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A
BILL FOR AN
ACT

to amend Title 52 of the Republic of the Marshall Islands Revised Code by adding new sections to the Marshall Islands Business Corporations Act, Revised Partnership Act, Limited Partnership Act, and Limited Liability Company Act, in order to require that all business entities maintain ownership and accounting records, to maintain such records for at least five years, and to impose sanctions where such record keeping requirements are not met.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

Section 1. **Short Title**

This Bill may be cited as the Associations Law (Consequential Amendments) Act, 2014.

Section 2. **Amendment to the Business Corporations Act**

(1) Section 80 of the Marshall Islands Business Corporations Act is hereby amended to read as follows:

§80. Requirement for keeping books of account, minutes and records of shareholders.

(1) *Books of account and minutes.* Every domestic corporation shall keep correct and complete books and records of account and shall keep minutes of all meetings of shareholders, of actions taken on consent by shareholders, of all meetings of the board of directors, of actions taken on consent by directors and of meetings of the executive committee, if any. A resident domestic corporation shall keep such books and records in the Republic.

(2) *Records of shareholders.* Every domestic corporation shall keep a record containing the names and addresses of all registered shareholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof. In addition, any such corporation, which issues bearer shares subject to the provisions of section 42 of this Act, shall

1 maintain a record of all certificates issued in bearer form, including the number, class and dates
2 of issuance of such certificates. A resident domestic corporation shall keep the records required
3 to be maintained by this subsection at the office of the corporation in the Republic or at the office
4 of its agent and Registrar in the Republic.

5 (3) *Form of records.* Any records maintained by a corporation in the regular course of its
6 business, including its stock ledger, books of account, and minute books, may be kept on, or be
7 in the form of, punch cards, magnetic tape, photographs, microphotographs, or any other
8 information storage device, provided that the records so kept can be converted into clearly
9 legible written form within a reasonable time. Any corporation shall so convert any records so
10 kept upon the request of any person entitled to inspect the same. When records are kept in such
11 manner, a clearly legible written form produced from the cards, tapes, photographs,
12 microphotographs, or other information storage device shall be admissible in evidence, and
13 accepted for all other purposes, to the same extent as an original written record of the same
14 information would have been, provided the written form accurately portrays the record.

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

18 (5) *Failure to maintain records.* Any person who knowingly or recklessly fails to keep,
19 retain, or maintain accounts, documents, or records as required under this Act shall be liable to a
20 fine not exceeding \$5,000, revocation of the operation's articles of incorporation and dissolution,
21 or both.

22 Section 3. **Amendment to the Revised Partnership Act (1)**

1 Section 37 of the Marshall Islands Revised Partnership Act is hereby amended to read as
2 follows:

3 **§37. Requirement for keeping books of account, minutes, and records; partner's rights**
4 **and duties with respect to information.**

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

6
7 (a) *Books of account and minutes.* Every domestic partnership shall keep correct and
8 complete books and records of account and shall keep minutes of all meetings of partners
9 and of actions taken on consent by partners. A resident domestic partnership shall keep
10 such books and records in the Republic.

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

15 (c) *Form of records.* Any records maintained by a domestic partnership in the regular
16 course of its business, including its record of partners, books of account, and minute
17 books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs,
18 microphotographs, or any other information storage device, provided that the records so
19 kept can be converted into clearly legible written form within a reasonable time. Any
20 domestic partnership shall convert any records so kept upon the request of any person
21 entitled to inspect such records. When records are kept in such manner, a clearly legible
22 written form produced from the cards, tapes, photographs, microphotographs, or other
23 information storage device shall be admissible in evidence, and accepted for all other

1 purposes, to the same extent as an original written record of the same information would
2 have been, provided the written form accurately portrays the record.

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

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

10 (2) *Partner's rights and duties with respect to information.*

11
12 (a) Each partner and the partnership shall provide partners, former partners and the legal
13 representative of a deceased partner or partner under a legal disability and their agents
14 and attorneys, access to the books and records of the partnership and other information
15 concerning the partnership's business and affairs (in the case of former partners, only
16 with respect to the period during which they were partners) upon reasonable demand, for
17 any purpose reasonably related to the partner's interest as a partner in the partnership. The
18 right of access shall include access to:

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

21 (ii) promptly after becoming available, a copy of the partnership's financial
22 statements or tax filings, if applicable, for each year;
23

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

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

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

11 (vi) other information regarding the affairs of the partnership as is just and
12 reasonable. The right of access includes the right to examine and make extracts
13 from books and records and other information concerning the partnership's
14 business and affairs. The partnership agreement may provide for, and in the
15 absence of such provision in the partnership agreement, the partnership or the
16 partner from whom access is sought may impose, reasonable standards (including
17 standards governing what information and documents are to be furnished at what
18 time and location and at whose expense) with respect to exercise of the right of
19 access.

20 (b) A partnership agreement may provide that the partnership shall have the right to keep
21 confidential from partners for such period of time as the partnership deems reasonable,
22 any information which the partnership reasonably believes to be in the nature of trade

1 secrets or other information the disclosure of which the partnership in good faith believes
2 is not in the best interest of the partnership or could damage the partnership or its
3 business or affairs or which the partnership is required by law or by agreement with a
4 third party to keep confidential.

5 (c) A partnership and its partners may maintain the books and records and other
6 information concerning the partnership in other than a written form if such form is
7 capable of conversion into written form within a reasonable time.

8 (d) Any demand by a partner under this section shall be in writing and shall state the
9 purpose of such demand.

10 (e) Any action to enforce any right arising under this section may be brought in the High
11 Court. If the partnership or a partner refuses to permit access as described in subsection
12 (2)(a) of this section or does not reply to a demand that has been made within five (5)
13 business days after the demand has been made, the demanding partner, former partner, or
14 legal representative of a deceased partner or partner under a legal disability may apply to
15 the High Court for an order to compel such disclosure. The High Court is hereby vested
16 with jurisdiction to determine whether or not the person making the demand is entitled to
17 the books and records or other information concerning the partnership's business and
18 affairs sought. The High Court may summarily order the partnership or partner to permit
19 the demanding partner, former partner or legal representative of a deceased partner or
20 partner under a legal disability and their agents and attorneys to provide access to the
21 information described in subsection (2)(a) of this section and to make copies or extracts
22 therefrom; or the High Court may summarily order the partnership or partner to furnish to

1 the demanding partner, former partner or legal representative of a deceased partner or
2 partner under a legal disability and their agents and attorneys the information described in
3 subsection (2)(a) of this section on the condition that the partner, former partner or legal
4 representative of a deceased partner or partner under a legal disability first pay to the
5 partnership or to the partner from whom access is sought the reasonable cost of obtaining
6 and furnishing such information and on such other conditions as the High Court deems
7 appropriate. When a demanding partner, former partner or legal representative of a
8 deceased partner or partner under a legal disability seeks to obtain access to information
9 described in subsection (2)(a) of this section, the demanding partner, former partner or
10 legal representative of a deceased partner or partner under a legal disability shall first
11 establish (a) that the demanding partner, former partner or legal representative of a
12 deceased partner or partner under a legal disability has complied with the provisions of
13 this section respecting the form and manner of making demand for obtaining access to
14 such information and (b) that the information the demanding partner, former partner or
15 legal representative of a deceased partner or partner under a legal disability seeks is
16 reasonably related to the partner's interest as a partner in the partnership. The High Court
17 may, in its discretion, prescribe any limitations or conditions with reference to the access
18 to information, or award such other or further relief as the High Court may deem just and
19 proper.

20 (f) The rights of a partner to obtain information as provided in this section may be
21 restricted in an original partnership agreement or in any subsequent amendment approved

1 or adopted by all of the partners and in compliance with any applicable requirements of
2 the partnership agreement.

3 Section 4. **Amendment to the Limited Partnership Act**

4 (1) Section 32 of the Marshall Islands Limited Partnership Act is hereby amended to read as
5 follows:

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

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

9
10 (a) *Books of account and minutes.* Every domestic limited partnership shall keep
11 correct and complete books and records of account and shall keep minutes of all meetings
12 of partners and of actions taken on consent by partners. A resident domestic limited
13 partnership shall keep such books and records in the Republic.

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

19 (c) *Form of records.* Any records maintained by a limited partnership in the regular
20 course of its business, including its record of partners, books of account, and minute
21 books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs,
22 microphotographs, or any other information storage device, provided that the records so
23 kept can be converted into clearly legible written form within a reasonable time. Any
24 limited partnership shall so convert any records so kept upon the request of any person

1 entitled to inspect such records. When records are kept in such manner, a clearly legible
2 written form produced from the cards, tapes, photographs, microphotographs, or other
3 information storage device shall be admissible in evidence, and accepted for all other
4 purposes, to the same extent as an original written record of the same information would
5 have been, provided the written form accurately portrays the record.

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

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

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

14 (a) Each limited partner has the right, subject to such reasonable standards (including
15 standards governing what information and documents are to be furnished, at what time
16 and location and at whose expense) as may be set forth in the partnership agreement or
17 otherwise established by the general partners, to obtain from the general partners from
18 time to time upon reasonable demand for any purpose reasonably related to the limited
19 partner's interest as a limited partner:
20

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

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

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

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

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

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

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

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

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

5 (e) Any action to enforce any right arising under this section shall be brought in the High
6 Court. If a general partner refuses to permit a limited partner to obtain from the general
7 partner the information described in subsection (2)(a) of this section or does not reply to
8 the demand that has been made within five (5) business days after the demand has been
9 made, the limited partner may apply to the High Court for an order to compel such
10 disclosure. The High Court is hereby vested with exclusive jurisdiction to determine
11 whether or not the person seeking such information is entitled to the information sought.
12 The High Court may summarily order the general partner to permit the limited partner to
13 obtain the information described in subsection (2)(a) of this section and to make copies or
14 abstracts therefrom, or the High Court may summarily order the general partner to furnish
15 to the limited partner the information described in subsection (2)(a) of this section on the
16 condition that the limited partner first pay to the limited partnership the reasonable cost of
17 obtaining and furnishing such information and on such other conditions as the High Court
18 deems appropriate. When a limited partner seeks to obtain the information described in
19 subsection (2)(a) of this section, the limited partner shall first establish (a) that the limited
20 partner has complied with the provisions of this section respecting the form and manner
21 of making demand for obtaining such information, and (b) that the information the
22 limited partner seeks is reasonably related to the limited partner's interest as a limited

1 partner. The High Court may, in its discretion, prescribe any limitations or conditions
2 with reference to the obtaining of information, or award such other or further relief as the
3 High Court may deem just and proper. The High Court may order books, documents and
4 records, pertinent extracts there from, or duly authenticated copies thereof, to be brought
5 and kept in the Marshall Islands upon such terms and conditions as the order may
6 prescribe.

7 (f) The rights of a limited partner to obtain information as provided in this section may be
8 restricted in an original partnership agreement or in any subsequent amendment approved
9 or adopted by all of the partners and in compliance with any applicable requirements of
10 the partnership agreement. The provisions of this subsection shall not be construed to
11 limit the ability to impose restrictions on the rights of a limited partner to obtain
12 information by any other means permitted under this section.

13 Section 5. **Amendment to the Limited Liability Company Act**

14
15 (1) Section 22 of the Marshall Islands Limited Liability Company Act is hereby amended to
16 read as follows:

17 **§22. Requirement for keeping books of account, minutes, and records; access to and**
18 **confidentiality of information.**

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

20 (a) *Books of account and minutes.* Every domestic limited liability company shall
21 keep correct and complete books and records of account and shall keep minutes of all
22 meetings of members, of actions taken on consent by members, of all meetings of the
23

1 managers, and of actions taken on consent by managers. A resident domestic limited
2 liability company shall keep such books and records in the Republic.

3 (b) *Records of members.* Every domestic limited liability company shall keep a
4 record containing the names and addresses of all members. A resident domestic limited
5 liability company shall keep the records required to be maintained by this subsection at
6 the office of the limited liability company in the Republic or at the office of its agent in
7 the Republic.

8 (c) *Form of records.* Any records maintained by a limited liability company in the
9 regular course of its business, including its record of members, books of account, and
10 minute books, may be kept on, or be in the form of, punch cards, magnetic tape,
11 photographs, microphotographs, or any other information storage device, provided that
12 the records so kept can be converted into clearly legible written form within a reasonable
13 time. Any limited liability company shall so convert any records so kept upon the request
14 of any person entitled to inspect such records. When records are kept in such manner, a
15 clearly legible written form produced from the cards, tapes, photographs,
16 microphotographs, or other information storage device shall be admissible in evidence,
17 and accepted for all other purposes, to the same extent as an original written record of the
18 same information would have been, provided the written form accurately portrays the
19 record.

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

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

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

6 (a) Each member of a limited liability company has the right, subject to such reasonable
7 standards (including standards governing what information and documents are to be
8 furnished at what time and location and at whose expense) as may be set forth in a
9 limited liability company agreement or otherwise established by the manager or, if there
10 is no manager, then by the members, to obtain from the limited liability company from
11 time to time upon reasonable demand for any purpose reasonably related to the member's
12 interest as a member of the limited liability company:

13 (i) true and full information regarding the status of the business and financial
14 condition of the limited liability company;

15 (ii) a current list of the name and last known business, residence or mailing
16 address of each member and manager;

17 (iii) a copy of any written limited liability company agreement and certificate of
18 formation and amendments thereto, together with executed copies of any written
19 powers of attorney pursuant to which the limited liability company agreement and
20 any certificate and all amendments thereto have been executed;

21 (iv) true and full information regarding the amount of cash and a description and
22 statement of the agreed value of any other property or services contributed by

1 each member and which each member has agreed to contribute in the future, and
2 the date on which each became a member; and

3 (v) other information regarding the affairs of the limited liability company as is
4 just and reasonable.

5 (b) Each manager shall have the right to examine all of the information described in
6 subsection (a) of this section for a purpose reasonably related to his position as a
7 manager.

8 (c) The manager of a limited liability company shall have the right to keep confidential
9 from the members, for each period of time as the manager deems reasonable, any
10 information which the manager reasonably believes to be in the nature of trade secrets or
11 other information the disclosure of which the manager in good faith believes is not in the
12 best interest of the limited liability company or could damage the limited liability
13 company or its business or which the limited liability company is required by law or by
14 agreement with a third party to keep confidential.

15 (d) A limited liability company may maintain its records in other than a written form if
16 such form is capable of conversion into written form within a reasonable time.

17 (e) Any demand by a member under this section shall be in writing and shall state the
18 purpose of such demand.

19 (f) Any action to enforce any right arising under this section shall be brought in the High
20 Court of the Republic.

21 Section 6. **Effective Date**

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1 These Acts shall take effect in accordance with the Constitution and the Rules of
2 Procedures of the Nitijela.

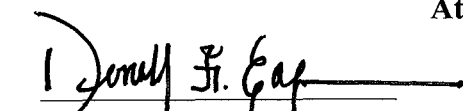
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6 **CERTIFICATE**

7 **I hereby certify:**

- 8 1. That Nitijela Bill No: 61 was passed by the Nitijela of the Republic of the
9 Marshall Islands on the 21st day of March, 2014; and
- 10 2. That I am satisfied that Nitijela Bill No: 61 was passed in accordance with the
11 relevant provisions of the Constitution of the Republic of the Marshall Islands and
12 the Rules of Procedures of the Nitijela.


13 I hereby place my signature before the Clerk this 21st day of April, 2014.

14
15 **Attest:**

16 
17 Hon. Donald F. Capelle

18 Speaker

19 Nitijela of the Marshall Islands

20 
21 Tarjo Arelong

22 Clerk

23 Nitijela of the Marshall Islands
24
25