being Laws
2007, Chapter 129, Section 101) is amended to read:

"54-2A-101. SHORT TITLE.--Chapter 54, Article 2A NMSA
1978 may be cited as the "Uniform Revised Limited Partnership
Act"."

Section 2. Section 54-2A-108 NMSA 1978 (being Laws
2007, Chapter 129, Section 108) is amended to read:

"54-2A-108. NAME.--

A. The name of a limited partnership may contain
the name of any partner. Because each partnership that is
formed pursuant to the Uniform Revised Limited Partnership
Act or that elects to be governed by that act shall be a
limited liability limited partnership, the name of such a
limited liability limited partnership shall contain the
phrase "limited liability limited partnership" or the
abbreviation "LLLP" or "L.L.L.P." and shall not contain the
abbreviation "LP" or "L.P."

B. Subject to the provisions of Subsection F of
this section, the name of a foreign limited partnership that

1 is not a limited liability limited partnership shall contain
2 the phrase "limited partnership" or the abbreviation "L.P."
3 or "LP" and shall not contain the phrase "limited liability
4 limited partnership" or the abbreviation "LLLLP" or
5 "L.L.L.P."

6 C. Subject to the provisions of Subsection F of
7 this section, the name of a foreign limited liability limited
8 partnership shall contain the phrase "limited liability
9 limited partnership" or the abbreviation "LLLLP" or "L.L.L.P."
10 and shall not contain the abbreviation "L.P." or "LP".

11 D. Unless authorized by Subsection E of this
12 section, the name of a limited partnership shall be
13 distinguishable in the records of the secretary of state
14 from:

15 (1) the name of each person other than an
16 individual incorporated, organized or authorized to transact
17 business in this state;

18 (2) each name reserved pursuant to Section
19 54-2A-109 NMSA 1978 or Section 53-11-8 or 53-19-4 NMSA 1978;
20 and

21 (3) each name registered pursuant to Section
22 53-11-9 NMSA 1978.

23 E. A limited partnership may apply to the
24 secretary of state for authorization to use a name that does
25 not comply with Subsection D of this section. The secretary

1 of state shall authorize use of the name applied for if, as
2 to each conflicting name:

3 (1) the present user, registrant or owner of
4 the conflicting name consents in a signed record to the use
5 and submits an undertaking in a form satisfactory to the
6 secretary of state to change the conflicting name to a name
7 that complies with Subsection D of this section and is
8 distinguishable in the records of the secretary of state from
9 the name applied for;

10 (2) the applicant delivers to the secretary
11 of state a certified copy of the final judgment of a court of
12 competent jurisdiction establishing the applicant's right to
13 use in this state the name applied for; or

14 (3) the applicant delivers to the secretary
15 of state proof satisfactory to the secretary of state that
16 the present user, registrant or owner of the conflicting
17 name:

18 (a) has merged into the applicant;

19 (b) has been converted into the
20 applicant; or

21 (c) has transferred substantially all
22 of its assets, including the conflicting name, to the
23 applicant.

24 F. Subject to Section 54-2A-905 NMSA 1978, this
25 section applies to any foreign limited partnership

1 transacting business in this state, having a certificate of
2 authority to transact business in this state or applying for
3 a certificate of authority."

4 Section 3. Section 54-2A-902 NMSA 1978 (being Laws
5 2007, Chapter 129, Section 902) is amended to read:

6 "54-2A-902. APPLICATION FOR CERTIFICATE OF AUTHORITY.--

7 A. Before transacting business in New Mexico, a
8 foreign limited partnership must have a certificate of
9 authority to transact business in New Mexico. A foreign
10 limited partnership may apply for a certificate of authority
11 to transact business in this state by delivering an
12 application to the secretary of state for filing. The
13 application must state:

14 (1) the name of the foreign limited
15 partnership and, if the name does not comply with Section
16 54-2A-108 NMSA 1978, an alternate name adopted pursuant to
17 Subsection A of Section 54-2A-905 NMSA 1978;

18 (2) the name of the state or other
19 jurisdiction under whose law the foreign limited partnership
20 is organized;

21 (3) any identification number issued to the
22 foreign limited partnership by the foreign official; "foreign
23 official" means the secretary of state or other official
24 having custody of the foreign limited partnership's publicly
25 filed records in the state or other jurisdiction under whose

1 law the foreign limited partnership is organized;

2 (4) the street and mailing address of the
3 foreign limited partnership's principal office and, if the
4 laws of the jurisdiction under which the foreign limited
5 partnership is organized require the foreign limited
6 partnership to maintain an office in that jurisdiction, the
7 street and mailing address of the required office;

8 (5) the name and street and mailing address
9 of the foreign limited partnership's initial agent for
10 service of process in this state;

11 (6) the name and street and mailing address
12 of each of the foreign limited partnership's general
13 partners; and

14 (7) whether the foreign limited partnership
15 is a foreign limited liability limited partnership.

16 B. A foreign limited partnership shall deliver
17 with the completed application:

18 (1) a certificate of existence or a record
19 of similar import signed by the foreign official; and

20 (2) if the foreign official is located
21 outside of the United States of America, a certified copy of
22 the limited partnership certificate or a record of similar
23 import showing that it was filed with the foreign official.

24 C. A certificate or a certified copy described in
25 Subsection B of this section is a part of the application for

1 all purposes. It shall be revised or corrected as required
2 by Section 54-2A-906 NMSA 1978. If it does not use the
3 English language and Arabic numbers, it shall be accompanied
4 by a certified translation. A certification or a
5 certification of a copy or a translation shall be dated
6 within thirty days of its presentation to the secretary of
7 state for filing. A certificate shall state the information
8 listed in Subsection A of Section 54-2A-209 NMSA 1978 or
9 information of similar import."

10 Section 4. Section 54-2A-1204 NMSA 1978 (being Laws
11 2007, Chapter 129, Section 1204) is amended to read:

12 "54-2A-1204. APPLICATION TO EXISTING LIMITED
13 PARTNERSHIPS AND OTHER RELATIONSHIPS.--

14 A. The Uniform Revised Limited Partnership Act
15 governs only:

16 (1) a limited partnership formed on or after
17 January 1, 2008; and

18 (2) except as otherwise provided in
19 Subsections B and C of this section, a limited partnership
20 formed before January 1, 2008 that elects, in the manner
21 provided in its partnership agreement or by law for amending
22 the partnership agreement, to be subject to the Uniform
23 Revised Limited Partnership Act, and that presents to the
24 secretary of state for filing:

25 (a) an amended and restated certificate SB 11
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1 of limited partnership stating that it elects to be subject
2 to that act if the filing is made before January 1, 2010; or

3 (b) if the filing is made on or after
4 January 1, 2010, an amended and restated certificate of
5 limited partnership stating the information required by
6 Section 54-2A-201 NMSA 1978. The "liability effective date"
7 with respect to the limited partnership is the date that is
8 ninety days after a limited partnership described in this
9 paragraph files with the secretary of state an amended and
10 restated certificate of limited partnership stating the
11 information required by Section 54-2A-201 NMSA 1978.

12 B. With respect to a limited partnership formed
13 before January 1, 2008 that elects pursuant to Paragraph (2)
14 of Subsection A of this section to be subject to the Uniform
15 Revised Limited Partnership Act, the following rules apply
16 except as the partners otherwise elect in the manner provided
17 in the partnership agreement or by law for amending the
18 partnership agreement:

19 (1) Subsection C of Section 54-2A-104 NMSA
20 1978 does not apply and the limited partnership has whatever
21 duration it had pursuant to the law applicable immediately
22 before January 1, 2008;

23 (2) Sections 54-2A-601 and 54-2A-602 NMSA
24 1978 do not apply and a limited partner has the same right
25 and power to dissociate from the limited partnership, with

1 the same consequences, as existed immediately before
2 January 1, 2008;

3 (3) Subsection D of Section 54-2A-603 NMSA
4 1978 does not apply;

5 (4) Subsection E of Section 54-2A-603 NMSA
6 1978 does not apply and a court has the same power to expel a
7 general partner as the court had immediately before
8 January 1, 2008; and

9 (5) Subsection C of Section 54-2A-801 NMSA
10 1978 does not apply and the connection between a person's
11 dissociation as a general partner and the dissolution of the
12 limited partnership is the same as existed immediately before
13 January 1, 2008.

14 C. With respect to a limited partnership that
15 elects pursuant to Paragraph (2) of Subsection A of this
16 section to be subject to the Uniform Revised Limited
17 Partnership Act, after the election takes effect the
18 provisions of the Uniform Revised Limited Partnership Act
19 relating to the liability of the limited partnership's
20 general partners to third parties apply:

21 (1) before the liability effective date, to:

22 (a) a third party that had not done
23 business with the limited partnership in the year before the
24 election took effect; and

25 (b) a third party that had done

1 business with the limited partnership in the year before the
2 election took effect only if the third party knows or has
3 received a notification of the election; and

4 (2) on and after the liability effective
5 date, to all third parties, but those provisions remain
6 inapplicable to any obligation incurred while those
7 provisions were inapplicable pursuant to Subparagraph (b) of
8 Paragraph (1) of this subsection.

9 D. Until a limited partnership formed before
10 January 1, 2008 elects to be governed by the Uniform Revised
11 Limited Partnership Act, the limited partnership shall
12 continue to be governed by the provisions of the Uniform
13 Limited Partnership Act under which the limited partnership
14 was formed as if that act had not been repealed, except that
15 the limited partnership shall not be renewed unless so
16 provided in the original agreement or in the manner provided
17 in its partnership agreement or by law for amending the
18 partnership agreement.

19 E. After January 1, 2010, the Uniform Revised
20 Limited Partnership Act governs a foreign limited partnership
21 formed at any time.

22 F. Certificates of limited partnership filed with
23 a county clerk before July 1, 1993 may be refiled with the
24 secretary of state. Such a refiling supersedes the filing in
25 the county clerk's office. Such a refiling without

1 compliance with the provisions of Paragraph (2) of Subsection
2 A of this section is not an election to be subject to the
3 Uniform Revised Limited Partnership Act. Certificates of
4 limited partnership not refiled with the secretary of state
5 shall remain valid until expiration or until cancellation
6 pursuant to a certificate of cancellation filed with the
7 county clerk."

8 Section 5. Section 54-2A-1206 NMSA 1978 (being Laws
9 2007, Chapter 129, Section 1207) is amended to read:

10 "54-2A-1206. TRANSITION PROVISIONS.--Until
11 January 1, 2010, the provisions of Sections 54-1A-105,
12 54-1A-303, 54-1A-304, 54-1A-704, 54-1A-805, 54-1A-901 through
13 54-1A-908, 54-2-3 through 54-2-5, 54-2-9 through 54-2-14,
14 54-2-49 through 54-2-56 and 54-2-62 NMSA 1978 as they existed
15 on December 31, 2008, apply to:

16 A. a limited partnership formed on or after
17 July 1, 2008;

18 B. a limited partnership formed before
19 July 1, 2008 that elects pursuant to the provisions of
20 Paragraph (2) of Subsection A of Section 54-2A-1204 NMSA 1978
21 to be subject to the Uniform Revised Limited Partnership Act;
22 and

23 C. a foreign limited partnership formed at any
24 time."

25 Section 6. Laws 2007, Chapter 129, Section 1208 is

1 amended to read:

2 "Section 1208. EFFECTIVE DATES.--

3 A. Except as provided in Subsections B and C of
4 this section, the effective date of the provisions of this
5 act is January 1, 2008.

6 B. The effective date of the provisions of
7 Sections 108, 109, 114 through 117, 201 through 210, 901,
8 902, 904 through 908 and 1101 through 1113 of this act is
9 January 1, 2010.

10 C. The effective date of the provisions of Section
11 903 of this act is July 1, 2007."

12 Section 7. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2009. _____

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Diane D. Denish

Diane D. Denish, President
Senate

Lenore M. Naranjo
Lenore M. Naranjo, Chief Clerk
Senate

Ben Lujan

Ben Lujan, Speaker
House of Representatives

Stephen R. Arias
Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 7th day of April, 2009

Bill Richardson
Governor Bill Richardson
State of New Mexico