

Senate Bill No. 1318

CHAPTER 351

An act to amend Sections 15048, 15049, and 15052 of the Corporations Code, relating to limited liability partnerships.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, Calderon. Limited liability partnerships.

The Uniform Partnership Act authorizes the establishment of registered limited liability partnerships and foreign limited liability partnerships for persons in the law and accountancy professions and provides that partners generally are not liable for debts, obligations, or liabilities chargeable to the partnership, except as may be provided by a specific agreement among the partners. These provisions provide for persons to reserve limited liability partnership names with the Secretary of State, as specified, and provide for certain security agreements to be filed with the Secretary of State.

This bill would delete the provisions relating to the reservation of limited liability partnership names. The bill would also revise and recast the provisions applicable to limited liability partnerships providing legal services and delete the requirement for those partnerships to file security agreements with the Secretary of State.

The people of the State of California do enact as follows:

SECTION 1. Section 15048 of the Corporations Code is amended to read:

15048. The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

SEC. 2. Section 15049 of the Corporations Code is amended to read:

15049. (a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating (1) the name of the partnership; (2) the address of its principal office; (3) the name and address of the agent for service of process on the limited liability partnership in California; (4) a brief statement of the business in which the partnership engages; (5) any other matters that the

partnership determines to include; and (6) that the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee of seventy dollars (\$70).

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the date of the original filing.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section 15050 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 15050.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 15052.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the



partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. No such state board, commission, or other agency shall disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing herein shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 15052, or the compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

SEC. 3. Section 15052 of the Corporations Code is amended to read:

15052. (a) At the time of registration pursuant to Section 15049, in the case of a registered limited liability partnership, and Section 15055, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.



(C) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars (\$7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars (\$7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(C) Each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by paragraph (2) of this subdivision and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B) of paragraph (2) of this subdivision, provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Withdrawal by a partner shall not affect the rights or obligations of such partner arising prior to withdrawal. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited



liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (a) or subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (C) of paragraph (1) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
WITH SECTION 15052(a)(1)(C) OF THE CALIFORNIA
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership
2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office
4. The registered or foreign limited liability partnership renders accountancy services and chooses to satisfy the requirements of Section 15052 by confirming, pursuant to Sections 15052(a)(1)(C) and 15052(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000).
5. _____
Title of authorized person executing this form
6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (C) of paragraph (1) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership rendering accountancy services may satisfy the requirements of this section by confirming that, as of the last day of



its most recently completed fiscal year, it had a net worth equal to or exceeding ten million dollars (\$10,000,000). In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (b) of Section 15015.

