

## CHAPTER 15

### LIMITED LIABILITY PARTNERSHIPS

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

##### **§801. Short title**

This Act is known and may be cited as the "Maine Limited Liability Partnership Act." [PL 1995, c. 633, Pt. B, §1 (NEW).]

##### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

##### **§802. Definitions**

##### **(REPEALED)**

##### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2005, c. 302, §15 (RP).

##### **§802-A. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 302, §16 (NEW).]

**1. Deliver; delivery.** "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

[PL 2005, c. 302, §16 (NEW).]

**2. Electronic transmission.** "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

[PL 2005, c. 302, §16 (NEW).]

**3. Foreign limited liability partnership.** "Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction.

[PL 2005, c. 302, §16 (NEW).]

**4. Registered limited liability partnership.** "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the Uniform Partnership Act and registered under this Act.

[PL 2005, c. 302, §16 (NEW).]

**5. Sign; signature.** "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

[PL 2005, c. 302, §16 (NEW).]

##### SECTION HISTORY

PL 2005, c. 302, §16 (NEW).

##### **§803. Registered limited liability partnership name**

**(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §62 (AMD). PL 1997, c. 633, §§20,21 (AMD). PL 1999, c. 638, §41 (AMD). RR 2001, c. 2, §B52 (COR). RR 2001, c. 2, §B58 (AFF). PL 2003, c. 344, §C34 (RP).

**§803-A. Registered limited liability partnership name**

**1. Requirements.** A limited liability partnership name must contain the words "Limited Liability Partnership," the abbreviation "L.L.P." or the designation "LLP" unless the partnership is filing an assumed name under section 805-A or a registration of name under section 806-A. If the words "Limited Liability Partnership," "Limited Liability Partnership, Chartered," "Limited Liability Partnership, Professional Association," "Limited Liability Partnership, P.A." or any of the designations without commas are used, a limited liability partnership may also use the abbreviation "L.L.P." or the designation "LLP" without filing an assumed name under section 805-A.

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**2. Distinguishable name.** Except as authorized by subsections 3 and 4, a limited liability partnership name must be distinguishable on the records of the Secretary of State from:

A. The name of a corporation, limited liability company, limited liability partnership or limited partnership that is incorporated, organized or authorized to transact business or carry on activities in this State; [PL 2003, c. 344, Pt. C, §35 (NEW).]

B. Assumed, fictitious, reserved and registered name filings for all entities; and [PL 2003, c. 344, Pt. C, §35 (NEW).]

C. Marks registered under Title 10, chapter 301-A unless the registered owner or holder of the mark is the same person or entity as the limited liability partnership seeking to use a name that is not distinguishable on the records of the Secretary of State and files proof of ownership with the Secretary of State. [PL 2003, c. 344, Pt. C, §35 (NEW).]

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**3. Refuse to file name.** The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene; [PL 2003, c. 344, Pt. C, §35 (NEW).]

B. Inappropriately promotes abusive or unlawful activity; [PL 2003, c. 344, Pt. C, §35 (NEW).]

C. Falsely suggests an association with public institutions; or [PL 2003, c. 344, Pt. C, §35 (NEW).]

D. Violates any other provision of the law of this State with respect to names. [PL 2003, c. 344, Pt. C, §35 (NEW).]

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**4. Authorization to use name.** A limited liability partnership may apply to the Secretary of State for authorization to use a name that is not distinguishable on the records of the Secretary of State from one or more of the names described in subsection 2. The Secretary of State shall authorize use of the name applied for if:

A. The entity in possession of the name consents to the use in writing and submits an undertaking in a form satisfactory to the Secretary of State to change its name to a name that is distinguishable on the records of the Secretary of State from the name of the applicant; or [PL 2003, c. 344, Pt. C, §35 (NEW).]

B. The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

[PL 2003, c. 344, Pt. C, §35 (NEW).]

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**5. Use of another limited liability partnership's name.** A limited liability partnership may use the name, including the assumed or fictitious name, of another registered or foreign limited liability partnership that is used in this State if the other limited liability partnership is organized or authorized to transact business in this State and the limited liability partnership proposing to use the name:

A. Has merged with the other limited liability partnership; [PL 2003, c. 344, Pt. C, §35 (NEW).]

B. Has been formed by reorganization of the other limited liability partnership; or [PL 2003, c. 344, Pt. C, §35 (NEW).]

C. Has acquired all or substantially all of the assets, including the limited liability partnership name, of the other limited liability partnership. [PL 2003, c. 344, Pt. C, §35 (NEW).]

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**6. Determining distinguishability.** In determining whether names are distinguishable on the records, the Secretary of State shall disregard the following:

A. Words or abbreviations of words that describe the nature of the entity, including "professional association," "corporation," "company," "incorporated," "chartered," "limited," "limited partnership," "limited liability company," "professional limited liability company," "limited liability partnership," "registered limited liability partnership," "limited liability limited partnership," "service corporation" and "professional corporation"; [PL 2005, c. 543, Pt. D, §16 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

B. The presence or absence of the words or symbols of the words "and" and "the"; and [PL 2003, c. 344, Pt. C, §35 (NEW).]

C. Differences in the use of punctuation, capitalization or special characters. [PL 2003, c. 344, Pt. C, §35 (NEW).]

[PL 2005, c. 543, Pt. D, §16 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

**7. Change of limited liability partnership name by foreign limited liability partnership.** If a foreign limited liability partnership authorized to transact business in this State changes its name to one that does not satisfy the requirements of this section, it may not transact business in this State under the proposed new name until it adopts a name satisfying the requirements of this section and files an amended application for authority under section 855 that is accompanied by a statement of use of a fictitious name under section 805-A.

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**8. Exception.** Notwithstanding subsection 2, the name of a limited liability partnership may be not distinguishable on the records of the Secretary of State if the foreign limited liability partnership was authorized to do business in this State prior to January 1, 1996 and had the right to use the name as its legal name before that date.

[PL 2003, c. 344, Pt. C, §35 (NEW).]

**9. Name of limited liability partnership revoked.** Subsection 2 does not apply to the name of any partnership whose status as a limited liability partnership has been revoked on and after the 3rd anniversary of the revocation.

[PL 2003, c. 344, Pt. C, §35 (NEW).]

#### SECTION HISTORY

PL 2003, c. 344, §C35 (NEW). PL 2005, c. 543, §D16 (AMD). PL 2005, c. 543, §D18 (AFF).

**§804. Reservation of name****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2003, c. 344, §C36 (RP).

**§804-A. Reserved name**

**1. Reserve use of name.** A person may reserve the exclusive use of a limited liability partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability partnership name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

[PL 2013, c. 99, §3 (AMD).]

**2. Transfer of reservation.** The owner of a reserved limited liability partnership name under subsection 1 may transfer the reservation to another person by executing and delivering for filing to the Secretary of State a notice of the transfer, signed by the transferor, that states the name and address of the transferee.

[PL 2003, c. 344, Pt. C, §37 (NEW).]

## SECTION HISTORY

PL 2003, c. 344, §C37 (NEW). PL 2013, c. 99, §3 (AMD).

**§805. Assumed name****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2003, c. 344, §C38 (RP).

**§805-A. Assumed or fictitious name of limited liability partnership**

**1. Assumed name defined.** As used in this section, "assumed name" means a trade name or any name other than the real name of a limited liability partnership except a fictitious name.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**2. Fictitious name defined.** As used in this section, "fictitious name" means a name adopted by a foreign limited liability partnership authorized to transact business in this State because its real name is unavailable pursuant to section 803-A.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**3. Authorized to transact business.** Upon complying with this section, a registered or foreign limited liability partnership authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**4. File statement indicating use of assumed or fictitious name.** Prior to transacting business in this State under an assumed or fictitious name, a limited liability partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited liability partnership name; [PL 2003, c. 344, Pt. C, §39 (NEW).]

B. That the limited liability partnership intends to transact business under an assumed or fictitious name; [PL 2003, c. 344, Pt. C, §39 (NEW).]

- C. The assumed or fictitious name that the limited liability partnership proposes to use; [PL 2003, c. 344, Pt. C, §39 (NEW).]
- D. If the assumed name is not to be used at all of the limited liability partnership's places of business in this State, the locations where that name will be used; and [PL 2003, c. 344, Pt. C, §39 (NEW).]
- E. If the company is a foreign limited liability partnership:
  - (1) The jurisdiction of organization; and
  - (2) The date on which it was authorized to transact business in this State. [PL 2003, c. 344, Pt. C, §39 (NEW).]

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability partnership proposes to use. [PL 2003, c. 344, Pt. C, §39 (NEW).]

**5. Compliance required.** Each assumed or fictitious name must comply with the requirements of section 803-A.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**6. Enjoin use of assumed or fictitious name.** If a limited liability partnership uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**7. Enjoin use despite compliance.** Notwithstanding its compliance with the requirements of this section, the use of an assumed name or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

- A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 803-A; or [PL 2003, c. 344, Pt. C, §39 (NEW).]
- B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [PL 2003, c. 344, Pt. C, §39 (NEW).]

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

**8. Terminate use of assumed or fictitious name.** A limited liability partnership may terminate an assumed or fictitious name by executing and delivering to the Secretary of State a statement setting forth:

- A. The name of the limited liability partnership; [PL 2003, c. 344, Pt. C, §39 (NEW).]
- B. That the limited liability partnership no longer intends to transact business under the assumed or fictitious name; and [PL 2003, c. 344, Pt. C, §39 (NEW).]
- C. The assumed or fictitious name the limited liability partnership intends to terminate. [PL 2003, c. 344, Pt. C, §39 (NEW).]

[PL 2003, c. 344, Pt. C, §39 (NEW).]

## SECTION HISTORY

PL 2003, c. 344, §C39 (NEW).

### §806. Registered name and renewal for foreign limited liability partnership; termination

**(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §63 (AMD). PL 2003, c. 344, §C40 (RP).

**§806-A. Registered name of foreign limited liability partnership**

**1. Register limited liability partnership name.** A foreign limited liability partnership may register its limited liability partnership name if the name is distinguishable on the records of the Secretary of State pursuant to section 803-A.

[PL 2003, c. 344, Pt. C, §41 (NEW).]

**2. Application.** To register its limited liability partnership name, a foreign limited liability partnership must execute and deliver to the Secretary of State for filing an application that:

A. Sets forth its limited liability partnership name, the state or country and date of its organization, the address of its principal office wherever located and a brief description of the nature of the business in which it is engaged; and [PL 2003, c. 344, Pt. C, §41 (NEW).]

B. Is accompanied by a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing. [PL 2003, c. 344, Pt. C, §41 (NEW).]

[PL 2003, c. 344, Pt. C, §41 (NEW).]

**3. Applicant's exclusive use.** A limited liability partnership name is registered for a foreign limited liability partnership's exclusive use upon the effective date of the application under subsection 2 until the end of the calendar year in which the application was filed.

[PL 2003, c. 344, Pt. C, §41 (NEW).]

**4. Renewal of registered name.** A foreign limited liability partnership whose registration under this section is effective may renew it for a successive year by delivering for filing to the Secretary of State between October 1st and December 31st a renewal application that complies with the requirements of subsection 2. The renewal application, when filed, renews the registration for the following calendar year.

[PL 2003, c. 344, Pt. C, §41 (NEW).]

**5. Qualify as foreign limited liability partnership.** A foreign limited liability partnership whose registration under this section is effective may, after the registration is effective, qualify as a foreign limited liability partnership under the registered name or may consent in writing to the use of that name by a registered limited liability partnership organized under this Act or by another foreign limited liability partnership authorized to transact business in this State. The registration terminates when the partnership becomes a registered limited liability partnership or the foreign limited liability partnership qualifies or consents to the qualification of another foreign limited liability partnership under the registered name.

[PL 2003, c. 344, Pt. C, §41 (NEW).]

## SECTION HISTORY

PL 2003, c. 344, §C41 (NEW).

**§807. Registered office; registered agent****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1999, c. 594, §27 (AMD). PL 2007, c. 323, Pt. E, §1 (RP). PL 2007, c. 323, Pt. G, §4 (AFF).

**§807-A. Registered agent of limited liability partnership**

Each registered limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A. [PL 2007, c. 535, Pt. B, §8 (NEW).]

## SECTION HISTORY

PL 2007, c. 535, Pt. B, §8 (NEW).

**§808. Revocation of registered limited liability partnership status by Secretary of State****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2003, c. 631, §66 (RP).

**§808-A. Grounds for revocation of registered limited liability partnership's status**

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 808-B to revoke the status of a partnership as a registered limited liability partnership if: [PL 2003, c. 631, §67 (NEW).]

**1. Nonpayment of fees, penalties.** The registered limited liability partnership does not pay when they are due any fees or penalties imposed by this chapter or other law; [PL 2003, c. 631, §67 (NEW).]

**2. Failure to file annual report.** The registered limited liability partnership does not deliver its annual report to the Secretary of State as required by section 873; [PL 2003, c. 631, §67 (NEW).]

**3. Failure to pay late filing penalty.** The registered limited liability partnership does not pay the annual report late filing penalty as required by section 874; [PL 2003, c. 631, §67 (NEW).]

**4. Failure to maintain registered agent.** The registered limited liability partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. E, §2 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**5. Failure to notify of change of registered agent or address.** The registered limited liability partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or [PL 2007, c. 323, Pt. E, §3 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**6. Filing of false information.** A partner or agent of the registered limited liability partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing. [PL 2003, c. 631, §67 (NEW).]

## SECTION HISTORY

PL 2003, c. 631, §67 (NEW). PL 2007, c. 323, Pt. E, §§2, 3 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

**§808-B. Procedure for and effect of revocation**

**1. Notice of determination to revoke partnership's status as registered limited liability partnership.** If the Secretary of State determines that one or more grounds exist under section 808-A for revoking a partnership's status as a registered limited liability partnership, the Secretary of State shall serve the limited liability partnership with a written notice of that determination as required by subsection 8.

[PL 2007, c. 323, Pt. E, §4 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Revocation.** The partnership's status as a registered limited liability partnership is revoked if within 60 days after the notice under subsection 1 was issued and is perfected under subsection 8 the Secretary of State determines that the registered limited liability partnership has failed to correct the ground or grounds for revocation. The Secretary of State shall send notice to the partnership at the address of the registered agent of the registered limited liability partnership's as required by subsection 8 that recites the ground or grounds for revocation of the partnership's status as a registered limited liability partnership and the effective date of revocation.

[PL 2007, c. 323, Pt. E, §5 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**3. Effect of revocation of status as registered limited liability partnership.** A partnership whose status as a registered limited liability partnership has been revoked continues its existence but must be treated as a general partnership without that limited liability partnership status.

[PL 2003, c. 631, §67 (NEW).]

**4. Validity of contracts; right to be sued; right to defend suit.** The revocation of the status of a partnership as a registered limited liability partnership under this section does not impair:

A. The existence of the partnership; [PL 2003, c. 631, §67 (NEW).]

B. The validity of any contract or act of the registered limited liability partnership; [PL 2003, c. 631, §67 (NEW).]

C. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; [PL 2003, c. 631, §67 (NEW).]

D. The right of the registered limited liability partnership to defend any action, suit or proceeding in any court of this State; or [PL 2003, c. 631, §67 (NEW).]

E. The liabilities of the partners with regard to events, acts or omissions occurring before the date of revocation. [PL 2003, c. 631, §67 (NEW).]

[PL 2003, c. 631, §67 (NEW).]

**5. Authority of registered agent.** The revocation of the status of a partnership as a registered limited liability partnership does not terminate the authority of its registered agent.

[PL 2003, c. 631, §67 (NEW).]

**6. Protecting limited liability partnership name after revocation.** The name of a limited liability partnership remains in the Secretary of State's record of limited liability partnership names and is protected for a period of 3 years following revocation.

[PL 2003, c. 631, §67 (NEW).]

**7. Notice to Superintendent of Financial Institutions in case of financial institution or credit union.** In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to revoking the status of a financial institution or credit union as a registered limited liability partnership under this section.

[PL 2003, c. 631, §67 (NEW).]

**8. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the registered limited liability partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by

the postmark, if mailed postpaid and correctly addressed to the registered agent of the registered limited liability partnership.

[PL 2007, c. 323, Pt. E, §6 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

PL 2003, c. 631, §67 (NEW). PL 2007, c. 323, Pt. E, §§4-6 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §808-C. Reinstatement following revocation

**1. Application for reinstatement.** A partnership whose status as a registered limited liability partnership has been revoked under section 808-B may apply to the Secretary of State for reinstatement within 6 years after the effective date of revocation. The application must:

A. State the name of the registered limited liability partnership and the effective date of its revocation; [PL 2003, c. 631, §67 (NEW).]

B. State that the ground or grounds for revocation either did not exist or have been eliminated; and [PL 2003, c. 631, §67 (NEW).]

C. State that the registered limited liability partnership's name satisfies the requirements of section 803-A. [PL 2003, c. 631, §67 (NEW).]

[PL 2003, c. 631, §67 (NEW).]

**2. Reinstatement after revocation.** If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 871, subsection 7-A, and that the information is correct, the Secretary of State shall cancel the revocation and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 808-B, subsection 8 to deliver the notice to the registered limited liability partnership.

[PL 2007, c. 323, Pt. E, §7 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**3. Effect of reinstatement.** When the reinstatement is effective under subsection 2, it relates back to and takes effect as of the effective date of the revocation, and the registered limited liability partnership resumes business as if the revocation had not occurred.

[PL 2003, c. 631, §67 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §67 (NEW). PL 2007, c. 323, Pt. E, §7 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §808-D. Appeal from denial of reinstatement

**1. Denial of reinstatement.** If the Secretary of State denies a partnership's application for reinstatement following revocation, the Secretary of State shall serve the domestic limited liability partnership under section 808-B, subsection 8 with a written notice that explains the reason or reasons for denial.

[PL 2007, c. 323, Pt. E, §8 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Appeal.** A partnership may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the partnership's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's notice of revocation, the partnership's application for reinstatement and the Secretary of State's notice of denial.

[PL 2003, c. 631, §67 (NEW).]

**3. Court action.** The court may summarily order the Secretary of State to reinstate a partnership's status as a registered limited liability partnership or may take other action the court considers appropriate.

[PL 2003, c. 631, §67 (NEW).]

**4. Final decision.** The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

[PL 2003, c. 631, §67 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §67 (NEW). PL 2007, c. 323, Pt. E, §8 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §808-E. Reinstatement of registered limited liability partnership status

**1. Reinstatement after revocation.** A partnership whose status as a registered limited liability partnership that was revoked before July 1, 2004 may apply to the Secretary of State for reinstatement and the reinstatement may be granted, if:

A. The Secretary of State determines that the application contains the information required under section 808-C, subsection 1; [PL 2003, c. 631, §67 (NEW).]

B. The application for reinstatement is accompanied by the reinstatement fee set forth in section 871, subsection 7-A; and [PL 2003, c. 631, §67 (NEW).]

C. The application for reinstatement is received by the Secretary of State by June 30, 2010. [PL 2003, c. 631, §67 (NEW).]

[PL 2003, c. 631, §67 (NEW).]

**2. Effect on partnership failing to reinstate by June 30, 2010.** A partnership that fails to meet the requirements of subsection 1 may not reinstate.

[PL 2003, c. 631, §67 (NEW).]

**3. Protecting limited liability partnership name after revocation.** The name of a partnership whose status as a registered limited liability partnership is revoked remains in the Secretary of State's record of limited liability partnership names and is protected for a period of 3 years following revocation.

[PL 2003, c. 631, §67 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §67 (NEW).

#### §809. Service of process upon registered limited liability partnership

**(REPEALED)**

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2007, c. 323, Pt. E, §9 (RP). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §809-A. Service of process upon registered limited liability partnership

Service of process, notice or demand required or permitted by law on a registered limited liability partnership is governed by Title 5, section 113. [PL 2007, c. 323, Pt. E, §10 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

PL 2007, c. 323, Pt. E, §10 (NEW). PL 2007, c. 323, Pt. G, §4 (AFF).

**§810. Service of nonresident partners of registered limited liability partnerships**

**1. Secretary of State; agent to receive service.** Each partner of a registered limited liability partnership who is a nonresident of this State or who becomes a nonresident is deemed to have appointed the Secretary of State as an agent to receive service of process upon that partner in an action or proceeding relating to actions of a registered limited liability partnership that arises while that partner was serving in that capacity.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Method of serving process.** Service of process upon the Secretary of State must be made in the same manner as provided by the Maine Rules of Civil Procedure, Rule 4(d)(8), as amended, in the case of service upon the Secretary of State as an agent of a foreign limited liability partnership.

A copy of the process must be mailed to the nonresident partner at the business, residence or mailing address of the partner shown on the limited liability partnership's certificate or most recent annual report.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Service on nonresident partner.** Service under this section also may be made by delivery of a copy of the process to the nonresident partner at the partner's address outside the State. Proof of that delivery must be made by affidavit of the person making delivery and the affidavit must be filed with the clerk of the court in which the action or proceeding is pending.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**SECTION HISTORY**

PL 1995, c. 633, §B1 (NEW).

**§811. Nature of professional limited liability partnership business**

A limited liability partnership may be registered under this Act for any lawful purpose. A professional limited liability partnership, as defined in Title 13, section 723, subsection 6, is subject to the Maine Professional Service Corporation Act except as follows. [PL 2005, c. 543, Pt. B, §1 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

**1. Not applicable.** Title 13, sections 721, 722, 733, 736, 751, 762 and 763, section 771, subsection 2, paragraph A and section 772 do not apply.

[PL 2005, c. 302, §17 (AMD).]

**2. Application.** All references to:

A. Shareholders are deemed to be references to partners; [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. Corporations or corporations organized or incorporated under the Professional Service Corporation Act are deemed to be references to professional limited liability partnerships; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. Stock are deemed to be references to partnership interests. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Revocation.** Any provision for the forfeiture of articles of incorporation or dissolution is deemed to provide for revocation of the status of the partnership as a limited liability partnership.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**SECTION HISTORY**

PL 1995, c. 633, §B1 (NEW). RR 2001, c. 2, §C5 (COR). RR 2001, c. 2, §C7 (AFF). PL 2005, c. 302, §17 (AMD). PL 2005, c. 543, §B1 (AMD). PL 2005, c. 543, §B15 (AFF).

**§812. Rules**

The Secretary of State may adopt rules consistent with this chapter pertaining to the filing of documents with the Secretary of State. These rules may include, but are not limited to: [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Forms.** Prescribing forms for documents required or permitted to be delivered for filing under this chapter and refusing to file documents not utilizing these prescribed forms; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Disapproved filing.** Disapproving the filing of a document that is not clearly legible or one that may not be clearly reproducible photographically; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Appointed designee.** Appointing a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**4. Electronic filing; facsimile signatures.** Permitting the filing of documents by electronic transmission and permitting facsimile signatures on documents to be filed; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**5. Definition of deceptively similar.** [PL 2003, c. 631, §68 (RP).]

**6. Effective dates of filings.** Unless specifically stated in this chapter, setting forth the effective dates of filings required by this chapter; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

**7. Annual report filing date.** Providing alternative dates for filing annual reports and for determining the dates covered by those reports. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2003, c. 631, §68 (AMD).

#### §813. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State to provide an improved filing service. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §814. Access to database

The Secretary of State may provide public access to the database through a dial-in modem, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §815. Publications

**1. Fee for publications.** The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of those publications.  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Use of fees.** Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §816. Routine technical rules

Rules adopted pursuant to this chapter, unless expressly designated otherwise, are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §817. Certificate of existence; certificate of authority; certificate of fact

**1. Application.** Any person may apply to the Secretary of State for a certificate of existence for a registered limited liability partnership or a certificate of authority for a foreign limited liability partnership.  
[PL 2003, c. 631, §69 (NEW).]

**2. Contents.** A certificate of existence or certificate of authority under subsection 1 sets forth:

A. The limited liability partnership's name used in this State; [PL 2003, c. 631, §69 (NEW).]

B. That, if a registered limited liability partnership, the registered limited liability partnership is duly registered under the laws of this State and the date of its registration; [PL 2003, c. 631, §69 (NEW).]

C. That, if a foreign limited liability partnership, the foreign limited liability partnership is authorized to transact business in this State, the date on which the limited liability partnership was authorized to transact business in this State and its jurisdiction of organization; [PL 2003, c. 631, §69 (NEW).]

D. That all fees and penalties owed to this State have been paid if:

(1) Payment is reflected in the records of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the registered or foreign limited liability partnership; [PL 2003, c. 631, §69 (NEW).]

E. That the registered or foreign limited liability partnership's most recent annual report required by section 873 has been delivered to the Secretary of State; and [PL 2003, c. 631, §69 (NEW).]

F. Any facts of record in the office of the Secretary of State that may be requested by the applicant under subsection 1. [PL 2003, c. 631, §69 (NEW).]

[PL 2003, c. 631, §69 (NEW).]

**3. Evidence of existence or authority.** Subject to any qualification stated in the certificate under subsection 2, a certificate of existence or certificate of authority issued by the Secretary of State may be relied upon as conclusive evidence that the registered or foreign limited liability partnership is in existence or is authorized to transact business in this State.  
[PL 2003, c. 631, §69 (NEW).]

**4. Certificate of fact.** In addition to the certificate authorized under subsection 2, the Secretary of State may issue a certificate attesting to any fact of record in the office of the Secretary of State that may be requested by the applicant under subsection 1.

[PL 2003, c. 631, §69 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §69 (NEW).

## SUBCHAPTER 2

### REGISTRATION

#### §821. Registration

A partnership formed under the Uniform Partnership Act may be registered as a registered limited liability partnership by signing and filing a certificate of limited liability partnership with the Secretary of State. [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Filing of certificate.** A partnership formed under the Uniform Partnership Act may be registered as a registered limited liability partnership by signing and filing a certificate of limited liability partnership with the Secretary of State.

[PL 2005, c. 543, Pt. B, §2 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

**2. Terms and conditions.** The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, by the vote necessary to amend those provisions.

[PL 2005, c. 543, Pt. B, §2 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2005, c. 543, §B2 (RPR). PL 2005, c. 543, §B15 (AFF).

#### §822. Certificate of limited liability partnership

**1. Certificate of limited liability partnership.** In order to register a limited liability partnership, a certificate of limited liability partnership must be filed with the Secretary of State. The certificate must set forth:

A. The name of the registered limited liability partnership; [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. The information required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. E, §11 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

C. The name and the business, residence or mailing address of the contact partner; [PL 2005, c. 543, Pt. B, §3 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

C-1. The street address of the partnership's chief executive office and, if different, the street address of an office in the State, if any; and [PL 2005, c. 543, Pt. B, §4 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

D. Any other matters the partners determine to include in the certificate. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 2007, c. 323, Pt. E, §11 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Effective date.** A partnership becomes a registered limited liability partnership at the time of the filing of the initial certificate of limited liability partnership with the Secretary of State if there has been substantial compliance with the requirements of this section.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Errors; later changes.** The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the certificate under subsection 1.

[PL 2005, c. 543, Pt. B, §5 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2005, c. 543, §§B3-5 (AMD). PL 2005, c. 543, §B15 (AFF). PL 2007, c. 323, Pt. E, §11 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §823. Amendment to certificate

**1. Certificate of amendment.** The certificate of limited liability partnership is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment must set forth:

A. The name of the registered limited liability partnership; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. The amendment or amendments to the certificate. [PL 1995, c. 633, Pt. B, §1 (NEW).]  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Inaccuracies.** A partner who becomes aware that a statement in the certificate of limited liability partnership or any certificate filed under this section has become inaccurate in any material respect as a result of subsequent events shall promptly amend the certificate.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Amendment required.** An amendment to the certificate of limited liability partnership reflecting the event or events must be filed by a partner no later than 90 days after the following event or events occur:

A. A change in the name of the registered limited liability partnership; [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. [PL 2007, c. 323, Pt. E, §12 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

B-1. A change in the registered agent except as provided in Title 5, section 109 or 110 for a change in the current name, address or identity of the registered agent or as provided in Title 5, section 111 for the resignation of the registered agent; [PL 2007, c. 323, Pt. E, §13 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

C. A partner becomes aware that the certificate of limited liability partnership contains a false or an erroneous statement; or [PL 1995, c. 633, Pt. B, §1 (NEW).]

D. A change in the name or the address of the contact partner. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 2007, c. 323, Pt. E, §§12, 13 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**4. Amendment not required.** An amendment to the certificate of limited liability partnership is not required as a result of a change in the number of partners of the registered limited liability partnership or in the business in which the registered limited liability partnership engages. To the extent that any partnership is terminated by any such change and a successor partnership comes into existence, that successor partnership is covered by the prior partnership's certificate of limited liability partnership and succeeds to the status of the prior partnership as a registered limited liability partnership.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**5. Right to amend at any time.** Except as otherwise provided in the certificate of limited liability partnership, a certificate of limited liability partnership may be amended at any time for any other purpose.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**6. Restated certificate of limited liability partnership.** A registered limited liability partnership may at any time file a restatement of its certificate of limited liability partnership that integrates into a single document the provisions of its certificate of limited liability partnership giving effect to all amendments previously adopted and, if authorized, further amendments. The restated certificate of limited liability partnership, either in the heading or in an introductory paragraph, must set forth:

- A. That it is a restatement; [PL 1995, c. 633, Pt. B, §1 (NEW).]
- B. The registered limited liability partnership's present name; [PL 1995, c. 633, Pt. B, §1 (NEW).]
- C. If the name has been changed, the name under which it was originally filed; and [PL 1995, c. 633, Pt. B, §1 (NEW).]
- D. The date of filing of the initial certificate of limited liability partnership. [PL 1995, c. 633, Pt. B, §1 (NEW).]

The restated certificate of limited liability partnership must be executed and filed in the manner provided for any other amendment to the certificate of limited liability partnership. Upon filing of the restated certificate of limited liability partnership by the Secretary of State, the restatement, including further amendments made as a result of the restatement, constitutes the certificate of the limited liability partnership pursuant to section 822.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1999, c. 594, §28 (AMD). PL 2007, c. 323, Pt. E, §§12, 13 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §824. Certificate of correction

A partner who becomes aware that any statement in a certificate of limited liability partnership or any certificate filed under this chapter was inaccurate when made shall file a certificate of correction with the Secretary of State. The certificate of correction must specify the inaccuracy or defect to be corrected and set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed, except for those persons who are substantially and adversely affected by the correction. For those persons, the corrected instrument is effective from the filing date. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §825. Certificate of renunciation

**1. Renunciation of status.** A partnership may renounce its status as a registered limited liability partnership by filing a certificate of renunciation with the Secretary of State, setting forth:

- A. The name of the registered limited liability partnership; [PL 1995, c. 633, Pt. B, §1 (NEW).]
- B. The date of filing of its certificate of limited liability partnership; [PL 1995, c. 633, Pt. B, §1 (NEW).]
- C. The reason for filing the certificate of renunciation; [PL 1995, c. 633, Pt. B, §1 (NEW).]
- D. The future effective date or time of renunciation, which must be a date or time not more than 90 days after the filing of the certificate, if it is not to be effective upon the filing of the certificate; and [PL 2009, c. 56, §22 (AMD).]

E. Any other information the person filing the certificate of renunciation determines necessary.  
 [PL 1995, c. 633, Pt. B, §1 (NEW).]  
 [PL 2009, c. 56, §22 (AMD).]

**2. Effect of renunciation.** Renunciation of the status of a registered limited liability partnership does not affect the existence of that partnership or the liability of the partners of the partnership with regard to events, acts or omissions occurring before the date of renunciation.  
 [PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Other requirements at the time of filing a certificate of renunciation of status.** At the time of filing the certificate under this section, the Secretary of State may require the limited liability partnership to file the annual report required to be filed under section 873 and pay any fees or penalties owed to the Secretary of State under section 808-A.  
 [PL 2007, c. 231, §33 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2007, c. 231, §33 (AMD). PL 2009, c. 56, §22 (AMD).

#### §826. Execution

Each document delivered to the Secretary of State for filing pursuant to this chapter must be executed in the following manner. [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Signatures.** Except as provided in subsection 2, the documents must be signed as follows:

A. In the case of the initial certificate of limited liability partnership, by one or more partners who are authorized; [PL 2007, c. 323, Pt. E, §14 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

B. In the case of a certificate of amendment, restatement, certificate of correction or any other document filed under this chapter not otherwise provided for, by at least one partner; or [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. In the case of a certificate of renunciation or other document filed after the dissolution of a registered limited liability partnership:

(1) If the partners are winding up the registered limited liability partnership's affairs, then by the contact partner or by a majority in interest of the partners; or

(2) If the partners are not winding up the registered limited liability partnership's affairs, then by all liquidating trustees. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 2007, c. 323, Pt. E, §14 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Signature by agent.** Any person may sign any certificate or amendment to a certificate, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment to a certificate need not be in writing, sworn to, verified or acknowledged and need not be filed with the Secretary of State, but if in writing, it must be retained by a partner.  
 [PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Unsworn falsification.** The execution of a certificate containing false statements constitutes unsworn falsification under Title 17-A, section 453.  
 [PL 1997, c. 376, §65 (RPR).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §§64,65 (AMD). PL 2007, c. 323, Pt. E, §14 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §827. Execution or amendment by judicial order

If a person required to execute a certificate under section 826 fails or refuses to do so, then a person who is adversely affected by the failure or refusal may petition the Superior Court to direct the execution of the certificate as follows. [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Certificate.** If the court finds that the certificate should be executed and that the person or persons designated to execute the certificate have failed or refused to do so, the court shall order the Secretary of State to record the appropriate certificate. [PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Venue.** Venue for an action under this section lies in the county in this State in which the registered office of the registered limited liability partnership is located or, if there is no registered office in this State, then in Kennebec County Superior Court. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §828. Filing

**1. Original filing.** An original signed copy of a certificate or other document authorized to be filed under a provision of this chapter must be delivered to the Secretary of State.

A. A person who executes a document as an agent or fiduciary need not exhibit evidence of authority as a prerequisite to filing. [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. Unless the Secretary of State finds that the certificate or other document on its face does not conform to law, upon receipt of all filing fees required by law, the Secretary of State shall attest that the document has been filed with the Secretary of State by endorsing on that document the word "filed" and the day, month and year of the filing and by signing or initialing that endorsement in person or by agent. If the person delivering the document for filing so requests, the endorsement must include the hour and minute of the filing of the document. [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. The endorsement is known as the "filing date" of the document and is conclusive of the date and the time, if included in the endorsement, of filing in the absence of actual fraud. [PL 1995, c. 633, Pt. B, §1 (NEW).]

D. The Secretary of State may use an identifying mark in lieu of signing or initialing. [PL 1995, c. 633, Pt. B, §1 (NEW).]

E. The filing date is the date first received unless otherwise specified by law or rule. [PL 1995, c. 633, Pt. B, §1 (NEW).]

F. The Secretary of State shall file and index the original copy. [PL 1995, c. 633, Pt. B, §1 (NEW).]  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Attested copy.** The Secretary of State shall promptly make a copy of the original certificate or document and attest that copy by marking upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document. The attested copy must be returned to the person submitting the document for filing or to that person's representative. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §829. Materially inaccurate statement

**1. Liability.** If the certificate of renunciation, certificate of limited liability partnership or certificate of amendment contains a materially inaccurate statement, a person who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

A. A partner who executes the certificate and knew or should have known that the statement was inaccurate in a material respect at the time the certificate was executed; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. A partner who thereafter knows that an arrangement or other fact described in the certificate is inaccurate in any material respect or has changed, making the statement inaccurate in any material respect, if that partner had sufficient time to amend or cancel the certificate or to file a petition for the amendment or cancellation before the statement was reasonably relied upon. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Exception.** Notwithstanding subsection 1, a partner does not have liability for failing to cause the amendment or renunciation of a certificate to be filed or failing to file a petition for amendment or renunciation pursuant to subsection 1 if the certificate of amendment, certificate of renunciation or petition is filed within 90 days of the date that partner knew or should have known the certificate was inaccurate in any material respect.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §830. Notice

The fact that a certificate of limited liability partnership is on file with the Secretary of State constitutes notice of facts set forth in the certificate that are required by section 822, subsection 1 and by section 823, subsection 6. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

### SUBCHAPTER 3

#### FOREIGN LIMITED LIABILITY PARTNERSHIPS

#### §851. Laws governing foreign limited liability partnerships

**1. Laws governing.** Unless otherwise provided by the Constitution of Maine:

A. The laws of the state or country under which a foreign limited liability partnership is organized govern its organization and internal affairs and the liability of its partners, provided that each partner, employee or agent of a foreign limited liability partnership who performs professional services in this State on behalf of such a foreign limited liability partnership is personally and fully liable for any omission, negligence, wrongful act, misconduct or malpractice by that person or any person under that person's direct supervision and control arising out of those professional services performed in this State; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. A foreign limited liability partnership may not be denied the authority to do business by reason of a difference between the laws referred to in this subsection and the laws of this State. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Type of business.** A foreign limited liability partnership may transact any business in this State that may be transacted by a registered limited liability partnership.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §852. Authority to do business required; application

Before doing business in this State, a foreign limited liability partnership must obtain authority to do business from the Secretary of State. [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Definitions.** As used in this subchapter, "doing business," "the doing of business" or "business done in this State" by a foreign limited liability partnership means the course or practice of carrying on any business activities in this State. For purposes of this subsection, a foreign limited liability partnership is not considered to be transacting business in this State solely for carrying on one or more of the following activities:

A. Maintaining or defending any action or administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes; [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. Holding meetings of its partners or carrying on other activities concerning its internal affairs; [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. Maintaining bank accounts, share accounts in savings and loan associations, custodial or agency arrangements with a bank or trust company or stock or bond brokerage accounts; [PL 1995, c. 633, Pt. B, §1 (NEW).]

D. Maintaining offices or agencies for the transfer, exchange and registration of its interests or appointing and maintaining trustees or depositories with relation to its interests; [PL 1995, c. 633, Pt. B, §1 (NEW).]

E. Effecting sales through independent contractors; [PL 1995, c. 633, Pt. B, §1 (NEW).]

F. Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, when the orders require acceptance outside this State before becoming binding contracts and when the contracts do not involve any local performance other than delivery and installation; [PL 1995, c. 633, Pt. B, §1 (NEW).]

G. Making loans or creating or acquiring evidence of debt, mortgages or liens on real or personal property or recording the debts, mortgages or liens; [PL 1995, c. 633, Pt. B, §1 (NEW).]

H. Securing or collecting debts or enforcing any rights in property securing those debts; [PL 1995, c. 633, Pt. B, §1 (NEW).]

I. Effecting transactions in interstate or foreign commerce; [PL 1995, c. 633, Pt. B, §1 (NEW).]

J. Owning or controlling a subsidiary corporation incorporated in or transacting business within this State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

K. Owning or controlling a general or limited partnership or a limited liability company organized or transacting business within this State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

L. Conducting an isolated transaction not in the course of a number of repeated similar transactions; [PL 1995, c. 633, Pt. B, §1 (NEW).]

M. Serving as trustee, executor, administrator or guardian or in like fiduciary capacity as permitted by the laws of this State; or [PL 1995, c. 633, Pt. B, §1 (NEW).]

N. Being a partner in a registered limited partnership or a domestic general partnership or a member in a limited liability company. [PL 2011, c. 113, Pt. B, §1 (AMD).]

This subsection is not intended to exclude other activities that do not constitute transacting business in this State.

[PL 2011, c. 113, Pt. B, §1 (AMD).]

**2. Execution.** The foreign limited liability partnership shall submit to the Secretary of State an application for authority to do business, executed by a person with authority to do so under the laws of the state or other jurisdiction of its formation on a form prescribed by or furnished by the Secretary of State.

[PL 2007, c. 323, Pt. E, §15 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**3. Contents of the application.** The application must include:

A. The name of the foreign limited liability partnership and, if different, the name under which that partnership proposes to apply for authority to do business in this State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. The state or country where organized, the date of its organization and a statement that, as of the date of filing, the foreign limited liability partnership validly exists as a limited liability partnership under the laws of the jurisdiction of its organization; [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. The nature of the business or purposes to be conducted or promoted in this State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

D. The information required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. E, §16 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

E. [PL 2007, c. 323, Pt. E, §17 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

F. The name and business, residence or mailing address of the contact partner; [PL 1995, c. 633, Pt. B, §1 (NEW).]

G. The date on which the foreign limited liability partnership first did, or intends to do, business in this State; [PL 1995, c. 633, Pt. B, §1 (NEW).]

H. A certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing; [PL 2005, c. 302, §18 (AMD).]

I. The address of the registered or principal office of the limited liability partnership in the jurisdiction of its organization or the principal office wherever located; and [PL 2005, c. 302, §19 (AMD).]

J. In the case of a professional limited liability partnership, the professional service or services to be rendered in the State and a statement that all its partners are licensed in one or more states to render a professional service disclosed in its application. [PL 2005, c. 302, §20 (NEW).]

[PL 2007, c. 323, Pt. E, §§16, 17 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §§66,67 (AMD). PL 2003, c. 344, §C42 (AMD). PL 2005, c. 302, §§18-20 (AMD). PL 2007, c. 323, Pt. E, §§15-17 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2011, c. 113, Pt. B, §1 (AMD).

#### §853. Evidence of authority to do business

If the Secretary of State finds that an application for the authority to do business conforms to the requirements of this chapter and all requisite fees have been paid, the Secretary of State shall: [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Attest application.** Attest that the application has been filed by:

A. Endorsing upon the original application the word "filed" and the day, month and year of the filing. The person delivering the application for filing may have the endorsement include the hour and minute of the filing of the application. This endorsement is conclusive of the date and time, if included in the endorsement, and of its filing in the absence of actual fraud; and [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. Signing, initialing or placing an identifying mark on the endorsement in paragraph A in person or by agent; [PL 1995, c. 633, Pt. B, §1 (NEW).]  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. File the application.** File and index the endorsed application; and  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Copy to limited liability partnership.** Furnish to the person submitting the document for filing, or that person's representative, an attested copy of the application.  
[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §854. Name; registered office; registered agent

**1. Name.** A foreign limited liability partnership may apply to the Secretary of State to do business in this State under a name that conforms with the requirements of section 803-A, subsection 1. The name need not be the same as the name under which it is authorized to do business in the jurisdiction of its organization.  
[PL 2003, c. 344, Pt. C, §43 (AMD).]

**2. Registered office and registered agent.**  
[PL 2007, c. 323, Pt. E, §18 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2-A. Acceptance of designation of agent.**  
[PL 2007, c. 323, Pt. E, §19 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2-B. Registered agent.** Each foreign limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.  
[PL 2007, c. 535, Pt. B, §9 (NEW).]

**3. Change in registered office or registered agent.**  
[PL 2007, c. 323, Pt. E, §20 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**4. Resignation of registered agent.**  
[PL 2007, c. 323, Pt. E, §21 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**5. Secretary of State.**  
[PL 2007, c. 323, Pt. E, §22 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**6. Resignation of agent; appointment by foreign limited liability partnership; service of process.**  
[PL 2007, c. 323, Pt. E, §23 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §68 (AMD). PL 2001, c. 66, §4 (AMD). PL 2003, c. 344, §C43 (AMD). PL 2005, c. 529, §8 (AMD). PL 2007, c. 323, Pt. E, §§18-23 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2007, c. 535, Pt. B, §9 (AMD).

#### **§855. Amendments to application**

If any statement in the application for authority to do business of a foreign limited liability partnership requires change as a result of subsequent events, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner amending the statement. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### **§856. Certificate of correction**

If a statement in the application for authority to do business of a foreign limited liability partnership was materially inaccurate when made, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner correcting the statement. The certificate of correction must specify the inaccuracy or defect to be corrected and must set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed except that for persons who are substantially and adversely affected by the correction, the corrected instrument is effective from the filing date. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### **§857. Cancellation of authority to do business**

A foreign limited liability partnership may cancel its authority to do business by filing with the Secretary of State a certificate of cancellation. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited liability partnership with respect to causes of action arising out of the doing of business in this State. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### **§858. Doing business without authority; treatment as general partnership**

##### **(REPEALED)**

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2005, c. 543, §B6 (RP). PL 2005, c. 543, §B15 (AFF).

#### **§858-A. Effect of failure to qualify**

**1. No action or proceeding until granted authority; fees paid.** A foreign limited liability partnership transacting business in this State may not maintain an action or proceeding in this State until it is granted authority to do business in this State and pays to the State all fees and penalties for the years or parts of years during which it did business in this State without having been granted authority to do business.

[PL 2005, c. 543, Pt. B, §7 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

**2. Validity of contract or act; defend action or proceeding.** The failure of a foreign limited liability partnership to obtain authority to do business in this State in accordance with this chapter does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this State.

[PL 2005, c. 543, Pt. B, §7 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

**3. Limitation on personal liability.** A limitation on personal liability of a partner is not waived solely by transacting business in this State without being granted authority to do business in this State. [PL 2005, c. 543, Pt. B, §7 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

**4. Agent for service of process.** If a foreign limited liability partnership transacts business in this State without being granted the authority to do business in this State, the Secretary of State is its agent for service of process with respect to a right of action arising out of the transaction of business in this State.

[PL 2005, c. 543, Pt. B, §7 (NEW); PL 2005, c. 543, Pt. B, §15 (AFF).]

#### SECTION HISTORY

PL 2005, c. 543, §B7 (NEW). PL 2005, c. 543, §B15 (AFF).

#### §859. Doing business without authority; revocation by Secretary of State (REPEALED)

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §69 (AMD). PL 1999, c. 547, §B55 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 344, §C44 (AMD). PL 2003, c. 631, §70 (RP).

#### §859-A. Grounds for revocation

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 859-B to revoke the authority of a partnership as a foreign limited liability partnership authorized to do business in this State if: [PL 2005, c. 543, Pt. B, §8 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

**1. Nonpayment of fees or penalties.** The foreign limited liability partnership does not pay when they are due any fees or penalties imposed by this chapter or other law; [PL 2003, c. 631, §71 (NEW).]

**2. Failure to file annual report.** The foreign limited liability partnership does not deliver its annual report to the Secretary of State as required by section 873; [PL 2003, c. 631, §71 (NEW).]

**3. Failure to pay late filing penalty.** The foreign limited liability partnership does not pay the annual report late filing penalty as required by section 874; [PL 2003, c. 631, §71 (NEW).]

**4. Failure to maintain registered agent.** The foreign limited liability partnership is without a registered agent in this State as required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. E, §24 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**5. Failure to notify of change of registered agent or address.** The foreign limited liability partnership does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; [PL 2007, c. 323, Pt. E, §25 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**6. Filing of false information.** A partner or agent of the foreign limited liability partnership signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the Secretary of State for filing; [PL 2003, c. 631, §71 (NEW).]

**7. Amended application.** The foreign limited liability partnership fails to file with the Secretary of State an amended application for authority required by section 855; or

[PL 2003, c. 631, §71 (NEW).]

**8. Authenticated certificate.** The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized stating that the foreign limited liability partnership is no longer treated as a registered limited liability partnership in its jurisdiction of registration.

[PL 2003, c. 631, §71 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §71 (NEW). PL 2005, c. 543, §B8 (AMD). PL 2005, c. 543, §B15 (AFF). PL 2007, c. 323, Pt. E, §§24, 25 (AMD). PL 2007, c. 323, Pt. G, §4 (AMD).

#### §859-B. Procedure for and effect of revocation

**1. Notice of determination.** If the Secretary of State determines that one or more grounds exist under section 859-A for the revocation of authority, the Secretary of State shall serve the foreign limited liability partnership with a written notice of that determination as required by subsection 7.

[PL 2007, c. 323, Pt. E, §26 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Revocation.** The foreign partnership's authority to do business is revoked if within 60 days after the notice under subsection 1 was issued the Secretary of State determines that the foreign limited liability partnership has failed to correct the ground or grounds for revocation. The Secretary of State shall send notice to the foreign partnership as required by subsection 7 that recites the ground or grounds for revocation of the foreign partnership's status as a limited liability partnership and the effective date of revocation.

[PL 2007, c. 323, Pt. E, §27 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**3. Authority to transact business ceases.** The authority of a foreign limited liability partnership to transact business in this State ceases on the date of revocation of its authority unless such revocation is stayed pursuant to section 859-C, subsection 2.

[PL 2005, c. 543, Pt. B, §9 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

**4. Secretary of State appointed as agent for service of process.** The Secretary of State's revocation of a foreign limited liability partnership's authority appoints the Secretary of State as the foreign limited liability partnership's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited liability partnership was authorized to transact business in this State. Service of process on the Secretary of State under this subsection is service on the foreign limited liability partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability partnership at its principal office shown in its most recent annual report or in any subsequent communication received from the limited liability partnership stating the current mailing address of its principal office or, if no other address is on file, in its application for authority.

[PL 2003, c. 631, §71 (NEW).]

**5. Registered agent; not terminated.** Revocation of a foreign limited liability partnership's authority to transact business in this State does not terminate the authority of the registered agent of the limited liability partnership.

[PL 2003, c. 631, §71 (NEW).]

**6. Authorization after revocation.** A foreign limited liability partnership whose authority to transact business in this State has been revoked under this section and that wishes to transact business again in this State may be requalified by applying for authority under this subchapter.

[PL 2005, c. 543, Pt. B, §9 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

**7. Delivery of notice.** The Secretary of State shall send notice of its determination under subsection 1 by regular mail and the service upon the foreign limited liability partnership is perfected 5 days after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed to the registered agent of the foreign limited liability partnership.

[PL 2007, c. 323, Pt. E, §28 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

#### SECTION HISTORY

PL 2003, c. 631, §71 (NEW). PL 2005, c. 543, §B9 (AMD). PL 2005, c. 543, §B15 (AFF). PL 2007, c. 323, Pt. E, §§26-28 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §859-C. Appeal from revocation

**1. Petition to appeal revocation.** A foreign limited liability partnership may appeal the Secretary of State's revocation of its authority to the Kennebec County Superior Court within 30 days after the notice of revocation. The foreign limited liability partnership may appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its application for authority and the Secretary of State's notice of revocation.

[PL 2003, c. 631, §71 (NEW).]

**2. Court order.** The court may summarily order the Secretary of State to reinstate the authority or may take any other action the court considers appropriate.

[PL 2003, c. 631, §71 (NEW).]

**3. Appeal of court's decision.** The court's final decision may be appealed as in other civil proceedings.

[PL 2003, c. 631, §71 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §71 (NEW).

#### §859-D. Reinstatement following revocation

**(REPEALED)**

#### SECTION HISTORY

PL 2003, c. 631, §71 (NEW). PL 2005, c. 543, §B10 (RP). PL 2005, c. 543, §B15 (AFF).

#### §859-E. Appeal from denial of reinstatement

**(REPEALED)**

#### SECTION HISTORY

PL 2003, c. 631, §71 (NEW). PL 2005, c. 543, §B10 (RP). PL 2005, c. 543, §B15 (AFF).

#### §860. Execution of documents; liability for false statements

**1. Signature.** Documents must be signed by a partner except as otherwise provided.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Unsworn falsification.** Section 826, subsection 3, governing unsworn falsification, and section 829, on liability for materially inaccurate statements, apply to foreign limited liability partnerships as if the application for authority to do business were a certificate of limited liability partnership of a registered limited liability partnership.

[PL 1997, c. 376, §70 (RPR).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §70 (AMD).

**§861. Service of process on foreign limited liability partnerships authorized to do business in State****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2007, c. 323, Pt. E, §29 (RP). PL 2007, c. 323, Pt. G, §4 (AFF).

**§861-A. Service of process upon foreign limited liability partnership authorized to do business in State**

Service of process, notice or demand required or permitted by law on a foreign limited liability partnership authorized to transact business in this State is governed by Title 5, section 113. [PL 2007, c. 323, Pt. E, §30 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

## SECTION HISTORY

PL 2007, c. 323, Pt. E, §30 (NEW). PL 2007, c. 323, Pt. G, §4 (AFF).

**§862. Service of process on foreign limited liability partnership not authorized to do business in State**

**1. Service on Secretary of State.** Every foreign limited liability partnership that does business in this State without having been authorized to do business in this State submits itself to the jurisdiction of the courts of this State and designates the Secretary of State as its agent upon whom process, notice or demand upon it may be served in any action or proceeding arising out of or in connection with the doing of business in this State.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**2. Method of serving process.** In addition to other methods of service that may be authorized by law or by rule, service of process may be made as provided in Title 5, section 113.

[PL 2007, c. 323, Pt. E, §31 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2007, c. 323, Pt. E, §31 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

**§863. Service of process on Secretary of State for foreign limited liability partnership****(REPEALED)**

## SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 2007, c. 323, Pt. E, §32 (RP). PL 2007, c. 323, Pt. G, §4 (AFF).

**§864. Action by Attorney General****(REPEALED)**

## SECTION HISTORY

PL 2005, c. 543, §B11 (NEW). PL 2005, c. 543, §B15 (AFF). PL 2007, c. 323, Pt. E, §33 (RP). PL 2007, c. 323, Pt. G, §4 (AFF).

**SUBCHAPTER 4****MISCELLANEOUS**

**§871. Fees; penalties**

A document filed under this chapter is not effective until the applicable fee required in this section is paid. The following fees or penalties must be paid to the Secretary of State: [PL 1995, c. 633, Pt. B, §1 (NEW).]

**1. Reservation.** For filing an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section 804-A, a fee of \$20 for each limited liability partnership affected; [PL 2003, c. 344, Pt. C, §45 (AMD).]

**2. Assumed or fictitious name.** For filing an application for an assumed name under section 805-A, a fee of \$125, and for filing an application for a fictitious name under section 805-A, a fee of \$40; [PL 2003, c. 673, Pt. WWW, §30 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

**3. Termination of assumed or fictitious name.** For filing a termination of an assumed or fictitious name under section 805-A, subsection 8, a fee of \$20; [PL 2003, c. 344, Pt. C, §46 (AMD).]

**4. Registered name.** For filing an application for a registered name of a foreign limited liability partnership under section 806-A, a fee of \$20 per month for the number of months or fraction of a month remaining in the calendar year when first filing; and for filing an application to renew the registration of a registered name, the fee is \$200; [PL 2007, c. 231, §34 (AMD).]

**5. Termination of registered name.** [PL 2003, c. 344, Pt. C, §47 (RP).]

**6. Change of registered agent and registered office or registered office for registered limited liability partnerships.** [PL 2007, c. 323, Pt. E, §34 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**7. Penalty.** [PL 2003, c. 631, §72 (RP).]

**7-A. Reinstatement fee after revocation.** For failure to file an annual report, a fee of \$150, to a maximum fee of \$600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of \$150; for failure to appoint or maintain a registered agent, a fee of \$150; for failure to notify the Secretary of State that its registered agent or the address of its registered agent has been changed or that its registered agent has resigned, a fee of \$150; for failure to file an amended application, a fee of \$150; and for filing false information, a fee of \$150; [PL 2007, c. 323, Pt. E, §35 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**8. Certificate of limited liability partnership, amendment or renunciation.** For filing a certificate of limited liability partnership under section 822, a fee of \$175; a certificate of amendment under section 823, except as provided in subsection 6, the fee is \$50, or a certificate of renunciation under section 825, a fee of \$75. For filing a certificate of amendment under section 823 to change the name or address of the contact partner, the fee is \$20 and for filing a restated certificate of limited liability partnership under section 823, subsection 6, the fee is \$80; [PL 2003, c. 673, Pt. WWW, §32 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

**9. Certificate of correction.** For filing a certificate of correction under section 824, a fee of \$50; [PL 2003, c. 673, Pt. WWW, §33 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

**10. Foreign limited liability partnerships.** For filing an application for authority to do business as a foreign limited liability partnership under section 852, a fee of \$250; a certificate of amendment under section 855, except as provided in subsection 12, or a certificate of cancellation under section

857, a fee of \$90. For filing a certificate of amendment under section 855 to change the address of the registered or principal office or to change the name or address of the contact partner, the fee is \$35; [PL 2003, c. 673, Pt. WWW, §34 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

**11. Certificate of correction for foreign limited liability partnerships.** For filing a certificate of correction under section 856, a fee of \$50; [PL 2003, c. 673, Pt. WWW, §35 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

**12. Change of registered agent and registered office or registered office for foreign limited liability partnerships.** [PL 2007, c. 323, Pt. E, §36 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

**13. Photocopies.** For all photocopies, whether certified or not, a fee of \$2 per page. The Secretary of State may issue photocopies of instruments on file, as well as other copies; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**14. Certified copies.** For providing certified copies of any paper on file as provided for by this chapter, a fee of \$5 for each copy certified, in addition to any fee due under subsection 13; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**15. Issuing certificate.** For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 817, a fee in the amount of \$30; [PL 2003, c. 631, §74 (RPR).]

**16. Preclearance of document.** For preclearance of a document for filing, a fee of \$100; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**17. All other filings.** For receiving and filing of a certificate, affidavit, agreement or any other paper provided for by this chapter for which a fee is not specifically prescribed, a fee of \$20; [PL 1995, c. 633, Pt. B, §1 (NEW).]

**18. Annual report.** For filing of an annual report under section 873, a fee of \$85; [PL 2005, c. 397, Pt. A, §38 (RPR); PL 2005, c. 397, Pt. A, §39 (AFF).]

**18-A. (REALLOCATED TO T. 31, §871, sub-§18-B) Amended annual report.** [RR 2003, c. 2, §97 (RAL); PL 2003, c. 631, §76 (NEW).]

**18-A. Annual report.** For filing of an annual report for a foreign limited liability partnership under section 874, a fee of \$150; [PL 2003, c. 673, Pt. XXX, §9 (NEW); PL 2003, c. 673, Pt. XXX, §10 (AFF).]

**18-B. (REALLOCATED FROM T. 31, §871, sub-§18-A) Amended annual report.** For filing an amended annual report under section 873-A, for a domestic limited liability partnership, a fee of \$85; for a foreign limited liability partnership, a fee of \$150; [PL 2005, c. 529, §9 (AMD).]

**19. Information request.** [PL 2003, c. 631, §77 (RP).]

**20. Service of process on Secretary of State as agent.** For accepting service of process under section 810 or 862, a fee of \$20; and [PL 2007, c. 323, Pt. E, §37 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**21. Report of name search.** [PL 2003, c. 344, Pt. C, §48 (RP).]

**22. Late filing penalty.** For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50. [PL 2005, c. 12, Pt. FF, §14 (AMD).]

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §§71, 72 (AMD). PL 1997, c. 633, §§22, 23 (AMD). PL 1999, c. 594, §29 (AMD). PL 1999, c. 638, §§42, 43 (AMD). RR 2003, c. 2, §97 (COR). PL 2003, c. 344, §§C45-48 (AMD). PL 2003, c. 631, §§72-78 (AMD). PL 2003, c. 673, §§WWW30-36 (AMD). PL 2003, c. 673, §WWW37 (AFF). PL 2003, c. 673, §XXX8, 9 (AMD). PL 2003, c. 673, §XXX10 (AFF). PL 2005, c. 12, §§FF12-14 (AMD). PL 2005, c. 397, §A38 (AMD). PL 2005, c. 397, §A39 (AFF). PL 2005, c. 529, §9 (AMD). PL 2007, c. 231, §34 (AMD). PL 2007, c. 323, Pt. E, §§34-37 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §872. Duty of Secretary of State

The duty of the Secretary of State to file documents under this chapter is ministerial. The filing or refusal to file a document does not: [PL 1995, c. 633, Pt. B, §1 (NEW).]

1. **Validity of documents.** Affect the validity or invalidity of the document in whole or in part; [PL 1995, c. 633, Pt. B, §1 (NEW).]
2. **Correctness of information.** Relate to the correctness or incorrectness of information contained in the document; or [PL 1995, c. 633, Pt. B, §1 (NEW).]
3. **Presumption of validity or correctness.** Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

#### §873. Annual report of registered and foreign limited liability partnerships

1. **Annual report.** Each registered limited liability partnership and each foreign limited liability partnership authorized to do business in this State shall file, within the time prescribed by this chapter, an annual report setting forth:

- A. The name of the registered or foreign limited liability partnership; [PL 2007, c. 323, Pt. E, §38 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]
  - A-1. The jurisdiction of organization of the limited liability partnership; [PL 2007, c. 323, Pt. E, §39 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]
  - B. The information required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. E, §40 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]
  - C. A brief statement of the character of the business in which the limited liability partnership is actually engaged in this State, if any; and [PL 1995, c. 633, Pt. B, §1 (NEW).]
  - D. The street address of the partnership's chief executive office, the street address of an office of the partnership in this State and the name and street address of the contact partner. [PL 2005, c. 543, Pt. B, §12 (RPR); PL 2005, c. 543, Pt. B, §15 (AFF).]
- [PL 2007, c. 323, Pt. E, §§38-40 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

2. **Reporting period.** The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in subsection 3. The information contained in the annual report must be current as of the date the report is signed.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

**3. Execution, delivery and penalties.** This subsection governs execution, delivery and penalties.

A. The annual report must be executed and signed by a partner or any other duly authorized individual. [PL 1995, c. 633, Pt. B, §1 (NEW).]

B. Subject to rules adopted under section 812, the report must be delivered to the Secretary of State or a designee for filing. The annual report may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of an annual report as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid is considered a compliance with this requirement. [PL 1995, c. 633, Pt. B, §1 (NEW).]

C. One copy of the report, together with the filing fee required by this chapter, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this chapter. If the Secretary of State finds that it does not conform, the Secretary of State shall promptly mail or otherwise return the report to the limited liability partnership for any necessary correction. [PL 1995, c. 633, Pt. B, §1 (NEW).]

D. The penalties prescribed by this chapter for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which the report was mailed or otherwise returned to the limited liability partnership by the Secretary of State. [PL 1995, c. 633, Pt. B, §1 (NEW).]

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1997, c. 376, §73 (AMD). PL 2005, c. 543, §B12 (AMD). PL 2005, c. 543, §B15 (AFF). PL 2007, c. 323, Pt. E, §§38-40 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF).

#### §873-A. Amended annual report of registered or foreign limited liability partnership

**1. Amended annual report.** If the information contained in an annual report filed under section 873 has changed, a limited liability partnership may, if it determines it to be necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided by section 873, subsection 3, paragraph A.

[PL 2003, c. 631, §79 (NEW).]

**2. Contents.** The amended annual report must set forth:

A. The name of the registered or foreign limited liability partnership and the jurisdiction of its organization; [PL 2003, c. 631, §79 (NEW).]

B. The date on which the original annual report was filed; and [PL 2003, c. 631, §79 (NEW).]

C. The information that has changed and the date on which it changed. [PL 2003, c. 631, §79 (NEW).]

[PL 2003, c. 631, §79 (NEW).]

**3. Period for filing.** An amended annual report may be filed by the limited liability partnership after the date of the original filing and until December 31st of that filing year.

[PL 2003, c. 631, §79 (NEW).]

#### SECTION HISTORY

PL 2003, c. 631, §79 (NEW).

#### **§874. Failure to file annual report; incorrect report; penalties**

**1. Failure to file annual report; penalty.** A registered or foreign limited liability partnership that is required to deliver an annual report for filing, as provided by section 873, that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the late filing penalty described in section 871, subsection 22, as long as the report is received by the Secretary of State prior to revocation of its status as a limited liability partnership or authority to do business as a foreign limited liability partnership, respectively. Upon a limited liability partnership's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke the authority to do business of that partnership as a foreign limited liability partnership or shall revoke the status of that partnership as a registered limited liability partnership. The Secretary of State shall use the procedures set forth in section 808-B to revoke the status of a registered limited liability partnership and the procedures set forth in section 859-B to revoke the authority to do business of a partnership as a foreign limited liability partnership in this State. A foreign limited liability partnership whose authority to do business has been revoked under section 859-B that wishes to do business again as a limited liability partnership in this State must requalify by applying for authority under this subchapter. A partnership whose status as a registered limited liability partnership has been revoked under section 808-B must follow the requirements set forth in section 808-C to reinstate.

[PL 2005, c. 543, Pt. B, §13 (AMD); PL 2005, c. 543, Pt. B, §15 (AFF).]

**2. Nonconformity.** If the Secretary of State finds that an annual report delivered for filing does not conform with the requirements of section 873, the report must be returned for correction.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### **3. Revocation.**

[PL 2003, c. 631, §80 (RP).]

**4. Excusable neglect.** If the annual report of a registered or foreign limited liability partnership is not delivered for filing within the time specified in section 873, the limited liability partnership is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State with a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

[PL 2003, c. 631, §80 (AMD).]

**5. Inadvertent errors.** The status of a partnership as a limited liability partnership and the liability of a partner of that limited liability partnership is not adversely affected if the name or address of a partner listed in an annual report is erroneously stated or omitted, as long as that annual report was filed in good faith.

[PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW). PL 1999, c. 547, §B56 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 631, §80 (AMD). PL 2005, c. 543, §B13 (AMD). PL 2005, c. 543, §B15 (AFF).

#### **§875. Effective date**

This Act takes effect September 1, 1996. All partnerships that register as registered limited liability partnerships on or after that date and all foreign limited liability partnerships that apply for authority to transact business within this State on or after that date are governed by this Act. [PL 1995, c. 633, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 633, §B1 (NEW).

**§876. Application to existing foreign limited liability partnerships; definition**

All foreign limited liability partnerships qualified as foreign corporations or limited partnerships or limited liability companies before September 1, 1996 are governed by this Act on and after September 1, 1996. By December 1, 1996 a partner of each foreign limited liability partnership shall file with the Secretary of State an application for authority to do business in this State under this Act and shall cancel the partnership's authority to do business in this State under chapter 19, former chapter 13 or former Title 13-A. If the foreign limited liability partnership fails to file the new application for authority to do business in this State by December 1, 1996, it must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State between December 1, 1996 and the date on which it files that application. [PL 2009, c. 629, Pt. A, §3 (AFF); PL 2009, c. 629, Pt. B, §8 (AMD).]

**SECTION HISTORY**

PL 1995, c. 633, §B1 (NEW). RR 2001, c. 2, §B53 (COR). RR 2001, c. 2, §B58 (AFF). PL 2005, c. 543, §D17 (AMD). PL 2005, c. 543, §D18 (AFF). PL 2009, c. 629, Pt. A, §3 (AFF). PL 2009, c. 629, Pt. B, §8 (AMD).

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