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**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

—●—  
**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 696**

(SENATORS KESSLER, BROWNING, CHAFIN, JENKINS,  
PALUMBO, SNYDER, STOLLINGS, WILLIAMS,  
YOST AND HALL, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 696

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OFFICE OF THE CLERK  
SECRETARY OF STATE

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[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §47B-10-1 and §47B-10-4 of the Code of West Virginia, 1931, as amended, all relating generally to limited liability partnerships; updating registration requirements; establishing procedures for and consequences of administrative dissolution and reinstatement; and setting notice requirements and appellate options with regard to administrative decisions on dissolution and reinstatement.

*Be it enacted by the Legislature of West Virginia:*

That §47B-10-1 and §47B-10-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

### **ARTICLE 10. LIMITED LIABILITY PARTNERSHIP.**

#### **§47B-10-1. Registered limited liability partnerships.**

- 1 (a) To become a registered limited liability partnership,
- 2 a partnership shall deliver and file with the Secretary of
- 3 State a statement of registration stating:

4 (1) the name of the partnership;

5 (2) the address of its principal office;

6 (3) the address of a registered office;

7 (4) the name and address of a registered agent for service  
8 of process, if any;

9 (5) an e-mail address to where informational notices and  
10 reminders of annual filings may be sent, unless there is a  
11 technical inability to comply;

12 (6) a brief statement of the business in which the part-  
13 nership engages;

14 (7) the name and address of each partner authorized to  
15 execute instruments on behalf of the partnership;

16 (8) any other matters that the partnership determines to  
17 include; and

18 (9) that the partnership thereby registers as a registered  
19 limited liability partnership.

20 (b) The registration shall be executed by one or more  
21 partners authorized to execute a registration.

22 (c) The registration shall be accompanied by a fee of  
23 \$250.

24 (d) The Secretary of State shall register as a registered  
25 limited liability partnership any partnership that submits  
26 a completed registration with the required fee and deliver  
27 to the partnership or its representative a receipt for the  
28 record and the fees.

29 (e) A partnership registered under this section shall pay,  
30 in each year following the year in which its registration is  
31 filed, an annual fee of \$500. The fee shall be accompanied  
32 by a notice, on a form provided by the Secretary of State,  
33 of any material changes in the information contained in

34 the partnership's registration. The annual notice and fee  
35 is due between January 1 and July 1 of each year.

36 (f) Registration is effective:

37 (1) Immediately after the date a registration is filed; or

38 (2) On a date specified in the statement of registration,  
39 which date shall not be more than sixty days after the date  
40 of filing.

41 (g) Registration remains effective until:

42 (1) It is voluntarily withdrawn by filing with the Secre-  
43 tary of State a statement of withdrawal; or

44 (2) It is administratively dissolved by the Secretary of  
45 State: *Provided*, That the Secretary of State commenced  
46 a proceeding to dissolve the limited liability partnership  
47 and notification of the administrative proceeding to  
48 dissolve the limited liability partnership was delivered to  
49 the limited liability partnership. The Secretary of State  
50 may commence the administrative proceeding due to

51 (A) a limited liability partnership's failure to pay fees  
52 imposed by this chapter or any other law within sixty days  
53 after the fees were due; or

54 (B) a limited liability partnership's failure to deliver its  
55 annual notice to the Secretary of State within sixty days  
56 after the notice was due.

57 (h) The procedure for administrative dissolution is as  
58 follows:

59 (1) If the Secretary of State determines that one or more  
60 grounds exist under this section for dissolving a limited  
61 liability partnership, he or she shall notify the limited  
62 liability partnership in writing, of his or her determina-  
63 tion.

64 (2) If the limited liability partnership does not correct  
65 each ground for dissolution or demonstrate to the reason-  
66 able satisfaction of the Secretary of State that each  
67 ground determined by the Secretary of State does not exist  
68 within sixty days after service of the Secretary of State's  
69 notice, the Secretary of State shall administratively  
70 dissolve the limited liability partnership by issuing a  
71 certificate of administrative dissolution that recites the  
72 ground or grounds for dissolution and its effective date.  
73 The Secretary of State shall send a copy of the administra-  
74 tive dissolution to the limited liability partnership.

75 (i) A limited liability partnership administratively  
76 dissolved continues its existence but may not carry on any  
77 business except that necessary to wind up and liquidate its  
78 business and affairs and notify claimants of such.

79 (j) The administrative dissolution of a limited liability  
80 partnership does not terminate the authority of its regis-  
81 tered agent.

82 (k) A limited liability partnership administratively  
83 dissolved under this section may apply to the secretary of  
84 state for reinstatement within two years after the effective  
85 date of dissolution. The application must:

86 (1) Recite the name of the limited liability partnership  
87 and the effective date of its administrative dissolution;

88 (2) State that the ground or grounds for dissolution  
89 either did not exist or have been eliminated;

90 (3) Contain a certificate from the tax commissioner  
91 reciting that all taxes owed by the limited liability part-  
92 nership have been paid.

93 (l) If the Secretary of State determines that the applica-  
94 tion contains the information required by subsection (k) of  
95 this section and that the information is correct, he or she  
96 shall cancel the certificate of dissolution and prepare a

97 certificate of reinstatement that recites his or her determi-  
98 nation and the effective date of reinstatement, file the  
99 original of the certificate and send a copy to the limited  
100 liability partnership.

101 (m) When the reinstatement is effective, it relates back  
102 to and takes effect as of the effective date of the adminis-  
103 trative dissolution and the limited liability partnership  
104 resumes carrying on its business as if the administrative  
105 dissolution had never occurred.

106 (n) If the Secretary of State denies a limited liability  
107 partnership's application for reinstatement following  
108 administrative dissolution, he or she shall notify the  
109 limited liability partnership in writing to explain the  
110 reason or reasons for denial.

111 (o) The limited liability partnership may appeal the  
112 denial of reinstatement to the circuit court of the county  
113 where the limited liability partnership is located within  
114 thirty days after service of the Secretary of State's notice.  
115 The appeal to the circuit court to set aside the dissolution  
116 shall include copies of the Secretary of State's certificate  
117 of dissolution, the limited liability's application for  
118 reinstatement and the Secretary of State's notice of denial.

119 (p) The circuit court may summarily order the Secretary  
120 of State to reinstate the dissolved limited liability partner-  
121 ship or may take other action the circuit court considers  
122 appropriate.

123 (q) The circuit court's final decision may be appealed as  
124 in other civil proceedings.

125 (r) The status of a partnership as a registered limited  
126 liability partnership and the liability of the partners  
127 thereof shall not be affected by:

128 (1) Errors in the information contained in a statement of  
129 registration under subsection (a) of this section or notice  
130 under subsection (e) of this section; or

131 (2) Changes after the filing of the statement of registra-  
132 tion or notice in the information stated in the registration  
133 or notice.

134 (s) The Secretary of State may provide forms for the  
135 statement of registration under subsection (a) of this  
136 section or a notice under subsection (e) of this section.

137 (t) All fees and moneys collected by the Secretary of  
138 State pursuant to the provisions of this article shall be  
139 deposited by the Secretary of State as follows: One-half  
140 shall be deposited in the state General Revenue Fund and  
141 one-half shall be deposited in the service fees and collec-  
142 tions account established by section two, article one,  
143 chapter fifty-nine of this code for the operation of the  
144 office of the Secretary of State. The Secretary of State  
145 shall dedicate sufficient resources from that fund or other  
146 funds to provide the services required in this article.

**§47B-10-4. Applicability of article to foreign and interstate  
commerce.**

1 (a) A registered limited liability partnership formed  
2 under this article may conduct its business, carry on its  
3 operations and have and exercise the powers granted by  
4 this chapter in any state, territory, district or possession of  
5 the United States or in any foreign country.

6 (b) It is the intent of the Legislature that the legal  
7 existence of registered limited liability partnerships  
8 formed under this article be recognized outside the  
9 boundaries of this state and that the laws of this state  
10 governing such registered limited liability partnerships  
11 doing business outside this state be granted the protection  
12 of full faith and credit under the Constitution of the  
13 United States.

14 (c) Notwithstanding section six, article one of this  
15 chapter, the internal affairs of registered limited liability  
16 partnerships formed under this article, including the

17 liability of partners for debts, obligations and liabilities of  
18 or chargeable to the partnership, shall be subject to and  
19 governed by the laws of this state.

20 (d) Before transacting business in this state, a foreign  
21 registered limited liability partnership shall:

22 (1) Comply with any statutory or administrative regis-  
23 tration or filing requirements governing the specific type  
24 of business in which the partnership is engaged; and

25 (2) File a notice with the Secretary of State, stating the  
26 name of the partnership or if its name is unavailable for  
27 use in this state, a limited partnership name that satisfies  
28 the requirements of section four-e of this article, including  
29 a copy of the resolution of its partners adopting the  
30 fictitious name; the address of its principal office; the  
31 address of a registered office and the name and address of  
32 a registered agent for service of process, if any; an e-mail  
33 address to where informational notices and reminders of  
34 annual filings may be sent, unless there is a technical  
35 inability to comply; a brief statement of the business in  
36 which the partnership engages; the name and address of  
37 each partner authorized to execute instruments on behalf  
38 of the partnership and any other matters that the partner-  
39 ship determines to include; and a brief statement of the  
40 business in which the partnership engages. Such notice  
41 shall be effective for two years from the date of filing,  
42 after which time the partnership shall file a new notice.

43 (e) The name of a foreign registered limited liability  
44 partnership doing business in this state shall contain the  
45 words "Registered Limited Liability Partnership" or the  
46 abbreviation "L.L.P." or "LLP" as the last words or letters  
47 of its name.

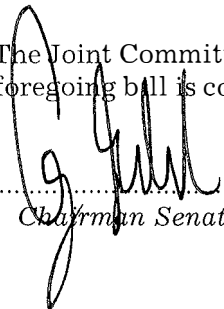
48 (f) Notwithstanding section six, article one of this  
49 chapter, the internal affairs of foreign registered limited  
50 liability partnerships, including the liability of partners



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51 for debts, obligations and liabilities of or chargeable to the  
52 partnership, shall be subject to and governed by the laws  
53 of the jurisdiction in which the foreign registered limited  
54 liability partnership is registered.

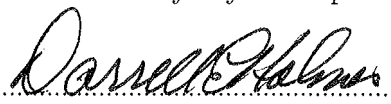
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

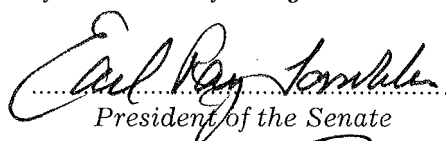
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is appended* this the *31<sup>st</sup>*  
Day of *May*, 2010.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 30 2010

Time 4:20 p