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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- THE RHODE ISLAND LIMITED LIABILITY COMPANY ACT

Introduced By: Representatives Ucci, Winfield, Shekarchi, and Solomon

Date Introduced: February 14, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 7-16 of the General Laws entitled "The Rhode Island Limited
2 Liability Company Act" is hereby amended by adding thereto the following section:

3 **7-16-77. Series of members, managers, limited liability company interests or assets.**

4 (a) The articles of organization or operating agreement may establish or provide for the
5 establishment of one or more designated series of members, managers, limited liability company
6 interests or assets. Any such series may have separate rights, powers or duties with respect to
7 specified property or obligations of the limited liability company or profits and losses associated
8 with specified property or obligations, and any such series may have a separate business purpose
9 or investment objective.

10 (b) Notwithstanding anything to the contrary set forth in this chapter or under other
11 applicable law, in the event that the articles of organization or operating agreement establishes or
12 provides for the establishment of one or more series, and if the records maintained for any such
13 series account for the assets associated with such series separately from the other assets of the
14 limited liability company, or any other series thereof, and if the operating agreement so provides,
15 and if notice of the limitation on liabilities of a series as referenced in this subsection is set forth
16 in the articles of organization of the limited liability company, then the debts, liabilities,
17 obligations and expenses incurred, contracted for or otherwise existing with respect to a particular
18 series shall be enforceable against the assets of such series only, and not against the assets of the

1 limited liability company generally or any other series thereof, and, unless otherwise provided in
2 the articles of organization or operating agreement, none of the debts, liabilities, obligations and
3 expenses incurred, contracted for or otherwise existing with respect to the limited liability
4 company generally or any other series thereof shall be enforceable against the assets of such
5 series. Assets associated with a series may be held directly or indirectly, including in the name of
6 such series, in the name of the limited liability company, through a nominee or otherwise.
7 Records maintained for a series that reasonably identify its assets, including by specific listing,
8 category, type, quantity, computational or allocational formula or procedure (including a
9 percentage or share of any asset or assets) or by any other method where the identity of such
10 assets is objectively determinable, will be deemed to account for the assets associated with such
11 series separately from the other assets of the limited liability company, or any other series thereof.
12 Notice in the articles of organization of the limitation on liabilities of a series as referenced in this
13 subsection shall be sufficient for all purposes of this subsection whether or not the limited
14 liability company has established any series when such notice is included in the articles of
15 organization, and there shall be no requirement that any specific series of the limited liability
16 company be referenced in such notice. The fact that the articles of organization that contains the
17 foregoing notice of the limitation on liabilities of a series is on file in the office of the secretary of
18 state shall constitute notice of such limitation on liabilities of a series.

19 (c) A series established in accordance with subsection (b) of this section may carry on
20 any lawful business, purpose or activity, whether or not for profit, with the exception of the
21 business of banking as governed by title 19. Unless otherwise provided in the articles of
22 organization or operating agreement, a series established in accordance with subsection (b) of this
23 section shall have the power and capacity to, in its own name, contract, hold title to assets
24 (including real, personal and intangible property), grant liens and security interests, and sue and
25 be sued.

26 (d) Notwithstanding any other provisions of this chapter, under the articles of
27 organization or operating agreement, or under another agreement, a member or manager may
28 agree to be obligated personally for any or all of the debts, obligations and liabilities of one or
29 more series.

30 (e) The articles of organization or operating agreement may provide for classes or groups
31 of members or managers associated with a series having such relative rights, powers and duties as
32 the articles of organization or operating agreement may provide, and may make provision for the
33 future creation in the manner provided in the articles of organization or operating agreement of
34 additional classes or groups of members or managers associated with the series having such

1 relative rights, powers and duties as may from time to time be established, including rights,
2 powers and duties senior to existing classes and groups of members or managers associated with
3 the series. The operating agreement may provide for the taking of an action, including the
4 amendment of the operating agreement, without the vote or approval of any member or manager
5 or class or group of members or managers, including an action to create under the provisions of
6 the operating agreement a class or group of the series of limited liability company interests that
7 was not previously outstanding. An operating agreement may provide that any member or class or
8 group of members associated with a series shall have no voting rights.

9 (f) An operating agreement may grant to all or certain identified members or managers or
10 a specified class or group of the members or managers associated with a series the right to vote
11 separately or with all or any class or group of the members or managers associated with the
12 series, on any matter. Voting by members or managers associated with a series may be on a per
13 capita, number, financial interest, class, group or any other basis.

14 (g) Unless otherwise provided in an operating agreement, the management of a series
15 shall be vested in the members associated with such series in proportion to the then current
16 percentage or other interest of members in the profits of the series owned by all of the members
17 associated with such series. the decision of members owning more than fifty percent (50%) of the
18 said percentage or other interest in the profits controlling; provided, however, that if an operating
19 agreement provides for the management of the series, in whole or in part, by a manager, the
20 management of the series, to the extent so provided, shall be vested in the manager who shall be
21 chosen in the manner provided in the operating agreement. The manager of the series shall also
22 hold the offices and have the responsibilities accorded to the manager as set forth in the operating
23 agreement. A series may have more than one manager. Subject to the provisions of this chapter, a
24 manager shall cease to be a manager with respect to a series as provided in the operating
25 agreement. Except as otherwise provided in an operating agreement, any event under this chapter
26 or in an operating agreement that causes a manager to cease to be a manager with respect to a
27 series shall not, in itself, cause such manager to cease to be a manager of the limited liability
28 company or with respect to any other series thereof.

29 (h) Notwithstanding the provisions of this chapter, but subject to subsections (i) and (l) of
30 this section, and unless otherwise provided in an operating agreement, at the time a member
31 associated with a series that has been established in accordance with subsection (b) of this section
32 becomes entitled to receive a distribution with respect to such series, the member has the status
33 of, and is entitled to all remedies available to, a creditor of the series, with respect to the
34 distribution. An operating agreement may provide for the establishment of a record date with

1 respect to allocations and distributions with respect to a series.

2 (i) Notwithstanding the provisions of this chapter, a limited liability company may make
3 a distribution with respect to a series that has been established in accordance with subsection (b)
4 of this section. A limited liability company shall not make a distribution with respect to a series
5 that has been established in accordance with subsection (b) of this section to a member to the
6 extent that at the time of the distribution, after giving effect to the distribution, all liabilities of
7 such series, other than liabilities to members on account of their limited liability company
8 interests with respect to such series and liabilities for which the recourse of creditors is limited to
9 specified property of such series, exceed the fair value of the assets associated with such series,
10 except that the fair value of property of the series that is subject to a liability for which the
11 recourse of creditors is limited shall be included in the assets associated with such series only to
12 the extent that the fair value of that property exceeds that liability. For purposes of the
13 immediately preceding sentence, the term "distribution" shall not include amounts constituting
14 reasonable compensation for present or past services or reasonable payments made in the
15 ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A
16 member who receives a distribution in violation of this subsection, and who knew at the time of
17 the distribution that the distribution violated this subsection, shall be liable to a series for the
18 amount of the distribution. A member who receives a distribution in violation of this subsection,
19 and who did not know at the time of the distribution that the distribution violated this subsection,
20 shall not be liable for the amount of the distribution. Subject to the provisions of this chapter,
21 which shall apply to any distribution made with respect to a series under this subsection, this
22 subsection shall not affect any obligation or liability of a member under an agreement or other
23 applicable law for the amount of a distribution.

24 (j) Unless otherwise provided in the operating agreement, a member shall cease to be
25 associated with a series and to have the power to exercise any rights or powers of a member with
26 respect to such series upon the assignment of all of the member's limited liability company
27 interest with respect to such series. Except as otherwise provided in an operating agreement, any
28 event under this chapter or an operating agreement that causes a member to cease to be associated
29 with a series shall not, in itself, cause such member to cease to be associated with any other series
30 or terminate the continued membership of a member in the limited liability company or cause the
31 termination of the series, regardless of whether such member was the last remaining member
32 associated with such series.

33 (k) Subject to the provisions of this chapter, except to the extent otherwise provided in
34 the operating agreement, a series may be terminated and its affairs wound up without causing the

1 dissolution of the limited liability company. The termination of a series established in accordance
2 with subsection (b) of this section shall not affect the limitation on liabilities of such series
3 provided by subsection (b) of this section. A series is terminated and its affairs shall be wound up
4 upon the dissolution of the limited liability company under the provisions of this chapter or
5 otherwise upon the first to occur of the following:

6 (1) At the time specified in the operating agreement;

7 (2) Upon the happening of events specified in the operating agreement;

8 (3) Unless otherwise provided in the operating agreement, upon the affirmative vote or
9 written consent of the members of the limited liability company associated with such series or, if
10 there is more than one class or group of members associated with such series, then by each class
11 or group of members associated with such series, in either case, by members associated with such
12 series who own more than two-thirds (2/3) of the then-current percentage or other interest in the
13 profits of the series of the limited liability company owned by all of the members associated with
14 such series or by the members in each class or group of such series, as appropriate; or

15 (4) The termination of such series under subsection (m) of this section.

16 (l) Notwithstanding the provisions of this chapter, unless otherwise provided in the
17 operating agreement, a manager associated with a series who has not wrongfully terminated the
18 series or, if none, the members associated with the series or a person approved by the members
19 associated with the series or, if there is more than one class or group of members associated with
20 the series, then by each class or group of members associated with the series, in either case, by
21 members who own more than fifty percent (50%) of the then-current percentage or other interest
22 in the profits of the series owned by all of the members associated with the series or by the
23 members in each class or group associated with the series, as appropriate, may wind up the affairs
24 of the series; but, if the series has been established in accordance with subsection (b) of this
25 section, the superior court, upon cause shown, may wind up the affairs of the series upon
26 application of any member or manager associated with the series, or the member's personal
27 representative or assignee, and in connection therewith, may appoint a liquidating trustee. The
28 persons winding up the affairs of a series may, in the name of the limited liability company and
29 for and on behalf of the limited liability company and such series, take all actions with respect to
30 the series as are permitted under this chapter. The persons winding up the affairs of a series shall
31 provide for the claims and obligations of the series and distribute the assets of the series as
32 provided in this chapter, which shall apply to the winding up and distribution of assets of a series.
33 Actions taken in accordance with this subsection shall not affect the liability of members and
34 shall not impose liability on a liquidating trustee.

1 (m) On application by or for a member or manager associated with a series established in
2 accordance with subsection (b) of this section, the superior court may decree termination of such
3 series whenever it is not reasonably practicable to carry on the business of the series in
4 conformity with an operating agreement.

5 (n) If a foreign limited liability company that is registering to do business in the state of
6 Rhode Island in accordance with this chapter is governed by an operating agreement that
7 establishes or provides for the establishment of designated series of members, managers, limited
8 liability company interests or assets having separate rights, powers or duties with respect to
9 specified property or obligations of the foreign limited liability company or profits and losses
10 associated with specified property or obligations, that fact shall be so stated on the application for
11 registration as a foreign limited liability company. In addition, the foreign limited liability
12 company shall state on such application whether the debts, liabilities and obligations incurred,
13 contracted for or otherwise existing with respect to a particular series, if any, shall be enforceable
14 against the assets of such series only, and not against the assets of the foreign limited liability
15 company generally or any other series thereof, and whether any of the debts, liabilities,
16 obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign
17 limited liability company generally or any other series thereof shall be enforceable against the
18 assets of such series.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- THE RHODE
ISLAND LIMITED LIABILITY COMPANY ACT

1 This act would provide for the establishment of limited liability companies having one or
2 more designated series of members, managers, limited liability company interests or assets. Any
3 such series may have separate rights, powers or duties with respect to specified property or
4 obligations of the limited liability company or profits and losses associated with specified
5 property or obligations, and any such series may have a separate business purpose.

6 This act would take effect upon passage.

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