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An Act to amend the Limited Partnership Act, (52MIRC Part II Division 2) in order to complete the modernization of the limited partnership law, to make it more amenable for businesses to organize in the Republic of the Marshall Islands as a limited partnership.

Commencement: May 9, 2005  
 Source: P.L. 2005-26  
 P.L. 2014-31

**§1. Definitions.**

As used in this Act unless the context otherwise requires, the term:

- (1) "certificate of limited partnership" means the certificate referred to in section 10 of this Act, and the certificate as amended;
- (2) "contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in the capacity as a partner;
- (3) "event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 35 of this Act;
- (4) "general partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and so named in the certificate of limited partnership or similar instrument under which the limited partnership is organized if so required;
- (5) "High Court" means the High Court of the Republic of the Marshall Islands;
- (6) "knowledge" means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact;
- (7) "limited partner" means a person who has been admitted to a limited partnership as a limited partner as provided in section 28 of this Act;
- (8) "limited partnership" or "domestic limited partnership" means a partnership formed by two (2) or more persons under the laws of the Republic of the Marshall Islands and having one (1)

or more general partners and one (1) or more limited partners;

(9) "liquidating trustee" means a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership;

(10) "non-resident limited partnership" means a domestic limited partnership not doing business in the Republic of the Marshall Islands. "Not doing business in the Marshall Islands" will have the same meaning as found in the Marshall Islands Business Corporations Act (BCA), 52 MIRC Part I;

(11) "partner" means a limited or general partner;

(12) "partnership agreement" means any agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business. A limited partnership is not required to execute its partnership agreement. A limited partnership is bound by its partnership agreement whether or not the limited partnership executes the partnership agreement. A written partnership agreement or another written agreement or writing:

(a) may provide that a person shall be admitted as a limited partner of a limited partnership or shall become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned, and shall become bound by the partnership agreement;

(i) if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee; or

(ii) without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) complies with the conditions for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing; and

(b) shall not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in subsection 12(a) of this section, or by reason of its having been signed by a representative as provided in this Act;

(13) "partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets;

(14) "person" means a natural person, partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity, in each case, whether domestic or foreign;

(15) "personal representative" means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof;

(16) "Registrar of Corporations" means the Registrar of domestic limited partnerships. The Registrar for resident limited partnerships is the Registrar of Corporations responsible for resident domestic and authorized foreign corporations. The Registrar for non-resident limited partnerships is The Trust Company of the Marshall Islands, Inc;

(17) “resident domestic limited partnership” means a domestic limited partnership doing business in the Marshall Islands. [P.L. 2005-26, §2(a).]

**§2. Name set forth in certificate.**

The name of each limited partnership as set forth in its certificate of limited partnership:

- (1) shall contain the words "Limited Partnership" or the abbreviation "L.P." or “LP”;
- (2) may contain the name of a partner;
- (3) must be such as to distinguish it upon the records in the Office of the Registrar of Corporations from the name on such records of any partnership or limited partnership reserved, registered or organized under the laws of the Marshall Islands. [P.L. 2005-26, §2(b).]

**§3. Registered agent for service of process.**

(1) Every domestic limited partnership formed under section 10 of this Act shall designate a registered agent in the Marshall Islands upon whom process against such entity, or any notice or demand required or permitted by law to be served may be served. The agent for a limited partnership having a place of business in the Marshall Islands shall be a resident domestic corporation having a place of business in the Marshall Islands or a natural person, resident of and having a business address in the Marshall Islands.

(2) The registered agent for a non-resident limited partnership shall be The Trust Company of the Marshall Islands, Inc.

(3) A domestic limited partnership which fails to maintain a registered agent as required by this Act shall be dissolved or its authority to do business or registration shall be revoked, as the case may be, in accordance with section 71 of this Act.

(4) Manner of service.

(a) Resident domestic limited partnership. Service of process on a resident domestic limited partnership may be made on the registered agent in the manner provided by law for the service of summons as if the registered agent were a defendant.

(b) Non-resident limited partnership.

(i) Service of process on a non-resident domestic limited partnership may be made on the registered agent in the manner provided by law for the service of summons as if the registered agent were a defendant; or

(ii) Service of process may be sent to the registered agent via registered mail or courier as if the registered agent were a defendant.

(5) Any registered agent of a limited partnership may resign as such agent upon filing a written notice thereof with the Registrar of Corporations; provided, however, that the registered agent shall notify the limited partnership not less than thirty (30) days prior to such filing and resignation. The registered agent shall mail or cause to be mailed to the limited partnership at the last known address of the limited partnership, within or without the Marshall Islands, or at the last known address of the person at whose request the limited partnership was formed, notice of the resignation of the agent. No designation of the new registered agent shall be accepted for filing until all charges owing to the former registered agent shall have been paid.

(6) A designation of a registered agent under this section may be made, revoked, or changed by filing an appropriate notification with the Registrar of Corporations.

(7) The designation of a registered agent shall terminate upon filing a notice of resignation provided that the registered agent certifies that the limited partnership was notified not less than thirty (30) days prior to such filing as provided by subsection (5) of this section.

(8) A registered agent, when served with process, notice or demand for the limited partnership which it represents, shall transmit the same to the limited partnership by personal notification or in the following manner: Upon receipt of the process, notice or demand, the registered agent shall cause a copy of such paper to be mailed to the limited partnership named therein at its last known address. Such mailing shall be by registered mail. As soon thereafter as possible if process was issued in the Marshall Islands, the registered agent may file with the clerk of the Marshall Islands court issuing the process or with the agency of the Government issuing the notice or demand either the receipt of such registered mailing or an affidavit stating that such mailing has been made, signed by the registered agent, or if the agent is a limited partnership, by an officer of the same, properly notarized. Compliance with the provisions of this subsection shall relieve the registered agent from any further obligation to the limited partnership for service of the process, notice or demand, but the agent's failure to comply with the provisions of this subsection shall in no way affect the validity of the service of the process, notice or demand.

(9) A registered agent for service of process acting pursuant to the provisions of this section shall not be liable for the actions or obligations of the limited partnership for whom it acts. The registered agent shall not be a party to any suit or action against the partnership or arising from the acts or obligations of the limited partnership. If the registered agent is named in any such action, the action shall be dismissed as to such agent. [P.L. 2005-26, §2(e).]

#### **§4. Attorney-General as agent for service of process.**

(1) Whenever a domestic limited partnership fails to maintain a registered agent in the Marshall Islands, or whenever its registered agent cannot be found at its business address, then the Attorney-General shall be an agent of such limited partnership upon whom process or notice or demand required or permitted by law to be served or may be served. The Attorney-General shall also be agent for service of process of a limited partnership whenever authorized under this Act.

(2) Service on the Attorney-General as agent of a domestic limited partnership shall be made by personally delivering to and leaving with him or his deputy or with any person authorized by the Attorney General to receive such service, at the office of the Attorney-General in Majuro Atoll, duplicate copies of such process together with the statutory fee. The Attorney-General shall promptly send one of such copies by registered mail return receipt requested, to such limited partnership at the business address of its registered agent, or if there is no such office, the Attorney -General shall mail such copy, in the case of a resident domestic limited partnership, in care of any general partner named in its Certificate of Limited Partnership at his address stated therein, or in the case of a non-resident domestic limited partnership, at the address of the limited partnership without the Marshall Islands, or if none, at the last known address of a general partner; or in the case of a limited partnership which has transferred its domicile out of the Marshall Islands to such limited

partnership's registered agent as shown in the certificate of transfer of domicile. [P.L. 2005-26, §2(d).]

**§5. Nature of business permitted; powers.**

(1) A limited partnership may carry on any lawful business, purpose or activity with the exception of the business of granting policies of insurance or assuming insurance risks or banking.

(2) A limited partnership shall possess and may exercise all the powers and privileges granted by this Act or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited partnership.

(3) Notwithstanding any provision of this Act to the contrary, without limiting the general powers enumerated in subsection (2) of this section, a limited partnership shall, subject to such standards and restrictions, if any, as are set forth in its partnership agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements or other agreements similar to any of the foregoing. [P.L. 2005-26, §2(e).]

**§6. Business transactions of partner with the partnership.**

Except as provided in the partnership agreement, a partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one (1) or more specific obligations of, provide collateral for and transact other business with, the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner. [P.L. 2005-26, §2(f).]

**§7. Indemnification.**

Subject to such standards and restrictions, if any, as are set forth in its partnership agreement, a limited partnership may, and shall have the power to, indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever. [P.L. 2005-26, §2(g).]

**§8. Contested matters relating to general partners; contested votes.**

(1) Upon application of any partner, the High Court may hear and determine the validity of any admission, election, appointment or removal or other withdrawal of a general partner of a limited partnership, and the right of any person to become or continue to be a general partner of a limited partnership, and, in case the right to serve as a general partner is claimed by more than one (1) person, may determine the person or persons entitled to serve as general partners; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited partnership relating to the issue. In any such application, the limited partnership shall be named as a party and service of copies of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership and upon the person or persons whose right to serve as a general partner is contested and upon the person or persons, if any, claiming to be a general partner or claiming the right to be a general partner; and the registered agent shall forward immediately a copy of the

application to the limited partnership and to the person or persons whose right to serve as a general partner is contested and to the person or persons, if any, claiming to be a general partner or the right to be a general partner, in a postage paid, sealed, registered letter addressed to such limited partnership and such person or persons at their post-office addresses last known to the registered agent or furnished to the registered agent by the applicant partner. The High Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(2) Upon application of any partner, the High Court may hear and determine the result of any vote of partners upon matters as to which the partners of the limited partnership, or any class or group of partners, have the right to vote pursuant to the partnership agreement or other agreement or this division (other than the admission, election, appointment or removal or other withdrawal of general partners). In any such application, the limited partnership shall be named as a party and service of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership, and no other party need be joined in order for the High Court to adjudicate the result of the vote. The High Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(3) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon non-residents. [P.L. 2005-26, §2(h).]

**§9. Interpretation and enforcement of partnership agreement.**

Any action to interpret, apply or enforce the provisions of a partnership agreement, or the duties, obligations or liabilities of a limited partnership to the partners of the limited partnership, or the duties, obligations or liabilities among partners or of partners to the limited partnership, or the rights or powers of, or restrictions on, the limited partnership or partners, may be brought in the High Court. [P.L. 2005-26, §2(i).]

**§10. Certificate of Limited Partnership.**

(1) In order to form a limited partnership, one (1) or more persons (but not less than all of the general partners) must execute a certificate of limited partnership. The certificate of limited partnership shall be filed with the Registrar of Corporations and set forth:

- (a) The name of the limited partnership;
- (b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained under section 3 of this Act;
- (c) The name and the business, residence or mailing address of each general partner; and
- (d) Any other matters the partners determine to include therein.

(2) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership with the Registrar of Corporations or at any later date or time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. A limited partnership formed under this division shall be a separate legal entity, the

existence of which as a separate legal entity shall continue until cancellation of the limited partnership's certificate of limited partnership.

The filing of the certificate of limited partnership with the Registrar of Corporations shall make it unnecessary to file any other documents under this Act. [P.L. 2005-26, §2(j).]

**§11. Amendment to certificate.**

(1) A certificate of limited partnership is amended by filing a certificate of amendment thereto with the Registrar of Corporations. The certificate of amendment shall set forth:

- (a) the name of the limited partnership; and
- (b) the amendment to the certificate.

(2) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made, or that any matter described has changed making the certificate false in any material respect, shall promptly amend the certificate.

(3) Notwithstanding the requirements of subsection (2) of this section, no later than ninety (90) days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed by a general partner:

- (a) the admission of a new general partner;
- (b) the withdrawal of a general partner; or
- (c) a change in the name of the limited partnership.

(4) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(5) Unless otherwise provided in this Act or in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Registrar of Corporations.

(6) If after the dissolution of a limited partnership but prior to the filing of a certificate of cancellation as provided in section 12 of this Act:

(a) a certificate of limited partnership has been amended to reflect the withdrawal of all general partners of a limited partnership, the certificate of limited partnership shall be amended to set forth the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment; or

(b) a person shown on a certificate of limited partnership as a general partner is not winding up the limited partnership's affairs, the certificate of limited partnership shall be amended to add the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment. A person shown on a certificate of limited partnership as a general partner who is not winding up a limited partnership's affairs need not execute a certificate of amendment which is being executed and filed as required under this subsection. [P.L. 2005-26, §2(k).]

**§12. Cancellation of certificate.**



A certificate of limited partnership shall be cancelled upon the dissolution and the completion of winding up of the partnership, or as provided in section 71 of this Act, or upon the filing of a certificate of merger or consolidation, if the limited partnership is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer. A certificate of cancellation shall be filed with the Registrar of Corporations to accomplish the cancellation of a certificate of limited partnership upon the dissolution and the completion of winding up of a limited partnership and shall set forth:

- (1) the name of the limited partnership;
- (2) the date of filing of its certificate of limited partnership;
- (3) the future effective date (which shall be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (4) any other information the person filing the certificate of cancellation determines. [P.L. 2005-26, §2(1).]

**§13. Execution.**

(1) Each certificate required by this Act to be filed with the Registrar of Corporations shall be executed in the following manner:

(a) an initial certificate of limited partnership, a certificate of limited partnership domestication, a certificate of conversion to limited partnership, a certificate of transfer must be signed by all general partners;

(b) a certificate of amendment or a certificate of correction must be signed by at least one (1) general partner and by each other general partner designated in the certificate of amendment or a certificate of correction as a new general partner, but if the certificate of amendment or a certificate of correction reflects the withdrawal of a general partner as a general partner, it need not be signed by that former general partner;

(c) a certificate of cancellation must be signed by all general partners or, if the general partners are not winding up the limited partnership's affairs, then by all liquidating trustees; provided, however, that if the limited partners are winding up the limited partnership's affairs, a certificate of cancellation shall be signed by the limited partners or, if there is more than one (1) 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 fifty (50) percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate;

(d) if a domestic limited partnership is filing a certificate of merger or consolidation, the certificate of merger or consolidation must be signed by at least one (1) general partner of the domestic limited partnership, or if the certificate of merger or consolidation is being filed by an other business entity (as defined in section 20(1) of this division), the certificate of merger or consolidation must be signed by a person authorized by such other business entity;

(e) a certificate of reinstatement must be signed by at least one (1) general partner; and

(f) a certificate of termination of a certificate with a future effective date or a certificate of amendment of a certificate with a future effective date being filed in accordance with section 15(3) of this division shall be signed in the same manner as the certificate with a future effective date being amended or terminated is required to be signed under this Act.

(2) Unless otherwise provided in the partnership agreement, any person may sign any certificate or amendment thereof or enter into a partnership agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment thereof or to enter into a partnership agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged, and need not be filed with the Registrar of Corporations, but if in writing, must be retained by a general partner.

(3) The execution of a certificate by a general partner constitutes an oath or affirmation, under the penalties of perjury, that, to the best of the general partner's knowledge and belief, the facts stated therein are true. [P.L. 2005-26, §2(m).]

**§14. Execution, amendment or cancellation by judicial order.**

(1) If a person required by section 13 of this division to execute any certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the High Court to direct the execution of the certificate. If the Court finds that the execution of the certificate is proper and that any person so designated has failed or refused to execute the certificate, it shall order the Registrar of Corporations to record an appropriate certificate.

(2) If a person required to execute a partnership agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the High Court to direct the execution of the partnership agreement or amendment thereof. If the Court finds that the partnership agreement or amendment thereof should be executed and that any person so designated has failed or refused to do so, it shall enter an order granting appropriate relief. [P.L. 2005-26, §2(n).]

**§15. Filing.**

(1) The signed copy of the certificate of limited partnership and of any certificates of amendment, correction, amendment of a certificate with a future effective date, termination of a certificate with a future effective date or cancellation (or of any judicial decree of amendment or cancellation), and of any certificate of merger or consolidation, any restated certificate, any corrected certificate, any certificate of transfer, any certificate of limited partnership domestication, and any certificate of reinstatement shall be delivered to the Registrar of Corporations. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that person's authority as a prerequisite to filing. Any signature on any certificate authorized to be filed with the Registrar of Corporations under any provision of this Act may be a facsimile, a conformed signature or an electronically transmitted signature. Upon delivery of any certificate, the Registrar of Corporations shall record the date of its delivery. Unless the Registrar of Corporations finds that any certificate does not conform to law, upon receipt of all filing fees required by law the Registrar of Corporations shall:

(a) certify that the certificate of limited partnership, the certificate of amendment, the certificate of correction, the certificate of amendment of a certificate with a future effective date, the certificate of termination of a certificate with a future effective date, the certificate of cancellation (or of any judicial decree of amendment or cancellation), the certificate of merger or consolidation, restated certificate, the corrected certificate, the certificate of conversion to limited partnership, the certificate of transfer, the certificate of limited partnership domestication or certificate of reinstatement has been filed with the Registrar of Corporations by endorsing upon the signed certificate the word "Filed," and the date of the filing. This endorsement is conclusive of the date of its filing in the absence of actual fraud;

(b) file and index the endorsed certificate;

(c) prepare and return to the person who filed it or that person's representative a copy of the signed certificate, similarly endorsed, and shall certify such copy as a true copy of the signed certificate; and

(d) cause to be entered such information from the certificate as the Registrar of Corporations deems appropriate into the Registrar, and such information and a copy of such certificate shall be permanently maintained as a public record on a suitable medium.

(2) Upon the filing of a certificate of amendment (or judicial decree of amendment), certificate of correction, corrected certificate or restated certificate with the Registrar of Corporations, or upon the future effective date of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of limited partnership shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), or a certificate of merger or consolidation which acts as a certificate of cancellation, or a certificate of transfer, or upon the future effective date of a certificate of cancellation (or a judicial decree thereof) or of a certificate of merger or consolidation which acts as a certificate of cancellation, or a certificate of transfer, as provided for therein, or as specified in section 3(3) of this Act, the certificate of limited partnership is cancelled. Upon the filing of a certificate of limited partnership domestication, or upon the future effective date of a certificate of limited partnership domestication, the entity filing the certificate of limited partnership domestication is domesticated as a limited partnership with the effect provided in section 23 of this division. Upon the filing of a certificate of conversion to limited partnership, or upon the future effective date of a certificate of conversion to limited partnership, the entity filing the certificate of conversion to limited partnership is converted to a limited partnership with the effect provided in section 25 of this division. Upon the filing of a certificate of reinstatement, the limited partnership shall be reinstated with the effect provided in section 72 of this Act.

(3) If any certificate filed in accordance with this Act provides for a future effective date and if, prior to such future effective date set forth in such certificate, the transaction is terminated or its terms are amended to change the future effective date or any other matter described in such certificate so as to make such certificate false or inaccurate in any respect, such certificate shall, prior to the future effective date set forth in such certificate, be terminated or amended by the filing of a certificate of termination or certificate of amendment of such certificate, executed in accordance with section 13 of this division, which shall identify the certificate which has been terminated or amended

and shall state that the certificate has been terminated or the manner in which it has been amended. Upon the filing of a certificate of amendment of a certificate with a future effective date, the certificate identified in such certificate of amendment is amended. Upon the filing of a certificate of termination of a certificate with a future effective date, the certificate identified in such certificate of termination is terminated.

(4) A fee shall be paid at the time of the filing of a certificate of limited partnership, a certificate of amendment, a certificate of correction, a certificate of amendment of a certificate with a future effective date, a certificate of termination of a certificate with a future effective date, a certificate of cancellation, a certificate of merger or consolidation, a restated certificate, a corrected certificate, a certificate of conversion to limited partnership, a certificate of transfer, a certificate of limited partnership domestication or a certificate of reinstatement. [P.L. 2005-26, §2(o).]

**§16. Liability for false statement.**

(1) If any certificate of limited partnership or certificate of amendment, correction, reinstatement or cancellation or certificate of conversion to limited partnership, certificate of transfer, or certificate of limited partnership domestication contains a materially false statement, one who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

(a) any general partner who executes the certificate and knew or should have known the statement to be false in any material respect at the time the certificate was executed; and

(b) any general partner who thereafter knows that any arrangement or other fact described in the certificate is false in any material respect or has changed, making the statement false in any material respect, if that general partner had sufficient time to amend, correct or cancel the certificate, or to file a petition for its amendment, correction or cancellation, before the statement was reasonably relied upon.

(2) No general partner shall have any liability for failing to cause the amendment, correction or cancellation of a certificate to be filed or failing to file a petition for its amendment, correction or cancellation pursuant to subsection (1) of this section if the certificate of amendment, certificate of correction, certificate of cancellation or petition is filed within ninety (90) days of when that general partner knew or should have known to the extent provided in subsection (1) of this section that the statement in the certificate was false in any material respect. [P.L. 2005-26, §2(p).]

**§17. Notice.**

The fact that a certificate of limited partnership is on file with the Registrar of Corporations is notice that the partnership is a limited partnership and is notice of all other facts set forth therein which are required to be set forth in a certificate of limited partnership by sections 10(1)(a)-(c) and 11(6) of this division and which are permitted to be set forth in a certificate of limited partnership by section 26(2) of this division. [P.L. 2005-26, §2(q).]

**§18. Delivery of certificates to limited partners.**

Upon the return by the Registrar of Corporations pursuant to section 15 of this division of a certificate marked "Filed," the general partners shall promptly deliver or mail a copy of the

certificate to each limited partner if the partnership agreement so requires. [P.L. 2005-26, §2(r).]

**§19. Restated certificate.**

(1) A limited partnership may, whenever desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect and operative as a result of there having theretofore been filed with the Registrar of Corporations one (1) or more certificates or other instruments pursuant to any of the sections referred to in this Act and it may at the same time also further amend its certificate of limited partnership by adopting a restated certificate of limited partnership.

(2) If the restated certificate of limited partnership merely restates and integrates but does not further amend the initial certificate of limited partnership, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this Act, it shall be specifically designated in its heading as a "Restated Certificate of Limited Partnership" together with such other words as the partnership may deem appropriate and shall be executed by a general partner and filed as provided in section 15 of this division with the Registrar of Corporations. If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership, as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Limited Partnership" together with such other words as the partnership may deem appropriate and shall be executed by at least one (1) general partner and by each other general partner designated in the restated certificate of limited partnership as a new general partner, but if the restated certificate reflects the withdrawal of a general partner as a general partner, such restated certificate of limited partnership need not be signed by that former general partner, and filed as provided in section 15 of this division with the Registrar of Corporations.

(3) A restated certificate of limited partnership shall state, either in its heading or in an introductory paragraph, the limited partnership's present name, and, if it has been changed, the name under which it was originally filed, and the date of filing of its original certificate of limited partnership with the Registrar of Corporations, and the future effective date (which shall be a date certain) of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If the restated certificate only restates and integrates and does not further amend the limited partnership's certificate of limited partnership as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(4) Upon the filing of the restated certificate of limited partnership with the Registrar of Corporations, or upon the future effective date of a restated certificate of limited partnership as provided for therein, the initial certificate of limited partnership, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of limited partnership, including any further amendment or changes made thereby, shall be the certificate of limited partnership of the limited partnership, but the original effective date of formation shall remain unchanged.

(5) Any amendment or change effected in connection with the restatement and integration of the certificate of limited partnership shall be subject to any other provision of this division, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change. [P.L. 2005-26, §2(s).]

**§20. Merger and consolidation.**

(1) As used in this section, "other business entity" means a corporation, association, a limited liability company, or an unincorporated business, including a partnership, but excluding a domestic limited partnership.

(2) Pursuant to an agreement of merger or consolidation, one (1) or more domestic limited partnerships may merge or consolidate with or into one (1) or more domestic limited partnerships or one (1) or more other business entities formed or organized under the laws of the Marshall Islands or any foreign country or other foreign jurisdiction, or any combination thereof, with such domestic limited partnership or other business entity as the agreement shall provide being the surviving or resulting domestic limited partnership or other business entity. 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 (a) by all general partners, and (b) by the limited partners or, if there is more than one (1) 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 fifty (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. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a limited partnership or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited partnership or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited partnership or other business entity which is not the surviving or resulting limited partnership or other business entity in the merger or consolidation. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(3) If a domestic limited partnership is merging or consolidating under this section, the domestic limited partnership or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by at least one (1) general partner on behalf of the domestic limited partnership when it is the surviving or resulting entity with the Registrar of Corporations. The certificate of merger or consolidation shall state:

(a) the name and jurisdiction of formation or organization of each of the domestic limited partnerships and other business entities which is to merge or consolidate;

(b) that an agreement of merger or consolidation has been approved and executed by each of the domestic limited partnerships and other business entities which is to merge or consolidate;

(c) the name of the surviving or resulting domestic limited partnership or other

business entity;

(d) the future effective date (which shall be a date certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(e) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited partnership or other business entity, and shall state the address thereof;

(f) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate; and

(g) if the surviving or resulting entity is not a domestic limited partnership or corporation or limited liability company organized under the laws of the Marshall Islands, a statement that such surviving or resulting other business entity agrees that it may be served with process in the Marshall Islands in any action, suit or proceeding for the enforcement of any obligation of any domestic limited partnership which is to merge or consolidate, irrevocably appointing the Attorney-General as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Attorney-General. In the event of service hereunder upon the Attorney-General the procedures set forth in section 4 of this Act shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Attorney-General with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Attorney-General and the Attorney-General shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in section 4 of this Act.

(4) Unless a future effective date is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date, a merger or consolidation shall be effective upon the filing with the Registrar of Corporations a certificate of merger or consolidation.

(5) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited partnership which is not the surviving or resulting entity in the merger or consolidation. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(6) Notwithstanding anything to the contrary contained in a partnership agreement, a partnership agreement containing a specific reference to this subsection may provide that an agreement of merger or consolidation approved in accordance with subsection (2) of this section may (a) effect any amendment to the partnership agreement or (b) effect the adoption of a new partnership agreement for a limited partnership if it is the surviving or resulting limited partnership in the merger

or consolidation. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including that the partnership agreement of any constituent limited partnership to the merger or consolidation (including a limited partnership formed for the purpose of consummating a merger or consolidation) shall be the partnership agreement of the surviving or resulting limited partnership.

(7) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the Marshall Islands, all of the rights, privileges and powers of each of the domestic limited partnerships and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said domestic limited partnerships and other business entities, as well as all other things and causes of action belonging to each of such domestic limited partnerships and other business entities, shall be vested in the surviving or resulting domestic limited partnership or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited partnership or other business entity as they were of each of the domestic limited partnerships and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the Marshall Islands, in any of such domestic limited partnerships and other business entities, shall not revert or be in any way impaired by reason of this Act; but all rights of creditors and all liens upon any property of any of said domestic limited partnerships and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said domestic limited partnerships and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited partnership or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic limited partnership, including a domestic limited partnership which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited partnership to wind up its affairs under section 59 of this Act or pay its liabilities and distribute its assets under section 60 of this Act.

(8) Except as provided by agreement with a person to whom a general partner of a limited partnership is obligated, a merger or consolidation of a limited partnership that has become effective shall not affect any obligation or liability existing at the time of such merger or consolidation of a general partner of a limited partnership which is merging or consolidating.

(9) If a limited partnership is a constituent party to a merger or consolidation that shall have become effective, but the limited partnership is not the surviving or resulting entity of the merger or consolidation, then a judgment creditor of a general partner of such limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the surviving or resulting entity of the merger or consolidation unless:

(a) a judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation and a writ of execution on the judgment has been returned unsatisfied in whole or in part;



(b) the surviving or resulting entity of the merger or consolidation is a debtor in bankruptcy;

(c) the general partner has agreed that the creditor need not exhaust the assets of the limited partnership that was not the surviving or resulting entity of the merger or consolidation;

(d) the general partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation;

(e) A court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the surviving or resulting entity of the merger or consolidation that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(f) liability is imposed on the general partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation. [P.L. 2005-26, §2(t).]

**§21. Contractual appraisal rights.**

A partnership agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a partnership interest or another interest in a limited partnership shall be available for any class or group of partners or partnership interests in connection with any amendment of a partnership agreement, any merger or consolidation in which the limited partnership is a constituent party to the merger or consolidation, any conversion of the limited partnership to another business form, any transfer to or domestication in any jurisdiction by the limited partnership, or the sale of all or substantially all of the limited partnership's assets. The High Court shall have jurisdiction to hear and determine any matter relating to any such appraisal rights. [P.L. 2005-26, §2(u).]

**§22. Certificate of correction.**

(1) Whenever any certificate authorized to be filed with the Registrar of Corporations under any provision of this Act has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such certificate may be corrected by filing with the Registrar of Corporations a certificate of correction of such certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the certificate in corrected form and shall be executed and filed as required by this Act. The certificate of correction shall be effective as of the date the original certificate was filed except as to those persons who are substantially and adversely affected by the correction, and as to those persons, the certificate of correction shall be effective from the filing date.

(2) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Registrar of Corporations a corrected certificate which shall be executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Registrar of Corporations if the certificate being corrected were then being filed shall be paid to and

collected by the Registrar of Corporations for the use of the Marshall Islands in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed except as to those persons who are substantially and adversely affected by the correction and, as to those persons, the certificate as corrected shall be effective from the filing date. [P.L. 2005-26, §2(v).]

**§23. Domestication of non-Marshall Islands entities.**

(1) As used in this section, "non-Marshall Islands entity" means a foreign limited partnership, or a corporation, an association, or any other unincorporated business, a general partnership or a limited liability company, formed, incorporated, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction.

(2) Any non-Marshall Islands entity may become domesticated as a limited partnership in the Marshall Islands by complying with subsection (7) of this section and filing with the Registrar of Corporations in accordance with section 15 of this division:

(a) a certificate of limited partnership domestication that has been executed in accordance with section 13 of this division; and

(b) a certificate of limited partnership that complies with section 10 of this division and has been executed in accordance with section 13 of this division.

(3) The certificate of limited partnership domestication shall state:

(a) the date on which and jurisdiction where the non-Marshall Islands entity was first formed, incorporated, created or otherwise came into being;

(b) the name of the non-Marshall Islands entity immediately prior to the filing of the certificate of limited partnership domestication;

(c) the name of the limited partnership, as set forth in the certificate of limited partnership filed in accordance with subsection (2) of this section;

(d) the future effective date (which shall be a date certain) of the domestication as a limited partnership if it is not to be effective upon the filing of the certificate of limited partnership domestication and the certificate of limited partnership;

(e) the jurisdiction that constituted the seat, siege social, or principal place of business or central administration of the non-Marshall Islands entity, or any other equivalent thereto under applicable law, immediately prior to the filing of the certificate of limited partnership domestication;

(f) that the transfer of the domicile has been approved by all necessary action;

(g) that the transfer of domicile is not expressly prohibited under the laws of the foreign domicile;

(h) that the transfer of domicile is made in good faith and will not serve to hinder, delay or defraud existing general or limited partners, creditors, claimants or other parties in interest; and

(i) the name and address of the limited partnership's registered agent in the Marshall

Islands.

(4) Upon filing with the Registrar of Corporations the certificate of limited partnership domestication and the certificate of limited partnership or upon the future effective date of the certificate of limited partnership domestication and the certificate of limited partnership, the non-Marshall Islands entity shall be domesticated as a limited partnership in the Marshall Islands and the limited partnership shall thereafter be subject to all of the provisions of this Act, except that notwithstanding section 10 of this division, the existence of the limited partnership shall be deemed to have commenced on the date the non-Marshall Islands entity commenced its existence in the jurisdiction in which the non-Marshall Islands entity was first formed, incorporated, created or otherwise came into being.

(5) The domestication of any non-Marshall Islands entity as a limited partnership in the Marshall Islands shall not be deemed to affect any obligations or liabilities of the non-Marshall Islands entity incurred prior to its domestication as a limited partnership in the Marshall Islands, or the personal liability of any person therefore.

(6) The filing of a certificate of limited partnership domestication shall not affect the choice of law applicable to the non-Marshall Islands entity, except that from the effective date or time of the domestication, the law of the Marshall Islands, including the provisions of this Act, shall apply to the non-Marshall Islands entity to the same extent as if the non-Marshall Islands entity had been formed as a limited partnership on that date.

(7) Prior to filing a certificate of limited partnership domestication with the Registrar of Corporations, the domestication shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the non-Marshall Islands entity and the conduct of its business or by applicable non-Marshall Islands law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the domestication; provided that, in any event, such approval shall include the approval of any person who, at the effective date or time of the domestication, shall be a general partner of the limited partnership.

(8) When any domestication shall have become effective under this section, for all purposes of the laws of the Marshall Islands, all of the rights, privileges and powers of the non-Marshall Islands entity that has been domesticated, and all property, real, personal and mixed, and all debts due to such non-Marshall Islands entity, as well as all other things and causes of action belonging to such non-Marshall Islands entity, shall remain vested in the domestic limited partnership to which such non-Marshall Islands entity has been domesticated and shall be the property of such domestic limited partnership, and the title to any real property vested by deed or otherwise in such non-Marshall Islands entity shall not revert or be in any way impaired by reason of this Act; but all rights of creditors and all liens upon any property of such non-Marshall Islands entity shall be preserved unimpaired, and all debts, liabilities and duties of the non-Marshall Islands entity that has been domesticated shall remain attached to the domestic limited partnership to which such non-Marshall Islands entity has been domesticated, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership. The rights, privileges, powers and interests in property of the non-

Marshall Islands entity, as well as the debts, liabilities and duties of the non-Marshall Islands entity, shall not be deemed, as a consequence of the domestication, to have been transferred to the domestic limited partnership to which such non-Marshall Islands entity has domesticated for any purpose of the laws of the Marshall Islands.

(9) When a non-Marshall Islands entity has become domesticated as a limited partnership pursuant to this section, the limited partnership shall, for all purposes of the laws of the Marshall Islands, be deemed to be the same entity as the domesticating non-Marshall Islands entity. Unless otherwise agreed, or as required under applicable non-Marshall Islands law, the domesticating non-Marshall Islands entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the domestication shall not be deemed to constitute a dissolution of such non-Marshall Islands entity and shall constitute a continuation of the existence of the domesticating non-Marshall Islands entity in the form of a domestic limited partnership. If, following domestication, a non-Marshall Islands entity that has become domesticated as a limited partnership continues its existence in the foreign country or other foreign jurisdiction in which it was existing immediately prior to domestication, the limited partnership and such non-Marshall Islands entity shall, for all purposes of the laws of the Marshall Islands, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the Marshall Islands and the laws of such foreign country or other foreign jurisdiction.

(10) In connection with a domestication hereunder, rights or securities of, or interests in, the non-Marshall Islands entity that is to be domesticated as a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity. [P.L. 2005-26, §2(w).]

#### **§24. Transfer of domestic limited partnerships.**

(1) Upon compliance with the provisions of this section, any limited partnership may transfer to or domesticate in any jurisdiction that permits the transfer or domestication in such jurisdiction of a limited partnership.

(2) Unless otherwise provided in a partnership agreement, the transfer or domestication described in subsection (1) of this section shall be approved in writing by all of the partners. If all of the partners of the limited partnership or such other vote as may be stated in a partnership agreement shall approve the transfer or domestication described in subsection (1) of this section, a certificate of transfer if the limited partnership's existence as a limited partnership of the Marshall Islands is to cease, executed in accordance with section 13 of this division, shall be filed with the Registrar of Corporations in accordance with section 15 of this division. The certificate of transfer shall state:

- (a) the name of the limited partnership and, if it has been changed, the name under which its certificate of limited partnership was originally filed;
- (b) the date of the filing of its original certificate of limited partnership with the Registrar of Corporations;

(c) the jurisdiction to which the limited partnership shall be transferred or in which it shall be domesticated;

(d) the future effective date (which shall be a date certain) of the transfer or domestication to the jurisdiction specified in subsection (2)(c) of this section if it is not to be effective upon the filing of the certificate of transfer;

(e) that the transfer or domestication of the limited partnership has been approved in accordance with the provisions of this section;

(f) in the case of a certificate of transfer, (i) that the existence of the limited partnership as a limited partnership of the Marshall Islands shall cease when the certificate of transfer becomes effective, and (ii) the agreement of the limited partnership that it may be served with process in the Marshall Islands in any action, suit or proceeding for enforcement of any obligation of the limited partnership arising while it was a limited partnership of the Marshall Islands, and that it irrevocably appoints the Attorney-General as its agent to accept service of process in any such action, suit or proceeding; and

(g) The address to which a copy of the process referred to in subsection (2)(f) of this section shall be mailed to it by the Attorney-General. In the event of service hereunder upon the Attorney-General, the procedures set forth in section 4 of this Act shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Attorney-General with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Attorney-General, and the Attorney General shall notify the limited partnership that has transferred or domesticated out of the Marshall Islands at all such addresses furnished by the plaintiff in accordance with the procedures set forth in section 4 of this Act.

(3) Upon the filing in the office of the Registrar of Corporations of the certificate of transfer or upon the future effective date of the certificate of transfer and payment to the Registrar of Corporations of all fees prescribed in this Act, the Registrar of Corporations shall certify that the limited partnership has filed all documents and paid all fees required by this Act and thereupon the limited partnership shall cease to exist as a limited partnership of the Marshall Islands. Such certificate of the Registrar of Corporations shall be prima facie evidence of the transfer or domestication by such limited partnership out of the Marshall Islands.

(4) The transfer or domestication of a limited partnership out of the Marshall Islands in accordance with this section and the resulting cessation of its existence as a limited partnership of the Marshall Islands pursuant to a certificate of transfer shall not be deemed to affect any obligations or liabilities of the limited partnership incurred prior to such transfer or domestication or the personal liability of any person incurred prior to such transfer or domestication, nor shall it be deemed to affect the choice of law applicable to the limited partnership with respect to matters arising prior to such transfer or domestication. Unless otherwise agreed, the transfer or domestication of a limited partnership out of the Marshall Islands in accordance with this section shall not require such limited partnership to wind up its affairs under section 59 of this Act or pay its liabilities and distribute its assets under section 60 of this Act.

(5) In connection with a transfer or domestication of a domestic limited partnership to or in

another jurisdiction pursuant to subsection (1) of this section, rights or securities of, or interests in, such limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, the business form in which the limited partnership will exist in such other jurisdiction as a consequence of the transfer or domestication or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another business form. [P.L. 2005-26, §2(x).]

**§25. Conversion of certain entities to a limited partnership.**

(1) As used in this section, the term "other entity" means a domestic corporation or any other unincorporated business, including a general partnership or a limited liability company of the Marshall Islands.

(2) Any other entity may convert to a domestic limited partnership by complying with subsection (8) of this section and filing in the office of the Registrar of Corporations in accordance with section 15 of this division:

(a) a certificate of conversion to limited partnership that has been executed in accordance with section 13 of this division; and

(b) a certificate of limited partnership that complies with section 10 of this division and has been executed in accordance with section 13 of this division.

(3) The certificate of conversion to limited partnership shall state:

(a) the date on which the other entity was first formed or otherwise came into being;

(b) the name of the other entity immediately prior to the filing of the certificate of conversion to limited partnership;

(c) the name of the limited partnership as set forth in its certificate of limited partnership filed in accordance with subsection (2) of this section; and

(d) the future effective date (which shall be date certain) of the conversion to a limited partnership if it is not to be effective upon the filing of the certificate of conversion to limited partnership and the certificate of limited partnership.

(4) Upon the filing with the Registrar of Corporations of the certificate of conversion to limited partnership and the certificate of limited partnership or upon the future effective date of the certificate of conversion to limited partnership and the certificate of limited partnership, the other entity shall be converted into a domestic limited partnership and the limited partnership shall thereafter be subject to all of the provisions of this Act, except that notwithstanding section 10 of this division, the existence of the limited partnership shall be deemed to have commenced on the date the other entity commenced its existence.

(5) The conversion of any other entity into a domestic limited partnership shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a domestic limited partnership, or the personal liability of any person incurred prior to such conversion.

(6) When any conversion shall have become effective under this section, for all purposes of the laws of the Marshall Islands, all of the rights, privileges and powers of the other entity that has converted, and all property, real, personal and mixed, and all debts due to such other entity, as well

as all other things and causes of action belonging to such other entity, shall remain vested in the domestic limited partnership to which such other entity has converted and shall be the property of such domestic limited partnership, and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this Act; but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities and duties of the other entity that has converted shall remain attached to the domestic limited partnership to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership.

(7) Unless otherwise agreed, the converting other Marshall Islands entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity and shall constitute a continuation of the existence of the converting other entity in the form of a domestic limited partnership. When an other entity has been converted to a limited partnership pursuant to this section, the limited partnership shall, for all purposes of the laws of the Marshall Islands, be deemed to be the same entity as the converting other entity.

(8) Prior to filing a certificate of conversion to limited partnership with the Registrar of Corporations, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the conversion; provided, that in any event, such approval shall include the approval of any person who, at the effective date of the conversion, shall be a general partner of the limited partnership.

(9) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity. [P.L. 2005-26, §2(y).]

**§26. Series of limited partners, general partners or partnership interests.**

(1) A partnership agreement may establish or provide for the establishment of one (1) or more designated series of limited partners, general partners or partnership interests having separate rights, powers or duties with respect to specified property or obligations of the limited partnership or profits and losses associated with specified property or obligations, and any such series may have a separate business purpose or investment objective.

(2) Notwithstanding anything to the contrary set forth in this Act or under other applicable law, in the event that a partnership agreement establishes or provides for the establishment of one (1) or more series or states that the liabilities of a general partner are limited to the liabilities of a designated series, and if separate and distinct records are maintained for any such series and the assets associated with any such series are held (directly or indirectly, including through a nominee or otherwise) and accounted for separately from the other assets of the limited partnership, or any

other series thereof, and if the partnership agreement so provides, and if notice of the limitation on liabilities of a series or a general partner as referenced in this subsection is set forth in the certificate of limited partnership, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series or general partner shall be enforceable only against the assets of such series or a general partner associated with such series and not against the assets of the limited partnership generally, any other series thereof, or any general partner not associated with such series, and, unless otherwise provided in the partnership agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited partnership generally or any other series thereof shall be enforceable against the assets of such series or a general partner associated with such series.

(3) Notice in a certificate of limited partnership of the limitation on liabilities of a series as referenced in subsection (2) of this section shall be sufficient for all purposes of subsection (2) of this section whether or not the limited partnership has established any series when such notice is included in the certificate of limited partnership, and there shall be no requirement that any specific series of the limited partnership be referenced in such notice. The fact that a certificate of limited partnership that contains the notice of the limitation on liabilities of a series or a general partner as referenced in subsection (2) of this section is on file with the Registrar of Corporations shall constitute notice of such limitation on liabilities.

(4) A limited partner may possess or exercise any of the rights and powers or act or attempt to act in one (1) or more of the capacities as permitted under section 30 of this Act, with respect to any series, without participating in the control of the business of the limited partnership or with respect to any series thereof within the meaning of section 30(1) of this Act. A partnership agreement may provide for classes or groups of general partners or limited partners associated with a series having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of general partners or limited partners associated with the series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of general partners or limited partners associated with the series. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or limited partner or class or group of general partners or limited partners, including an action to create under the provisions of the partnership agreement a class or group of the series of partnership interests that was not previously outstanding.

(5) A partnership agreement may grant to all or certain identified general partners or limited partners or a specified class or group of the general partners or limited partners associated with a series the right to vote separately or with all or any class or group of the general partners or limited partners associated with the series, on any matter. Voting by general partners or limited partners associated with a series may be on a per capita, number, financial interest, class, group or any other basis.

(6) Section 47 of this Act shall apply to a limited partner with respect to any series with which the limited partner is associated. Except as otherwise provided in a partnership agreement, any



event under this subsection or in a partnership agreement that causes a limited partner to cease to be associated with a series shall not, in itself, cause such limited partner to cease to be associated with any other series or to be a limited partner of the limited partnership or cause the termination of the series, regardless of whether such limited partner was the last remaining limited partner associated with such series. A limited partner shall cease to be a limited partner with respect to a series and to have the power to exercise any rights or powers of a limited partner with respect to such series upon the happening of either of the following events:

(a) the limited partner withdraws with respect to the series in accordance with section 47 of this Act; or

(b) except as otherwise provided in the partnership agreement, the limited partner assigns all of his or her partnership interest with respect to the series.

(7) Section 46 of this Act shall apply to a general partner with respect to any series with which the general partner is associated. A general partner shall cease to be a general partner with respect to a series and to have the power to exercise any rights or powers of a general partner with respect to such series upon an event of withdrawal of the general partner with respect to such series. Except as otherwise provided in a partnership agreement, either of the following events or any event in a partnership agreement that causes a general partner to cease to be associated with a series shall not, in itself, cause such general partner to cease to be associated with any other series or to be a general partner of the limited partnership:

(a) the general partner withdraws with respect to the series in accordance with section 46 of this Act; or

(b) the general partner assigns all of the general partner's partnership interest with respect to the series.

(8) Notwithstanding section 50 of this Act, but subject to subsections (9) and (10) of this section, and unless otherwise provided in a partnership agreement, at the time a partner associated with a series that has been established in accordance with subsection (2) of this section becomes entitled to receive a distribution with respect to such series, the partner has the status of, and is entitled to all remedies available to, a creditor of the series, with respect to the distribution. A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a series.

(9) Notwithstanding section 51 of this Act, a limited partnership may make a distribution with respect to a series that has been established in accordance with subsection (2) of this section. A limited partnership shall not make a distribution with respect to a series that has been established in accordance with subsection (2) of this section to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to partners on account of their partnership interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series, except that the fair value of property of the series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that property exceeds that liability. For purposes of the immediately preceding sentence, the term "distribution" shall not include

amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A limited partner who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, shall be liable to a series for the amount of the distribution. A limited partner who receives a distribution in violation of this subsection, and who did not know at the time of the distribution that the distribution violated this subsection, shall not be liable for the amount of the distribution. Subject to section 51(3) of this Act, which shall apply to any distribution made with respect to a series under this subsection, this subsection shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(10) Subject to section 57 of this Act, except to the extent otherwise provided in the partnership agreement, a series may be terminated and its affairs wound up without causing the dissolution of the limited partnership. The termination of a series established in accordance with subsection (2) of this section shall not affect the limitation on liabilities of such series provided by subsection (2) of this section. A series is terminated and its affairs shall be wound up upon the dissolution of the limited partnership under section 57 of this Act or otherwise upon the first to occur of the following:

- (a) at the time specified in the partnership agreement;
- (b) upon the happening of events specified in the partnership agreement;
- (c) unless otherwise provided in the partnership agreement, upon the affirmative vote or written consent of (i) all general partners associated with such series and (ii) the limited partners associated with such series or, if there is more than one (1) class or group of limited partners associated with such series, then by each class or group of limited partners associated with such series, in either case, by limited partners associated with such series who own more than two-thirds of the then-current percentage or other interest in the profits of the limited partnership associated with such series owned by all of the limited partners associated with such series or by the limited partners in each class or group associated with such series, as appropriate;
- (d) an event of withdrawal of a general partner associated with the series unless at the time there is at least one (1) other general partner associated with the series and the partnership agreement permits the business of the series to be carried on by the remaining general partner and that partner does so, but the series is not terminated and is not required to be wound up by reason of any event of withdrawal if (i) within ninety (90) days or such other period as is provided for in the partnership agreement after the withdrawal either (A) if provided for in the partnership agreement, the then-current percentage or other interest in the profits of the series specified in the partnership agreement owned by the remaining partners associated with the series agree, in writing or vote, to continue the business of the series and to appoint, effective as of the date of withdrawal, one (1) or more additional general partners for the series if necessary or desired, or (B) if no such right to agree or vote to continue the business of the series of the limited partnership and to appoint one (1) or more additional general partners for such series is provided for in the partnership agreement,

then more than fifty (50) percent of the then-current percentage or other interest in the profits of the series owned by the remaining partners associated with the series or, if there is more than one (1) class or group of remaining partners associated with the series, then more than fifty (50) percent of the then-current percentage or other interest in the profits of the series owned by each class or classes or group or groups of remaining partners associated with the series agree, in writing or vote, to continue the business of the series and to appoint, effective as of the date of withdrawal, one (1) or more additional general partners for the series if necessary or desired, or (ii) the business of the series is continued pursuant to a right to continue stated in the partnership agreement and the appointment, effective as of the date of withdrawal, of one (1) or more additional general partners to be associated with the series if necessary or desired; or

(e) the termination of such series under subsection (12) of this section.

(11) Notwithstanding section 59(2) of this Act, unless otherwise provided in the partnership agreement, a general partner associated with a series who has not wrongfully terminated the series or, if none, the limited partners associated with the series or a person approved by the limited partners associated with the series or, if there is more than one (1) class or group of limited partners associated with the series, then by each class or group of limited partners associated with the series, in either case, by limited partners who own more than fifty (50) percent of the then current percentage or other interest in the profits of the series owned by all of the limited partners associated with the series or by the limited partners in each class or group associated with the series, as appropriate, may wind up the affairs of the series; but, if the series has been established in accordance with subsection (2) of this section, the High Court, upon cause shown, may wind up the affairs of the series upon application of any partner associated with the series, the partner's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee. The persons winding up the affairs of a series may, in the name of the limited partnership and for and on behalf of the limited partnership and such series, take all actions with respect to the series as are permitted under section 59(2) of this Act. The persons winding up the affairs of a series shall provide for the claims and obligations of the series and distribute the assets of the series as provided in section 60 of this Act, which section shall apply to the winding up and distribution of assets of a series. Actions taken in accordance with this subsection shall not affect the liability of limited partners and shall not impose liability on a liquidating trustee.

(12) On application by or for a partner associated with a series established in accordance with subsection (2) of this section, the High Court may decree termination of such series whenever it is not reasonably practicable to carry on the business of the series in conformity with a partnership agreement. [P.L. 2005-26, §2(z).]

**§27. Approval of conversion of a limited partnership.**

(1) Upon compliance with this section, a domestic limited partnership may convert to a domestic corporation or any other unincorporated business, including a general partnership or a limited liability company of the Marshall Islands.

(2) If the partnership agreement specifies the manner of authorizing a conversion of the

limited partnership, the conversion shall be authorized as specified in the partnership agreement. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership and does not prohibit a conversion of the limited partnership, the conversion shall be authorized in the same manner as is specified in the partnership agreement for authorizing a merger or consolidation that involves the limited partnership as a constituent party to the merger or consolidation. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership or a merger or consolidation that involves the limited partnership as a constituent party and does not prohibit a conversion of the limited partnership, the conversion shall be authorized by the approval (a) by all general partners, and (b) by the limited partners or, if there is more than one (1) 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 fifty (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.

(3) Unless otherwise agreed, the conversion of a domestic limited partnership to another business form pursuant to this section shall not require such limited partnership to wind up its affairs under section 59 of this Act or pay its liabilities and distribute its assets under section 60 of this Act.

(4) In connection with a conversion of a domestic limited partnership to another business form pursuant to this section, rights or securities of or interests in the domestic limited partnership which is to be converted may be exchanged for or converted into cash, property, rights or securities of or interests in the business form into which the domestic limited partnership is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of or interests in another business form. [P.L. 2005-26, §2(aa).]

**§28. Admission of limited partners.**

(1) In connection with the formation of a limited partnership, a person is admitted as a limited partner of the limited partnership upon the later to occur of:

(a) the formation of the limited partnership; or

(b) the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when the person's admission is reflected in the records of the limited partnership.

(2) After the formation of a limited partnership, a person is admitted as a limited partner of the limited partnership:

(a) in the case of a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership and a person to be admitted as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the records of the limited partnership;

(b) in the case of an assignee of a partnership interest, as provided in section 55 of this Act and at the time provided in and upon compliance with the partnership agreement or,

if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited partnership; or

(c) unless otherwise provided in an agreement of merger or consolidation, in the case of a person acquiring a partnership interest in a surviving or resulting limited partnership pursuant to a merger or consolidation approved in accordance with section 20(2) of this Act, at the time provided in and upon compliance with the partnership agreement of the surviving or resulting limited partnership.

(3) In connection with the domestication of a non-Marshall Islands entity (as defined in section 23 of this Act) as a limited partnership in the Republic of the Marshall Islands in accordance with section 23 of this Act or the conversion of an other entity (as defined in section 25 of this Act) to a domestic limited partnership in accordance with section 25 of this Act, a person is admitted as a limited partner of the limited partnership at the time provided in and upon compliance with the partnership agreement.

(4) A person may be admitted to a limited partnership as a limited partner of the limited partnership and may receive a partnership interest in the limited partnership without making a contribution or being obligated to make a contribution to the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted as the sole limited partner of a limited partnership.

(5) Unless otherwise provided in a partnership agreement or another agreement, a limited partner shall have no preemptive right to subscribe to any additional issue of partnership interests or another interest in a limited partnership. [P.L. 2005-26, §2(bb).]

#### **§29. Classes and voting.**

(1) A partnership agreement may provide for classes or groups of limited partners having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of limited partners having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of limited partners.

A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any limited partner or class or group of limited partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

(2) Subject to section 30 of this division, the partnership agreement may grant to all or certain identified limited partners or a specified class or group of the limited partners the right to vote separately or with all or any class or group of the limited partners or the general partners, on any matter. Voting by limited partners may be on a per capita, number, financial interest, class, group or any other basis.

(3) A partnership agreement may set forth provisions relating to notice of the time, place or

purpose of any meeting at which any matter is to be voted on by any limited partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(4) Any right or power, including voting rights, granted to limited partners as permitted under section 30 of this Act shall be deemed to be permitted by this section.

(5) Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by limited partners, the limited partners may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the limited partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all limited partners entitled to vote thereon were present and voted. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by limited partners, the limited partners may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by a limited partner or by a person or persons authorized to act for a limited partner shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

(6) If a partnership agreement provides for the manner in which it may be amended, it may be amended in that manner or with the approval of all the partners or as otherwise permitted by law. If a partnership agreement does not provide for the manner in which it may be amended, the partnership agreement may be amended with the approval of all the partners or as otherwise permitted by law. A limited partner and any class or group of limited partners have the right to vote only on matters as specifically set forth in this Act, on matters specifically provided by agreement, including a partnership agreement, and on any matter with respect to which a general partner may determine in its discretion to seek a vote of a limited partner or a class or group of limited partners if a vote on such matter is not contrary to a partnership agreement or another agreement to which a general partner or the limited partnership is a party. A limited partner and any class or group of limited partners have no other voting rights. A partnership agreement may provide that any limited partner or class or group of limited partners shall have no voting rights. [P.L. 2005-26, §2(cc).]

**§30. Liability to third parties.**

(1) A limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of the rights and powers of a limited partner, he or she participates in the control of the business. However, if the limited partner does participate in the control of the business, he or she is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section by virtue of possessing or, regardless of whether or not the limited partner has the rights or powers, exercising or attempting to exercise one (1) or more of the following rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in one (1) or more of the following capacities:

(a) To be an independent contractor for or to transact business with, including being a contractor for, or to be an agent or employee of, the limited partnership or a general partner, or to be an officer, director or stockholder of a corporate general partner, or to be a limited partner of a partnership that is a general partner of the limited partnership, or to be a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust which is a general partner, or to be a trustee, officer, advisor, stockholder or beneficiary of a business trust or a statutory trust which is a general partner or to be a member, manager, agent or employee of a limited liability company which is a general partner;

(b) To consult with or advise a general partner or any other person with respect to any matter, including the business of the limited partnership, or to act or cause a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership;

(c) To act as surety, guarantor or endorser for the limited partnership or a general partner, to guaranty or assume one (1) or more obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership or a general partner;

(d) To call, request, or attend or participate at a meeting of the partners or the limited partners;

(e) To wind up a limited partnership pursuant to section 59 of this Act;

(f) To take any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in the right of the limited partnership;

(g) To serve on a committee of the limited partnership or the limited partners or partners or to appoint, elect or otherwise participate in the choice of a representative or another person to serve on any such committee, and to act as a member of any such committee directly or by or through any such representative or other person;

(h) To act or cause the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to one (1) or more of the following matters:

(i) The dissolution and winding up of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) The sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or granting of a security interest in, any asset or assets of the limited partnership;

(iii) The incurrence, renewal, refinancing or payment or other discharge of

indebtedness by the limited partnership;

(iv) A change in the nature of the business;

(v) The admission, removal or retention of a general partner;

(vi) The admission, removal or retention of a limited partner;

(vii) A transaction or other matter involving an actual or potential conflict of interest;

(viii) An amendment to the partnership agreement or certificate of limited partnership;

(ix) The indemnification of any partner or other person;

(x) The making of, or calling for, or the making of other determinations in connection with, contributions;

(xi) The making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership;

(xii) Such other matters as are stated in the partnership agreement or in any other agreement or in writing; or

(xiii). The merger or consolidation of a limited partnership.

(i) To serve on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner (other than a general partner of a general partner of the limited partnership), member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership; or

(j) Any right or power granted or permitted to limited partners under this chapter and not specifically enumerated in this subsection.

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers or having or acting in other capacities by a limited partner constitutes participation by him or her in the control of the business of the limited partnership.

(4) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section by virtue of the fact that all or any part of the name of such limited partner is included in the name of the limited partnership.

(5) This section does not create rights or powers of limited partners. Such rights and powers may be created only by a certificate of limited partnership, a partnership agreement or any other agreement or in writing, or other sections of this chapter.

(6) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section regardless of the nature, extent, scope, number or frequency of the limited partner's possessing or, regardless of whether or not the limited partner has the rights or powers, exercising or attempting to exercise one (1) or more of the rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in 1 or more of the capacities which are permitted under this section. [P.L. 2005-26, §2(dd).]



**§31. Person erroneously believing himself or herself limited partner.**

(1) Except as provided in subsection (2) of this section, a person who makes a contribution to a partnership and erroneously but, in good faith, believes that he or she has become a limited partner in the partnership is not a general partner in the partnership and is not bound by its obligations by reason of making the contribution, receiving distributions from the partnership or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake:

(a) in the case of a person who wishes to be a limited partner, he or she causes an appropriate certificate to be executed and filed; or

(b) in the case of a person who wishes to withdraw from the partnership, that person takes such action as may be necessary to withdraw.

(2) A person who makes a contribution under the circumstances described in subsection (1) of this section is liable as a general partner to any third party who transacts business with the partnership prior to the occurrence of either of the events referred to in subsection (1) of this section:

(a) if such person knew or should have known either that no certificate has been filed or that the certificate inaccurately refers to the person as a general partner; and

(b) if the third party actually believed in good faith that such person was a general partner at the time of the transaction, acted in reasonable reliance on such belief and extended credit to the partnership in reasonable reliance on the credit of such person. [P.L. 2005-26, §2(ee).]

**§32. Requirement for keeping books of accounts, minutes, and records; access to and confidentiality of information; records.**

(1) *Requirement for keeping of books of accounts, minutes, and records.*

(a) *Books of accounts and minutes.* Every domestic limited partnership shall keep correct and complete books and records of accounts, and shall keep minutes of all meetings of partners and of actions taken on consent by partners. A resident domestic limited partnership shall keep such books and records in the Republic.

(b) *Records of partners.* Every domestic limited partnership shall keep a record containing the names and addresses of all partners. A resident domestic limited partnership shall keep records required to be maintained by this subsection at the office of the limited partnership in the Republic or at the office of its agent in the Republic.

(c) *Forms of records.* Any records maintained by a limited partnership in the regular course of its business, including its records of partners, books of accounts, and minute books, may be kept on, or be in the form of punch cards, magnetic tape, photographs, microphotograph, or any other information storage device, provided that the records so kept can be converted into clearly legible written form within a reasonable time. Any limited partnership shall so convert any records so kept upon the request of any person entitled to inspect such records. When records are kept in such manner, a clearly legible written form produced from the cards, tapes, photographs, microphotographs, or other information storage device shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original

written record of the same information would have been, provided the written form accurately portrays the record.

(d) *Retention period.* All accounts, documents, and records required to be kept, retained, or maintained under this Act shall be kept, retained, or maintained for a minimum of five (5) years.

(e) *Failure to maintain records.* Any person who knowingly or recklessly fails to keep, retain, and maintain accounts, documents, or records as required under this Act shall be liable to a fine not exceeding \$5,000, or cancellation of the certificate of limited partnership, or both.

(2) *Access to and confidentiality of information.*

(a) Each limited partner has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished, at what time and location and at whose expense) as may be set forth in the partnership agreement or otherwise established by the general partners, to obtain from the general partners from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner:

(i) true and full information regarding the status of the business and financial condition of the limited partnership;

(ii) promptly after becoming available, a copy of the limited partnership's financial statements or income tax returns, if applicable, for each year;

(iii) a current list of the name and last known business, residence or mailing address of each partner;

(iv) a copy of any written partnership agreement and certificate of limited partnership and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the partnership agreement and any certificate and all amendments thereto have been executed;

(v) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each became a partner; and

(vi) other information regarding the affairs of the limited partnership as is just and reasonable.

(b) A general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the general partner in good faith believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

(c) A limited partnership may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) Any action to enforce any right arising under this section shall be brought in the High Court. If a general partner refuses to permit a limited partner to obtain from the general partner the information described in subsection (2)(a) of this section or does not reply to the demand that has been made within five (5) business days after the demand has been made, the limited partner may apply to the High Court for an order to compel such disclosure. The High Court is hereby vested with exclusive jurisdiction to determine whether or not the person seeking such information is entitled to the information sought. The High Court may summarily order the general partner to permit the limited partner to obtain the information described in subsection (2)(a) of this section and to make copies or abstracts therefrom, or the High Court may summarily order the general partner to furnish to the limited partner the information described in subsection (2)(a) of this section on the condition that the limited partner first pay to the limited partnership the reasonable cost of obtaining and furnishing such information and on such other conditions as the High Court deems appropriate. When a limited partner seeks to obtain the information described in subsection (2)(a) of this section, the limited partner shall first establish (a) that the limited partner has complied with the provisions of this section respecting the form and manner of making demand for obtaining such information, and (b) that the information the limited partner seeks is reasonably related to the limited partner's interest as a limited partner. The High Court may, in its discretion, prescribe any limitations or conditions with reference to the obtaining of information, or award such other or further relief as the High Court may deem just and proper. The High Court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought and kept in the Marshall Islands upon such terms and conditions as the order may prescribe.

(f) The rights of a limited partner to obtain information as provided in this section may be restricted in an original partnership agreement or in any subsequent amendment approved or adopted by all of the partners and in compliance with any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a limited partner to obtain information by any other means permitted under this section. [P.L. 2005-26, §2(ff).][Amended by P.L.2014-31]

**§33. Remedies for breach of partnership agreement by limited partner.**

A partnership agreement may provide that:

(1) a limited partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences; and

(2) at the time or upon the happening of events specified in the partnership agreement, a limited partner shall be subject to specified penalties or specified consequences.

Such specified penalties or specified consequences may include and take the form of any penalty or consequence set forth in section 41 of this Act. [P.L. 2005-26, §2(gg).]

**§34. Admission of general partners.**

(1) A person may be admitted to a limited partnership as a general partner of the limited partnership and may receive a partnership interest in the limited partnership without making a

contribution or being obligated to make a contribution to the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a general partner of the limited partnership without acquiring a partnership interest in the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted as the sole general partner of a limited partnership without making a contribution or being obligated to make a contribution to the limited partnership or without acquiring a partnership interest in the limited partnership. Nothing contained in this subsection shall affect the first sentence of section 36(2) of this division.

(2) After the filing of a limited partnership's initial certificate of limited partnership, unless otherwise provided in the partnership agreement, additional general partners may be admitted only with the written consent of each partner.

(3) Unless otherwise provided in a partnership agreement or another agreement, a general partner shall have no preemptive right to subscribe to any additional issue of partnership interests or another interest in a limited partnership. [P.L. 2005-26, §2(hh).]

**§35. Events of withdrawal.**

(1) A person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(a) the general partner withdraws from the limited partnership as provided in section 46 of this Act;

(b) the general partner ceases to be a general partner of the limited partnership as provided in section 53 of this Act;

(c) the general partner is removed as a general partner in accordance with the partnership agreement;

(d) unless otherwise provided in the partnership agreement, or with the written consent of all partners, the general partner:

(i) makes an assignment for the benefit of creditors;

(ii) files a voluntary petition in bankruptcy;

(iii) is adjudged bankrupt or insolvent, or has entered against him or her an order for relief in any bankruptcy or insolvency proceeding;

(iv) files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;

(v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of this nature; or

(vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his properties;

(e) unless otherwise provided in the partnership agreement, or with the written consent of all partners, one hundred and twenty (120) days after the commencement of any

proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment without the general partner's consent or acquiescence of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his or her properties, the appointment is not vacated or stayed, or within ninety (90) days after the expiration of any such stay, the appointment is not vacated;

(f) in the case of a general partner who is a natural person:

(i) the general partner's death; or

(ii) the entry by a court of competent jurisdiction adjudicating the general partner incompetent to manage his or her person or property;

(g) in the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(h) in the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(i) in the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter and the expiration of ninety (90) days after the date of notice to the corporation of revocation without a reinstatement of its charter;

(j) unless otherwise provided in the partnership agreement, or with the written consent of all partners, in the case of a general partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the limited partnership;

(k) in the case of a general partner that is a limited liability company, the dissolution and commencement of winding up of the limited liability company; or

(l) in the case of a general partner who is not an individual, partnership, limited liability company, corporation, trust or estate, the termination of the general partner.

(2) A general partner who suffers an event that with the passage of the specified period becomes an event of withdrawal under subsections (1)(d) or (e) of this section shall notify each other general partner, or in the event that there is no other general partner, each limited partner, of the occurrence of the event within thirty (30) days after the date of occurrence of the event of withdrawal. [P.L. 2005-26, §2(ii).]

### **§36. General powers and liabilities.**

(1) Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership that is governed by the Marshall Islands Revised Partnership Act.

(2) Except as provided in this Act, a general partner of a limited partnership has the liabilities of a partner in a partnership that is governed by the Marshall Islands Revised Partnership Act to persons other than the partnership and the other partners. Except as provided in this Act or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner

in a partnership that is governed by the Marshall Islands Revised Partnership Act to the partnership and to the other partners.

(3) Unless otherwise provided in the partnership agreement, a general partner of a limited partnership has the power and authority to delegate to one (1) or more other persons the general partner's rights and powers to manage and control the business and affairs of the limited partnership, including to delegate to agents, officers and employees of the general partner or the limited partnership, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the partnership agreement, such delegation by a general partner of a limited partnership shall not cause the general partner to cease to be a general partner of the limited partnership or cause the person to whom any such rights and powers have been delegated to be a general partner of the limited partnership.

(4) A judgment creditor of a general partner of a limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership unless:

(a) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(b) the limited partnership is a debtor in bankruptcy;

(c) the general partner has agreed that the creditor need not exhaust the assets of the limited partnership;

(d) a court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the limited partnership that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the limited partnership is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(e) liability is imposed on the general partner by law or contract independent of the existence of the limited partnership. [P.L. 2005-26, §2(jj).]

**§37. Contributions by a general partner.**

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the rights and powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the partnership as a limited partner. [P.L. 2005-26, §2(kk).]

**§38. Classes and voting.**

(1) A partnership agreement may provide for classes or groups of general partners having such relative rights, powers and duties as the partnership agreement may provide, and may make

provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of general partners having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of general partners.

A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or class or group of general partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

(2) The partnership agreement may grant to all or certain identified general partners or a specified class or group of the general partners the right to vote, separately or with all or any class or group of the limited partners or the general partners, on any matter. Voting by general partners may be on a per capita, number, financial interest, class, group or any other basis.

(3) A partnership agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any general partner, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(4) Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by general partners, the general partners may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the general partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all general partners entitled to vote thereon were present and voted. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by general partners, the general partners may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by a general partner or by a person or persons authorized to act for a general partner shall be deemed to be written and signed for purposes of this subsection. For purposes of subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process. [P.L. 2005-26, §2(II).]

**§39. Remedies for breach of partnership agreement by general partner.**

A partnership agreement may provide that (1) a general partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the partnership agreement, a general partner shall be subject to specified penalties or specified consequences. Such specified penalties or specified consequences may include and take the form of any penalty or consequence set forth in section 41(3) of this Act. [P.L. 2005-26, §2(mm).]

**§40. Form of contribution.**

The contribution of a partner may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. [P.L. 2005-26, §2(nn).]

**§41. Liability for contribution.**

(1)(a) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if that partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, he or she is obligated at the option of the limited partnership to contribute cash equal to that portion of the agreed value (as stated in the records of the limited partnership) of the contribution that has not been made.

(b) The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against such partner under the partnership agreement or applicable law.

(2)(a) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this Act may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, after the entering into of a partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution or return.

(b) A conditional obligation of a partner to make a contribution or return money or other property to a limited partnership may not be enforced unless the conditions to the obligation have been satisfied or waived as to or by such partner. Conditional obligations include contributions payable upon a discretionary call of a limited partnership or a general partner prior to the time the call occurs.

(3) A partnership agreement may provide that the interest of any partner who fails to make any contribution that he or she is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting partner's proportionate interest in the limited partnership, subordinating the partnership interest to that of nondefaulting partners, a forced sale of his or her partnership interest, forfeiture of that partnership interest, the lending by other partners of the amount necessary to meet his or her commitment, a fixing of the value of that partnership interest by appraisal or by formula and redemption or sale of the partnership interest at such value, or other penalty or consequence. [P.L. 2005-26, §2(oo).]

**§42. Allocation of profits and losses.**

The profits and losses of a limited partnership shall be allocated among the partners, and among classes or groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the



agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned. [P.L. 2005-26, §2(pp).]

**§43. Allocation of distributions.**

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes or groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned. [P.L. 2005-26, §2(qq).]

**§44. Defense of usury not available.**

No obligation of a partner of a limited partnership to the limited partnership arising under the partnership agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a partner, shall be subject to the defense of usury, and no partner shall interpose the defense of usury with respect to any such obligation in any action. [P.L. 2005-26, §2(rr).]

**§45. Interim distributions.**

Except as provided in this division, to the extent and at the times or upon the happening of the events specified in the partnership agreement, a partner is entitled to receive from a limited partnership distributions before withdrawing from the limited partnership and before the dissolution and winding up thereof. [P.L. 2005-26, §2(ss).]

**§46. Withdrawal of general partner and assignment of general partner's partnership interest.**

(1) A general partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement. A partnership agreement may provide that a general partner shall not have the right to withdraw as a general partner of a limited partnership. Notwithstanding that a partnership agreement provides that a general partner does not have the right to withdraw as a general partner of a limited partnership, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners. If the withdrawal of a general partner violates a partnership agreement, in addition to any remedies otherwise available under applicable law, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the withdrawing general partner.

(2) Notwithstanding anything to the contrary set forth in this Act, a partnership agreement may provide that a general partner may not assign a partnership interest in a limited partnership prior to the dissolution and winding up of the limited partnership. [P.L. 2005-26, §2(tt).]

**§47. Withdrawal of limited partner.**

A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement. Notwithstanding anything to the contrary under applicable law, unless a partnership agreement provides otherwise, a limited partner may not withdraw from a limited partnership prior to the dissolution and winding up of the limited partnership. Notwithstanding anything to the contrary under applicable law, a partnership agreement may provide that a partnership interest may not be assigned prior to the dissolution and winding up of the limited partnership. [P.L. 2005-26, §2(uu).]

**§48. Distribution upon withdrawal.**

Except as provided in this division, upon withdrawal any withdrawing partner is entitled to receive any distribution to which such partner is entitled under a partnership agreement and, if not otherwise provided in a partnership agreement, such partner is entitled to receive, within a reasonable time after withdrawal, the fair value of such partner's partnership interest in the limited partnership as of the date of withdrawal based upon such partner's right to share in distributions from the limited partnership. [P.L. 2005-26, §2(vv).]

**§49. Distribution in kind.**

Except as provided in the partnership agreement, a partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed exceeds a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the limited partnership. Except as provided in the partnership agreement, a partner may be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed is equal to a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the limited partnership. [P.L. 2005-26, §2(ww).]

**§50. Right to distribution.**

(1) Subject to sections 51 and 60 of this Act, and unless otherwise provided in the partnership agreement, at the time a partner becomes entitled to receive a distribution, he or she has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

(2) A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited partnership. [P.L. 2005-26, §2(xx).]

**§51. Limitations on distribution.**

(1) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the

recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability. For purposes of this subsection, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.

(2) A limited partner who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the limited partnership for the amount of the distribution. A limited partner who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. Subject to subsection (3) of this section, this subsection shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(3) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership shall have no liability under this Act or other applicable law for the amount of the distribution after the expiration of three (3) years from the date of the distribution. [P.L. 2005-26, §2(yy).]

**§52. Nature of partnership interest.**

A partnership interest is personal property. A partner has no interest in specific limited partnership property. [P.L. 2005-26, §2(zz).]

**§53. Assignment of partnership interest.**

(1) Unless otherwise provided in the partnership agreement:

(a) a partnership interest is assignable in whole or in part;

(b) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights or powers of a partner;

(c) an assignment of a partnership interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(d) A partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all partnership interests. Unless otherwise provided in a partnership agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the partnership interest of a partner shall not cause the partner to cease to be a partner or to have the power to exercise any rights or powers of a partner.

(2) Unless otherwise provided in a partnership agreement, a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited

partnership. A partnership agreement may provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates.

(3) Unless otherwise provided in a partnership agreement and except to the extent assumed by agreement, until an assignee of a partnership interest becomes a partner, the assignee shall have no liability as a partner solely as a result of the assignment.

(4) Unless otherwise provided in the partnership agreement, a limited partnership may acquire, by purchase, redemption or otherwise, any partnership interest or other interest of a partner in the limited partnership. Unless otherwise provided in the partnership agreement, any such interest so acquired by the limited partnership shall be deemed canceled. [P.L. 2005-26, §2(aaa).]

**§54. Partner's partnership interest subject to charging order.**

(1) On application by a judgment creditor of a partner or of a partner's assignee, a court having jurisdiction may charge the partnership interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited partnership, which receiver shall have only the rights of an assignee, and the court may make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(2) A charging order constitutes a lien on the judgment debtor's partnership interest. The court may order a foreclosure of the partnership interest subject to the charging order at any time. The purchaser at the foreclosure sale has only the rights of an assignee.

(3) Unless otherwise provided in a partnership agreement, at any time before foreclosure, a partnership interest charged may be redeemed:

(a) by the judgment debtor;

(b) with property other than partnership property, by one (1) or more of the other partners; or

(c) by the limited partnership with the consent of all of the partners whose interests are not so charged.

(4) This Act does not deprive a partner of a right under exemption laws with respect to the partner's partnership interest.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's assignee may satisfy a judgment out of the judgment debtor's partnership interest.

(6) No creditor of a partner shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited partnership. [P.L. 2005-26, §2(bbb).]

**§55. Right of assignee to become limited partner.**

(1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that:

(a) the partnership agreement so provides; or

(b) all partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership

agreement and this Act. Notwithstanding the foregoing, unless otherwise provided in the partnership agreement, an assignee who becomes a limited partner is liable for the obligations of his or her assignor to make contributions as provided in section 41 of this Act, but shall not be liable for the obligations of the assignor. However, the assignee is not obligated for liabilities, including the obligations of the assignor to make contributions as provided in section 41 of this Act, unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the partnership agreement.

(3) Whether or not an assignee of a partnership interest becomes a limited partner, the assignor is not released from liability to the limited partnership under this Act. [P.L. 2005-26, §2(ccc).]

**§56. Powers of estate of deceased or incompetent partner.**

If a partner who is an individual dies or a court of competent jurisdiction adjudges the partner to be incompetent to manage the partner's person or property, the partner's personal representative may exercise all of the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power under the partnership agreement of an assignee to become a limited partner. If a partner is a corporation, trust or other entity and is dissolved or terminated, the powers of that partner may be exercised by its personal representative. [P.L. 2005-26, §2(ddd).]

**§57. Nonjudicial dissolution.**

A limited partnership is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) At the time specified in a partnership agreement, but if no such time is set forth in the partnership agreement, then the limited partnership shall have a perpetual existence;

(2) Unless otherwise provided in a partnership agreement, upon the affirmative vote or written consent of (i) all general partners and (ii) the limited partners of a limited partnership or, if there is more than one (1) 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 two-thirds of the then-current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

(3) An event of withdrawal of a general partner unless at the time there is at least one (1) other general partner and the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if (a) within ninety (90) days or such other period as is provided for in a partnership agreement after the withdrawal either (i) if provided for in the partnership agreement, the then-current percentage or other interest in the profits of the limited partnership specified in the partnership agreement owned by the remaining partners agree, in writing or vote, to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one (1) or more additional general partners if necessary or desired, or (ii) if no such right to agree or vote to continue the business of the limited partnership and to appoint one (1) or more additional general partners is provided for in the partnership agreement, then more than fifty (50) percent of the then-current percentage or other

interest in the profits of the limited partnership owned by the remaining partners or, if there is more than one (1) class or group of remaining partners, then more than fifty (50) percent of the then-current percentage or other interest in the profits of the limited partnership owned by each class or classes or group or groups of remaining partners agree, in writing or vote, to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one (1) or more additional general partners if necessary or desired, or (b) the business of the limited partnership is continued pursuant to a right to continue stated in the partnership agreement and; the appointment, effective as of the date of withdrawal, of one (1) or more additional general partners if necessary or desired;

(4) At the time there are no limited partners; provided, that the limited partnership is not dissolved and is not required to be wound up if:

(a) unless otherwise provided in a partnership agreement, within ninety (90) days or such other period as is provided for in the partnership agreement after the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, the personal representative of the last remaining limited partner and all of the general partners agree, in writing or by vote, to continue the business of the limited partnership and to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner; provided, that a partnership agreement may provide that the general partners or the personal representative of the last remaining limited partner shall be obligated to agree in writing to continue the business of the limited partnership and to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last limited partner to cease to be a limited partner; or

(b) a limited partner is admitted to the limited partnership in the manner provided for in the partnership agreement, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, within ninety (90) days or such other period as is provided for in the partnership agreement after the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, pursuant to a provision of the partnership agreement that specifically provides for the admission of a limited partner to the limited partnership after there is no longer a remaining limited partner of the limited partnership.

(5) Upon the happening of events specified in a partnership agreement; or

(6) Entry of a decree of judicial dissolution under section 58 of this division.

[P.L. 2005-26, §2(eee).]

### **§58. Judicial dissolution.**

On application by or for a partner the High Court may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement. [P.L. 2005-26, §2(fff).]

**§59. Winding up.**

(1) Unless otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, or a person approved by the limited partners or, if there is more than one (1) 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 fifty (50) percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate may wind up the limited partnership's affairs; but the High Court, upon cause shown, may wind up the limited partnership's affairs upon application of any partner, the partner's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(2) Upon dissolution of a limited partnership and until the filing of a certificate of cancellation as provided in section 12 of this Act, the persons winding up the limited partnership's affairs may, in the name of, and for and on behalf of, the limited partnership, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited partnership's business, dispose of and convey the limited partnership's property, discharge or make reasonable provision for the limited partnership's liabilities, and distribute to the partners any remaining assets of the limited partnership, all without affecting the liability of limited partners and without imposing the liability of a general partner on a liquidating trustee. [P.L. 2005-26, §2(ggg).]

**§60. Distribution of assets.**

(1) Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(a) to creditors, including partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to partners and former partners under sections 45 or 48 of this Act;

(b) unless otherwise provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under sections 45 or 48 of this Act; and

(c) unless otherwise provided in the partnership agreement, to partners first for the return of their contributions and second respecting their partnership interests, in the proportions in which the partners share in distributions.

(2) A limited partnership which has dissolved:

(a) shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmaturing contractual claims, known to the limited partnership;

(b) shall make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the limited partnership which is the subject of a pending action, suit or proceeding to which the limited partnership is a party; and

(c) shall make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the limited partnership or that

have not arisen but that, based on facts known to the limited partnership, are likely to arise or to become known to the limited partnership within ten (10) years after the date of dissolution.

If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in the partnership agreement, any remaining assets shall be distributed as provided in this Act. Any liquidating trustee winding up a limited partnership's affairs who has complied with this section shall not be personally liable to the claimants of the dissolved limited partnership by reason of such person's actions in winding up the limited partnership.

(3) A limited partner who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the limited partnership for the amount of the distribution. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A limited partner who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. Subject to subsection (4) of this section, this subsection shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(4) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership to which this section applies shall have no liability under this Act or other applicable law for the amount of the distribution after the expiration of three (3) years from the date of the distribution.

(5) Section 51 of this Act shall not apply to a distribution to which this section applies. [P.L. 2005-26, §2(hhh).]

**§61. Trustees or receivers for limited partnerships; appointment; powers; duties.**

When the certificate of limited partnership of any limited partnership formed under this Act shall be canceled by the filing of a certificate of cancellation pursuant to section 12 of this Act, the High Court, on application of any creditor or partner of the limited partnership, or any other person who shows good cause therefor, at any time, may either appoint one (1) or more of the general partners of the limited partnership to be trustees, or appoint one (1) or more persons to be receivers, of and for the limited partnership, to take charge of the limited partnership's property, and to collect the debts and property due and belonging to the limited partnership, with the power to prosecute and defend, in the name of the limited partnership, or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by the limited partnership, if in being, that may be necessary for the final settlement of the unfinished business of the limited partnership. The powers of the trustees or



receivers may be continued as long as the High Court shall think necessary for the purposes aforesaid. [P.L. 2005-26, §2(iii).]

**§62. Right to bring action.**

A limited partner or an assignee of a partnership interest may bring an action in the High Court in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed. [P.L. 2005-26, §2(jjj).]

**§63. Proper plaintiff.**

In a derivative action, the plaintiff must be a partner or an assignee of a partnership interest at the time of bringing the action and:

- (1) At the time of the transaction of which the plaintiff complains; or
- (2) The plaintiff's status as a partner or an assignee of a partnership interest had devolved upon the plaintiff by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner or an assignee of a partnership interest at the time of the transaction. [P.L. 2005-26, §2(kkk).]

**§64. Complaint.**

In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort. [P.L. 2005-26, §2(III).]

**§65. Expenses.**

If a derivative action is successful, in whole or in part, as a result of a judgment, compromise or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from any recovery in any such action or from a limited partnership. [P.L. 2005-26, §2(mmm).]

**§66. Construction and application of Act and partnership agreement.**

- (1) This Act shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act.
- (2) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Act.
- (3) It is the policy of this Act to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements.
- (4) To the extent that, at law or in equity, a partner or other person has duties (including fiduciary duties) and liabilities relating thereto to a limited partnership or to another partner or to another person that is a party to or is otherwise bound by a partnership agreement, (a) any such partner or other person acting under the partnership agreement shall not be liable to the limited partnership or to any such other partner or to any such other person for the partner's or other person's good faith reliance on the provisions of the partnership agreement, and (b) the partner's or other

person's duties and liabilities may be expanded or restricted by provisions in the partnership agreement.

(5) This Act shall be applied and construed to make the laws of the Marshall Islands, with respect to the subject matter hereof, uniform with the laws of the State of Delaware of the United States of America. Insofar as it does not conflict with any other provision of this Act, or the decisions of the High and Supreme Courts of the Republic of the Marshall Islands which takes precedence, the non-statutory law of the State of Delaware is hereby adopted as the law of the Marshall Islands. This subsection shall not apply to resident domestic limited partnerships. [P.L. 2005-26, §2(nnn).]

**§67. Short title.**

This Act may be cited as the "Marshall Islands Limited Partnership Act". [P.L. 2005-26, §2(ooo).]

**§68. Severability.**

If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. [P.L. 2005-26, §2(ppp).]

**§69. Fees.**

(1) No document required to be filed under this Act shall be effective until the applicable fee required by the Registrar of Corporations is paid. An annual fee must be paid to the Registrar of Corporations for the continued existence of the limited partnership.

(2) The annual fee shall be due and payable on the anniversary date of the filing of a certificate of limited partnership. The Registrar of Corporations shall receive the annual fee. [P.L. 2005-26, §2(qqq).]

**§70. Reserved power of the Republic of the Marshall Islands to alter or repeal Act.**

All provisions of this Act may be altered from time to time or repealed and all rights of partners are subject to this reservation. Unless expressly stated to the contrary in this Act, all amendments of this Act shall apply to limited partnerships and partners whether or not existing as such at the time of the enactment of any such amendment. [P.L. 2005-26, §2(rrr).]

**§71. Cancellation of certificate of limited partnership for failure to pay annual fee.**

The certificate of limited partnership of a domestic limited partnership shall be deemed to be canceled if the limited partnership shall fail to pay the annual fee due under section 69 of this division for a period of one (1) year from the date it is due, such cancellation to be effective on the first anniversary of such due date. [P.L. 2005-26, §2(sss).]

**§72. Reinstatement of domestic limited partnership.**

(1) A domestic limited partnership whose certificate of limited partnership has been canceled

pursuant to sections 3(3) or 71 of this Act may be reinstated by filing a certificate of reinstatement with the Registrar of Corporations, accompanied by the payment of the annual fee due under section 69 of this division and all penalties thereon for each year for which such domestic limited partnership neglected, refused or failed to pay such annual fee, including each year between the cancellation of its certificate of limited partnership and its reinstatement. The certificate of reinstatement shall set forth:

(a) the name of the limited partnership at the time its certificate of limited partnership was canceled and, if such name is not available at the time of reinstatement, the name under which the limited partnership is to be reinstated;

(b) the date of filing of the original certificate of limited partnership of the limited partnership;

(c) the name and address of the limited partnership's registered agent in the Marshall Islands;

(d) A statement that the certificate of reinstatement is filed by one (1) or more general partners of the limited partnership authorized to execute and file the certificate of reinstatement to reinstate the limited partnership;

(e) that the reinstatement will not cause injury to any person including without limitations the partners or limited partners, former partners or limited partners, or creditors of the limited partnership;

(f) the petitioners agree to hold harmless the Registrar of Corporations for any costs, fees or expenses for any claims or liabilities arising from the reinstatement of the limited partnership; and

(g) any other matters the general partner or general partners executing the certificate of reinstatement determine to include therein.

(2) The certificate of reinstatement shall be deemed to be an amendment to the certificate of limited partnership of the limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate of limited partnership under section 11 of this Act with respect to the matters set forth in the certificate of reinstatement.

(3) Upon the filing of a certificate of reinstatement, a limited partnership shall be reinstated with the same force and effect as if its certificate of limited partnership had not been canceled pursuant to sections 3(3) or 71 of this Act. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the limited partnership, its partners, employees and agents during the time when its certificate of limited partnership was canceled pursuant to sections 3(3) or 71 of this Act, with the same force and effect and to all intents and purposes as if the certificate of limited partnership had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited partnership at the time its certificate of limited partnership was canceled pursuant to sections 3(3) or 71 of this Act, or which were acquired by the limited partnership following the cancellation of its certificate of limited partnership pursuant to sections 3(3) or 71 of this Act, and which were not disposed of prior to the time of its revival, shall be vested in the limited partnership after its reinstatement as fully as they were held by the limited partnership at, and after, as the case may be, the time its certificate of limited partnership was

canceled pursuant to sections 3(3) or 71 of this Act. After its reinstatement, the limited partnership and its partners shall have the same liability for all contracts, acts, matters and things made, done or performed in the limited partnership's name and on its behalf by its partners, employees and agents as the limited partnership and its partners would have had if the limited partnership's certificate of limited partnership had at all times remained in full force and effect. [P.L. 2005-26, §2(ttt).]

**§73. Exemptions for non-resident entities.**

Notwithstanding any provision of the Income Act of 1989 (11 MIRC, Chapter 1A), or any other law or regulation imposing taxes or fees now in effect or hereinafter enacted, a non-resident limited partnership; and (solely for the purposes of this section) the Administrator and Trust Company duly appointed by the Cabinet to act in the capacity of the Registrar of Corporations for non-resident entities pursuant to this Act and as the Maritime Administrator created pursuant to the Marshall Islands Maritime Act 1990 (34 MIRC, Chapter 3A), shall be exempt from any corporate tax, net income tax on unincorporated businesses, corporate profit tax, income tax, withholding tax on revenues of the entity, asset tax, tax reporting requirements on revenues of the entity, stamp duty, exchange controls or other fees or taxes other than those imposed by section 69 of this division. Interest, dividends, royalties, rents, payments (including payments to creditors), compensation or other distributions of income paid by a non-resident partnership to another non-resident limited partnership or to individuals or entities which are not citizens or residents of the Marshall Islands are exempt from any tax or withholding provisions of the laws of the Marshall Islands. [P.L. 2005-26, §2(uuu).]

**§74. Effective Date.**

This Act shall take effect in accordance with the relevant provisions of Rules of Procedures of the Nitijela and the relevant provisions of the Constitution of the Republic of the Marshall Islands.

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