

PARTNERSHIPS

CHAPTER 445

HOUSE BILL NO. 1509
(Representative Stenehjem)

LIMITED PARTNERSHIP FILING CHANGES

AN ACT to amend and reenact sections 45-10.1-08, 45-10.1-09, 45-10.1-52, and 45-10.1-55 of the North Dakota Century Code, relating to limited partnership requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 45-10.1-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-10.1-08. (201) Certificate of limited partnership.

1. In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the secretary of state. The certificate must set forth:
 - a. The name of the limited partnership.
 - b. The general character of its business.
 - c. The address of the office and the name and address of the agent for service of process required to be maintained by section 45-10.1-04.
 - d. The name and ~~the business~~ address of the principal place of business of each general partner.
 - e. The latest date upon which the limited partnership is to dissolve.
 - f. Any other matters the general partners determine to include therein.
2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

SECTION 2. AMENDMENT. Section 45-10.1-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-10.1-09. (202) Amendment to certificate.

1. A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state. The certificate must set forth all of the following:
 - a. The name of the limited partnership.
 - b. The date of filing the certificate.

- c. The amendment to the certificate.
2. An amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed within thirty days after the happening of any of the following events:
 - a. The admission of a new general partner.
 - b. The withdrawal of a general partner.
 - c. The continuation of the business under section 45-10.1-47 after an event of withdrawal of a general partner.
 - d. A change of office or an agent.
3. A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.
4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.
5. No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection 2 if the amendment is filed within the thirty-day period specified in subsection 2.
6. A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.
7. A limited partnership must notify the secretary of state in writing whenever a general partner changes the address of its principal place of business. A corporate annual report filed by the secretary of state that reflects a change of address of a general partner may serve as such notice. This notice is not subject to the amendment fee prescribed in 45-10.1-15.
8. A limited partnership that amends its name and is the owner of a trademark, or uses a fictitious name registered with the secretary of state, or is a general partner of another limited partnership on file with the secretary of state, must effect a change of name in each of such registrations simultaneously with the filing of the amendments.
9. Whenever a general partner that is a corporation files an amendment, or application for an amended certificate of authority, to change its corporate name it must simultaneously file an amendment to a certificate of limited partnership.

SECTION 3. AMENDMENT. Section 45-10.1-52 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **45-10.1-52. (902) Registration.** Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, on forms prescribed and furnished by the secretary of state, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth all of the following:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.
2. The state and date of its formation.
3. The general character of the business it proposes to transact in this state.
4. The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state.
5. A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence.
6. The address of the principal office of the foreign limited partnership.
7. The name and ~~business~~ address of the principal place of business of each general partner.
8. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

The application must be accompanied by a certificate of identification, existence, and status of a foreign limited partnership, duly certified by the proper officer of the state or country under the laws of which it is organized.

SECTION 4. AMENDMENT. Section 45-10.1-55 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-10.1-55. (905) Changes and amendments. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting the statement.

¹ NOTE: Section 45-10.1-52 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

A foreign limited partnership that amends its name and is the owner of a trademark, or uses a fictitious name registered with the secretary of state, or is a general partner of another limited partnership on file with the secretary of state, must effect a change of name in each of such registrations simultaneously with the filing of the certificate amending the registration of foreign limited partnership.

A foreign limited partnership must file a certificate of amendment, signed and sworn to by a general partner, whenever a general partner that is a corporation files an amendment changing its corporate name, or when it files an application for an amended certificate of authority. This certificate of amendment must be filed simultaneously with the amendment to the articles of incorporation or application for amended certificate of authority.

A foreign limited partnership must notify the secretary of state in writing whenever a general partner changes the address of its principal place of business. A corporate annual report filed by the secretary of state that reflects a change of address of a general partner may serve as such notice. This notice is not subject to the amendment fee prescribed in 45-10.1-15.

Approved April 8, 1993

Filed April 9, 1993

CHAPTER 446

SENATE BILL NO. 2158
(Industry, Business and Labor Committee)
(At the request of the Secretary of State)

FICTITIOUS NAME CERTIFICATES

AN ACT to create and enact section 45-11-05.1 of the North Dakota Century Code, relating to the change of name of a member named on a fictitious name certificate; and to amend and reenact sections 45-11-02 and 45-11-06 of the North Dakota Century Code, relating to fictitious name certificate requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 45-11-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-11-02. How certificate executed - Content. A certificate filed with the secretary of state as provided in section 45-11-01 must be signed by one or more of the general partners. The certificate must state the fictitious name, the names in full and principal addresses of all the general partners, ~~their places of residence,~~ and the address of the principal place of business.

SECTION 2. Section 45-11-05.1 of the North Dakota Century Code is created and enacted as follows:

45-11-05.1. Change of name or address of member. Any member named on a fictitious name certificate that effects a name change must record that name change with the secretary of state. The secretary of state must record the name change upon the payment of twenty-five dollars and filing of the following:

1. A notarized statement reciting the name change if the member is an individual.
2. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the member is a corporation or limited partnership incorporated or organized in another state or country which does not have a certificate of authority to transact business in North Dakota.
3. An amendment or application for amended certificate of authority for a member that is a corporation or limited partnership registered with the secretary of state.

A registrant must notify the secretary of state in writing when effecting a change of address. A corporate annual report or limited partnership renewal filed by the secretary of state which reflects a change of address of the principal place of business of the member may serve as such notice.

SECTION 3. AMENDMENT. Section 45-11-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

45-11-06. Duty of secretary of state regarding fictitious name certificate. The secretary of state shall keep an alphabetical file of the fictitious names filed with the secretary of state under this chapter. ~~All documents filed with the secretary of state under this chapter must be retained in that office until the documents have been committed to microcopy, at which time the documents may be destroyed.~~ The secretary of state may destroy all fictitious name certificates or renewals one year after expiration.

Approved March 4, 1993
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