

**AMENDED LLC PUBLICATION REQUIREMENTS MAY RESULT
IN THE SUSPENSION OF AUTHORITY TO DO BUSINESS IN NEW YORK**

Recently, there have been significant changes related to the newspaper publication requirements applicable to non-corporate limited liability entities, including limited liability companies, limited liability partnerships and limited partnerships (collectively "LLCs") formed in New York, or formed elsewhere and qualified to do business in New York. This law affects LLCs that were formed or qualified on or after January 1, 1999.¹

Under the new publication law, the penalty for non-compliance with the publication law is the suspension of an LLC's authority to conduct business in New York. Previously, LLCs were not subject to suspension of authority to do business. The LLC's authority will be reinstated upon compliance with the publication requirements.

The new law provides a one year grace period (from June 1, 2006, the effective date of the new law) for pre-existing LLCs to comply with the publication requirements.

Limited liability entities which were formed or authorized to do business in New York after June 1, 2006, which fail to comply with the publication requirements within 120 days after their formation or qualification will have their authority to carry on, conduct or transact any business suspended.

The publication requirements applicable to LLCs organized or qualified to do business in New York are as follows:

- Notices must be published in two newspapers, once each week, for six consecutive weeks.
- The newspapers for publication are designated by the county clerk; one newspaper must be "printed daily" and the other "printed weekly."
- Upon completion of publication, Affidavits of Publication must be submitted to the Department of State.

The publication requirement itself has been part of the laws relating to LLCs since long before the recent change. In the past, a number of clients that have formed LLCs have put off or elected not to comply with the publication requirements, since the penalty for non-compliance was not drastic.

¹ Entities formed or qualified in New York prior to January 1, 1999 are deemed to be in compliance with the publication requirements.

Because the change in the law will have a direct impact on the LLC's authority to transact business, it is our recommendation that clients using a LLC organized or qualified in New York on or after January 1, 1999 confirm their publication status as soon as possible to comply with applicable publication requirements.

We can assist you in determining whether your LLC is on record with the New York Department of State as having complied with the publication requirements and, if not in compliance, we can assist you in complying with them now in a timely manner.

Moritt Hock Hamroff & Horowitz LLP is a broad based corporate law firm with 35 lawyers and a staff of paralegals. The firm has extensive experience in litigation; creditors' rights and bankruptcy; real estate law; trusts, estates & taxation; direct marketing, advertising & new media; intellectual property & unfair competition; employment law; corporate and securities law; equipment & vehicle leasing; financial services & secured lending; and not-for-profit law.

This Alert was written by Brett P. Garver and Eric M. Mencher. Mr. Mencher, a partner with the firm, concentrates his practice in all phases of corporate and commercial matters including corporate formation and structuring, transactions, general commercial contracts and employer/employee relations. Mr. Garver, an associate of the firm, concentrates his practice in the representation of corporate clients in mergers, acquisitions and financial transactions, as well as, regulatory and public finance matters.

Any questions concerning the matters raised in this Alert should be addressed to either Mr. Garver or Mr. Mencher. Mr. Garver and Mr. Mencher can be reached at (516) 873-2000 or by e-mail at bgarver@moritthock.com or emencher@moritthock.com.

400 Garden City Plaza • Garden City NY 11530
Tel: (516) 873-2000 • Fax: (516) 873-2010
www.moritthock.com