

42:2A-1  
LEGISLATIVE HISTORY CHECKLIST  
Compiled by the NJ State Law Library

(Limited partnerships)

NJSA: 42:2A-1

LAWS OF: 1995 CHAPTER: 224

BILL NO: A2154

SPONSOR(S): Solomon & Russo

DATE INTRODUCED: September 19, 1994

COMMITTEE: ASSEMBLY Labor  
SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage  
denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: May 1, 1995  
SENATE: June 22, 1995

DATE OF APPROVAL: August 15, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

42:2A-1  
224

[FIRST REPRINT]  
ASSEMBLY, No. 2154

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1994

By Assemblymen SOLOMON and RUSSO

1 AN ACT allowing limited partnerships to merge or consolidate  
2 with certain other business entities and supplementing  
3 P.L.1983, c.489 (C.42:2A-1 et seq.).  
4

5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. a. As used in this section, "other business entity" means a  
8 business corporation, partnership <sup>1</sup>[(whether general or limited),]<sup>1</sup>  
9 or a limited liability company.

10 b. (1) Pursuant to an agreement of merger or consolidation, a  
11 domestic limited partnership may merge or consolidate with or  
12 into one or more domestic limited partnerships or other business  
13 entities formed or organized under the laws of this State or any  
14 other state or the United States or any foreign country or other  
15 foreign jurisdiction, with such domestic limited partnership or  
16 other business entity as the agreement shall provide being the  
17 surviving or resulting domestic limited partnership or other  
18 business entity. Unless otherwise provided in the partnership  
19 agreement, a merger or consolidation shall be approved as  
20 follows: by each domestic limited partnership which is to merge  
21 or consolidate (1) by all general partners, and (2) by the limited  
22 partners or, if there is more than one class or group of limited  
23 partners, then by each class or group of limited partners, in  
24 either case, by limited partners who own more than 50 percent of  
25 the then current percentage or other interest in the profits of the  
26 domestic limited partnership owned by all of the limited partners  
27 or by the limited partners in each class or group, as appropriate.  
28 In connection with a merger or consolidation hereunder, rights or  
29 securities of, or interests in, a domestic limited partnership or  
30 other business entity which is a constituent party to the merger  
31 or consolidation may be exchanged for or converted into cash,  
32 property, rights or securities of, or interests in, the surviving or  
33 resulting domestic limited partnership or other business entity or,  
34 in addition to or in lieu thereof, may be exchanged for or  
35 converted into cash, property, rights or securities of, or interests  
36 in, a domestic limited partnership or other business entity which  
37 is not the surviving or resulting limited partnership or other  
38 business entity in the merger or consolidation. Notwithstanding  
39 prior approval, an agreement of merger or consolidation may be  
40 terminated or amended pursuant to a provision for such  
41 termination or amendment contained in the agreement of merger  
42 or consolidation.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ALA committee amendments adopted March 23, 1995.

1 (2) A domestic limited partnership may not merge or  
2 consolidate with any other business entity if authority for such  
3 merger or consolidation is not granted by the laws of the  
4 jurisdiction under which the other business entity is organized.

5 (3) With respect to the merger or consolidation of domestic  
6 limited partnerships, each domestic limited partnership company  
7 shall comply with the provisions of this section and each other  
8 business entity shall comply with the applicable provisions of the  
9 laws of the jurisdiction under which it is organized.

10 c. If a domestic limited partnership merges or consolidates  
11 under this section, the domestic limited partnership or other  
12 business entity surviving or resulting in, or from the merger or  
13 consolidation, shall file a certificate of merger or consolidation  
14 in the office of the Secretary of State. <sup>1</sup>The Secretary of State  
15 shall, upon filing, forward a copy of the certificate of merger or  
16 consolidation to the Director of the Division of Taxation.<sup>1</sup> The  
17 certificate of merger or consolidation shall state:

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

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

25 (3) The name of the surviving or resulting domestic limited  
26 partnership or other business entity;

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

31 (5) That the agreement of merger or consolidation is on file at  
32 a place of business of the surviving or resulting domestic limited  
33 partnership or other business entity, and shall state the address  
34 thereof;

35 (6) That a copy of the agreement of merger or consolidation  
36 shall be furnished by the surviving or resulting domestic limited  
37 partnership or other business entity, on request and without cost,  
38 to any member of any domestic limited partnership or any person  
39 holding an interest in any other business entity which is to merge  
40 or consolidate; and

41 (7) If the surviving or resulting entity is not a domestic limited  
42 partnership, or other business entity organized under the laws of  
43 this State, a statement that such surviving or resulting other  
44 business entity agrees that it may be served with process in this  
45 State in any action, suit or proceeding for the enforcement of any  
46 obligation of any domestic limited partnership which is to merge  
47 or consolidate, irrevocably appointing the Secretary of State as  
48 its agent to accept service of process in any such action, suit or  
49 proceeding and specifying the address to which a copy of such  
50 process shall be mailed to it by the Secretary of State.

51 d. Unless a future effective date or time is provided in a  
52 certificate of merger or consolidation, in which event a merger  
53 or consolidation shall be effective at any such future effective  
54 date or time, a merger or consolidation shall be effective upon

1 the filing in the office of the Secretary of State of a certificate  
2 of merger or consolidation.

3 e. A certificate of merger or consolidation shall act as a  
4 certificate of cancellation for a domestic limited partnership  
5 which is not the surviving or resulting entity in the merger or  
6 consolidation.

7 f. An agreement of merger or consolidation approved in  
8 accordance with subsection b. of this section may (1) effect any  
9 amendment to the <sup>1</sup>[operating] partnership<sup>1</sup> agreement or (2)  
10 effect the adoption of a new <sup>1</sup>[operating] partnership<sup>1</sup> agreement  
11 for a limited partnership if it is the surviving or resulting limited  
12 partnership in the merger or consolidation. Any amendment to  
13 <sup>1</sup>[an operating] a partnership<sup>1</sup> agreement or adoption of a new  
14 <sup>1</sup>[operating] partnership<sup>1</sup> agreement made pursuant to this  
15 subsection shall be effective at the time or date of the merger or  
16 consolidation. The provisions of this subsection shall not be  
17 construed to limit the accomplishment of a merger or of any of  
18 the matters referred to herein by any other means provided for in  
19 <sup>1</sup>[an operating] a partnership<sup>1</sup> agreement or other agreement or  
20 as otherwise permitted by law, including that the <sup>1</sup>[operating]  
21 partnership<sup>1</sup> agreement of any constituent limited partnership to  
22 the merger or consolidation (including a limited partnership  
23 formed for the purpose of consummating a merger or  
24 consolidation) shall be the <sup>1</sup>[operating] partnership<sup>1</sup> agreement of  
25 the surviving or resulting limited partnership.

26 g. When any merger or consolidation becomes effective under  
27 this section, for all purposes of the laws of this State, all of the  
28 rights, privileges and powers of each of the domestic limited  
29 partnerships and other business entities that have merged or  
30 consolidated, and all property, real, personal and mixed, and all  
31 debts due to any of those domestic limited partnerships and other  
32 business entities, as well as all other things and causes of action  
33 belonging to each of those domestic limited partnerships and  
34 other business entities, shall be vested in the surviving or  
35 resulting domestic limited partnership or other business entity,  
36 and shall thereafter be the property of the surviving or resulting  
37 domestic limited partnership or other business entity as they  
38 were of each of the domestic limited partnerships and other  
39 business entities that have merged or consolidated, and the title  
40 to any real property vested by deed or otherwise, under the laws  
41 of this State, in any of those domestic limited partnerships and  
42 other business entities, shall not revert or be in any way impaired  
43 by reason of this act; but all rights of creditors and all liens upon  
44 any property of any of those domestic limited partnerships and  
45 other business entities shall be preserved unimpaired, and all  
46 debts, liabilities and duties of each of those domestic limited  
47 partnerships and other business entities that have merged or  
48 consolidated shall attach to the surviving or resulting domestic  
49 limited partnership or other business entity, and may be enforced  
50 against it to the same extent as if the debts, liabilities and duties  
51 had been incurred or contracted by it. Unless otherwise agreed, a  
52 merger or consolidation of a domestic limited partnership,  
53 including a domestic limited partnership which is not the  
54 surviving or resulting entity in the merger or consolidation, shall

1 not require the domestic limited partnership to wind up its affairs  
2 pursuant to section 50 of P.L.1983, c.489 (C.42:2A-51) or pay its  
3 liabilities and distribute its assets pursuant to section 53 of  
4 P.L.1983, c.489 (C.42:2A-54).

5 2. This act shall take effect <sup>1</sup>[immediately] on the 90th day  
6 following the date of enactment<sup>1</sup>.

7

8

9

10

11 Allows limited partnerships to merge or consolidate with certain  
12 other business entities.

## STATEMENT

1  
2  
3 This bill allows domestic limited partnerships to merge or  
4 consolidate with or into one or more domestic limited  
5 partnerships or other business entities formed or organized under  
6 the laws of this State or any other state or the United States or  
7 any foreign country or other foreign jurisdiction. The bill defines  
8 "other business entity" as a business corporation, partnership  
9 (whether general or limited), or a limited liability company.

10 The bill provides that, unless otherwise provided in the  
11 partnership agreement, a merger or consolidation shall be  
12 approved by each domestic limited partnership which is to merge  
13 or consolidate as follows: (1) by all general partners, and (2) by  
14 the limited partners or, if there is more than one class or group  
15 of limited partners, then by each class or group of limited  
16 partners, in either case, by limited partners who own more than  
17 50 percent of the then current percentage or other interest in the  
18 profits of the domestic limited partnership owned by all of the  
19 limited partners or by the limited partners in each class or group,  
20 as appropriate.

21 The bill requires that the domestic limited partnership or other  
22 business entity which survives or results from, or in the merger or  
23 consolidation, file a certificate of merger in the office of the  
24 Secretary of State, which sets forth various information  
25 stipulated by the bill.

26 Under the bill's provisions, all of the rights, privileges, powers,  
27 debts, causes of action and property of each of the domestic  
28 limited partnerships and other business entities that have merged  
29 or consolidated become vested in the surviving or resulting  
30 domestic limited partnership or other business entity.

31 The bill provides that a limited partnership may not merge or  
32 consolidate with an other business entity if authority for such  
33 merger or consolidation is not granted by the laws of the  
34 jurisdiction under which the other business entity is organized.

35 The bill also provides that domestic limited partnerships shall  
36 comply with the provisions of the bill with respect to merger or  
37 consolidation and that other business entities shall comply with  
38 the requirements for merger or consolidation of the laws of the  
39 jurisdiction under which they are organized.

40  
41  
42  
43  
44 Allows limited partnerships to merge or consolidate with certain  
45 other business entities.

ASSEMBLY LABOR, BUSINESS AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2154

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 1995

The Assembly Labor, Business and Industry Committee reports favorably, Assembly, No. 2154, with committee amendments.

This bill allows domestic limited partnerships to merge or consolidate with or into one or more domestic limited partnerships or other business entities formed or organized under the laws of this State or any other state or the United States or any foreign country or other foreign jurisdiction. The bill defines "other business entity" as a business corporation, partnership, or a limited liability company.

The bill provides that, unless otherwise provided in the partnership agreement, a merger or consolidation shall be approved by each domestic limited partnership which is to merge or consolidate as follows: (1) by all general partners, and (2) by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

The bill requires that the domestic limited partnership or other business entity which survives or results from, or in the merger or consolidation, file a certificate of merger in the office of the Secretary of State, which sets forth various information stipulated by the bill.

Under the bill's provisions, all of the rights, privileges, powers, debts, causes of action and property of each of the domestic limited partnerships and other business entities that have merged or consolidated become vested in the surviving or resulting domestic limited partnership or other business entity.

The bill provides that a limited partnership may not merge or consolidate with another business entity if authority for such merger or consolidation is not granted by the laws of the jurisdiction under which the other business entity is organized.

The bill also provides that domestic limited partnerships shall comply with the provisions of the bill with respect to merger or consolidation and that other business entities shall comply with the requirements for merger or consolidation of the laws of the jurisdiction under which they are organized.

The committee amended the bill to provide the following: change the term "operating agreement" to the term "partnership agreement" in subsection f. of section 1 to correct the

unintentional misnaming of that particular business agreement; that the bill shall take effect on the 90th day following the date of enactment require the Secretary of State to forward a copy of the certificate of merger or consolidation to the Director of the Division of Taxation; and, clarify that "other business entity" includes all partnerships. The term also includes limited liability partnerships, which are a type of general partnership.

Amendments requiring business entities to obtain tax clearance certificates before they merge or consolidate into limited partnerships have been made by way of the Assembly Labor, Business and Industry Committee amendments to Assembly, No. 2155.