

**BLACKLINE SHOWING 2009 AMENDMENTS
TO
DELAWARE LIMITED LIABILITY COMPANY ACT**

Section 18-111. Interpretation and enforcement of limited liability company agreement

Any action to interpret, apply or enforce the provisions of a limited liability company agreement, or the duties, obligations or liabilities of a limited liability company to the members or managers of the limited liability company, or the duties, obligations or liabilities among members or managers and of members or managers to the limited liability company, or the rights or powers of, or restrictions on, the limited liability company, members or managers, or any provision of this chapter, or any other instrument, document, agreement or certificate contemplated by any provision of this chapter, may be brought in the Court of Chancery. As used in this section, the term "manager" refers (i) to a person who is a manager as defined in §18-101(10) of this Title, and (ii) to a person, whether or not a member of a limited liability company, who, although not a manager as defined in §18-101(10) of this Title, participates materially in the management of the limited liability company; provided however, that the power to elect or otherwise select or to participate in the election or selection of a person to be a manager as defined in §18-101(10) of this Title shall not, by itself, constitute participation in the management of the limited liability company.

Section 18-204. Execution

(a) Each certificate required by this subchapter to be filed in the office of the Secretary of State shall be executed by 1 or more authorized persons or, in the case of a certificate of conversion to limited liability company or certificate of limited liability company domestication, by any person authorized to execute such certificate on behalf of the other entity or non-United States entity, respectively, except that a certificate of merger or consolidation filed by a surviving or resulting other business entity shall be executed by any person authorized to execute such certificate on behalf of such other business entity.

Section 18-209. Merger and consolidation

(a) As used in this section and in § 18-204 of this title, "other business entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other unincorporated business or entity, including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), and a foreign limited liability company, but excluding a domestic limited liability company.

(c) If a domestic limited liability company is merging or consolidating under this section, the domestic limited liability company or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by 1 or more authorized persons on behalf of the domestic limited liability company when it is the surviving or resulting entity in the office of the Secretary of State. The certificate of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the domestic limited liability companies and other business entities which is to merge or consolidate;

(2) That an agreement of merger or consolidation has been approved and executed by each of the domestic limited liability companies and other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting domestic limited liability company or other business entity;

(4) In the case of a merger in which a domestic limited liability company is the surviving entity, such amendments, if any, to the certificate of formation of the surviving domestic limited liability company to change its name, registered office or registered agent as are desired to be effected by the merger;

(5) The future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(6) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited liability company or other business entity, and shall state the address thereof;

(7) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited liability company or other business entity, on request and without cost, to any member of any domestic limited liability company or any person holding an interest in any other business entity which is to merge or consolidate; and

(8) If the surviving or resulting entity is not a domestic limited liability company, or a corporation, partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)) or statutory trust organized under the laws of the State of Delaware, a statement that such surviving or resulting other business entity agrees that it may be served with process in the State of Delaware in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 18-911(c) of

this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 18-911(c) of this title.

(f) An agreement of merger or consolidation approved in accordance with subsection (b) of this section may:

- (1) Effect any amendment to the limited liability company agreement; or
- (2) Effect the adoption of a new limited liability company agreement, for a limited liability company if it is the surviving or resulting limited liability company in the merger or consolidation.

Any amendment to a limited liability company agreement or adoption of a new limited liability company agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective notwithstanding any provision of the limited liability company agreement relating to amendment or adoption of a new limited liability company agreement, other than a provision that by its terms applies to an amendment to the limited liability company agreement or the adoption of a new limited liability company agreement, in either case, in connection with a merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a limited liability company agreement or other agreement or as otherwise permitted by law, including that the limited liability company agreement of any constituent limited liability company to the merger or consolidation (including a limited liability company formed for the purpose of consummating a merger or consolidation) shall be the limited liability company agreement of the surviving or resulting limited liability company.

Section 18-302. Classes and voting

(e) If a limited liability company agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the limited liability company agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law, including as permitted by § 18-209(f) of this title (provided that the approval of any person may be waived by such person and that any such conditions may be waived by all persons for whose benefit such conditions were intended).

Section 18-1101. Construction and application of chapter and limited liability company agreement

(h) Action validly taken pursuant to one provision of this chapter shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this chapter but fails to satisfy one or more requirements prescribed by such other provision.