

## GENERAL LAW ON BUSINESS ASSOCIATIONS AND

## LIMITED LIABILITY PROPRIETORSHIPS

### I. INTRODUCTION

In an effort to reform the corporate law in the Dominican Republic, a new law was enacted on 11 December 2008, the General Law on Business Associations and Limited Liability Proprietorships, number 479-08 ("Law 479-08" or the "Law"), as an urgent need for driving Dominican corporate practices within a global economy ever more open and competitive.

Law 479-08 overturns and substitutes Title III of the Code of Commerce of the Dominican Republic, regarding companies, Articles 18 to 64, and introduces many modifications to Dominican corporate law. Below, the most salient features:

**1. Incorporation (*Personalidad Jurídica*):** Companies will be subject of rights and obligations upon their registration in the Mercantile Registry (*Registro Mercantil*), which must be done within a month of the execution of the company's contract or holding the constitutive general shareholders or members meeting, depending on the type of company. Acts and contracts entered into before the matriculation of the company in the Mercantile Registry will have full binding effect if, once validly constituted and matriculated, the newly-incorporated entity acknowledges them and assumes said obligations.

**2. Territoriality:** Law 479-08 emphasizes the principle of territoriality of the law. Any company exercising acts of its legal operation in the Dominican Republic, falls under the rule of national laws. By

virtue thereby, the concept of principal establishment is defined as the place where the real center for the administration and management of the company is found, and not necessarily that enshrined in the corporate bylaws. This rule applies to both foreign and domestic companies.

**3. Foreign Companies:** Companies duly constituted / incorporated abroad carrying out judicial acts and operating business in the Dominican Republic, are granted the same rights and obligations as domestic companies. Among these obligations is the matriculation in the Mercantile Registry and in the National Taxpayers Registry (*Registro Nacional de Contribuyentes*) respectively, with the only exceptions being those established by special laws. This recognition of equal treatment releases foreign companies from posting the transit foreigner plaintiff bond (*judicatum solvi* bond) established by Article 16 of the Civil Code and Articles 166 and 167 of the Civil Procedural Code of the Dominican Republic.

**4. Principle of No Opposition (*Corporate Veil*):** The piercing of the corporate veil, in the case of fraud of the law to violate the public order or in detriment of the rights of members, shareholders or third parties. In this regard, it is important to highlight that the piercing of corporate veil does not result in the company and will only exert effects in the specific cases for which it may have been declared.

**5. Good Corporate Governance:** For the first time in Dominican corporate

legislation, fiduciary obligations in the corporate management are enshrined, thus increasing the responsibility of the managers, administrators and representatives of the company vis-à-vis the handling of the accounts and balances, the quality of financial information, as well as the operations and day-to-day running of the company.

**6. Attenuation of the Framework for Annulment Actions:** The Law restricts the scope of annulment actions against companies. The annulment of a corporate act or the entire company can only come about by the express provisions of the Law, or those governing the annulment of contracts. Any annulled clause will be treated as not having been written, and cannot be invoked to seek the annulment of a company. The court can set a term for the annulments to be covered, and it cannot rule on this before two (2) months after the date of the introductory suit.

**7. Accounts *Comisario*:** An active role is assigned to the Accounts *Comisario*, creating a system of incompatible circumstances for exercising of these functions. The designation of one or more Accounts *Comisarios* is optional, except for Corporations for which it is obligatory.

**8. Transformation of Companies:** A regularly constituted company can adopt another type, through a transformation process. It will not be dissolved and will maintain its incorporation, all rights and obligations.

**9. Criminal Liability:** The administrators, founders, managers, partners and other officers of a company can be criminally liable for their actions or omissions. In like manner, proprietors and managers of Limited Liability Proprietorships can be found to be criminally liable. Criminal liability is also instituted for companies. This does not rule out the sanctions that could be imposed. Infractions and sanctions are divided according to the type of company in question.

## II. TYPES OF BUSINESS ASSOCIATIONS

As a general rule, a company is created when two (2) or more physical or artificial persons commit assets in order to carry out acts of commerce and/or to operate a commercial activity, participating in the earnings and losses.

Law 479-08 establishes the following types of corporate vehicles through which a company can operate:

- (a) General Partnerships (*Sociedades en Nombre Colectivo*);
- (b) Simple Limited Partnerships (*Sociedades en Comandita Simple*);
- (c) Limited Partnerships with Shares (*Sociedades en Comandita por Acciones*);
- (d) Limited Liability Companies (*Sociedades de Responsabilidad Limitada*);
- (e) Corporations (public or private) (*Sociedades Anónimas*);
- (f) Limited Liability Proprietorships (*Empresas Individuales de Responsabilidad Limitada*); and
- (g) Accidental or Participation Company (*Sociedad Accidental o en Participación*)

Below, the most salient aspects of each one of them:

### II. 1. GENERAL PARTNERSHIPS

General Partnerships are those in which all the partners respond in a subsidiary,

unlimited and joint manner for the obligations of the partnership. They operate their corporate object under the terms of a corporate title composed of the name of one or more partners followed by the words and “*y compañía*” or its abbreviation.

**Capital:** The Law does not establish a minimum corporate capital, thus the partners can set the capital of their convenience in the bylaws.

**Transfer:** The capital must be divided in interest units (*cuotas sociales*) of the amount established by the partners, which cannot be represented by negotiable instruments nor can they be assigned without the unanimous consent of all the partners.

**Administration:** All the partners will be considered managers, as long as the bylaws do not designate one or more managers who can be partners or not. In like manner, the designation of the managers can be done via a subsequent act approved by the partners. The general meeting of partners is responsible for approving unanimously all decisions that fall outside the attributions of the managers, such as the transfer of assets, the admission of new partners, modifications of the bylaws and the disposal of all or most of the patrimony of the partnership.

**Oversight:** The position of accounts *comisario* is not required since the managers are the ones in charge of overseeing the finances of the partnership. By virtue thereby, they must submit to the general meeting of partners a report of the annual performance as well as the audited financial statements.

**Partners' Liability:** All the partners compromise their liability in a subsidiary, unlimited and joint manner. Any person

included or that has themselves included in the corporate title will be subject to said liability. Notwithstanding, the creditors can only pursue the payment of their debts against a partner after having placed the partnership in arrears.

**Dissolution:** General Partnerships are dissolved upon the death of one of the partner. In these cases, in order for same to subsist, it must have been stipulated in the bylaws that the same can continue: (a) only with the surviving partners; (b) with the heirs becoming partners, subject to acceptance by the partnership; (c) with the surviving spouse; (d) with a person designated by the bylaws or by the will and testament of the deceased.

### II.2. SIMPLE LIMITED PARTNERSHIPS

Simple Limited Partnership are those made up of one or more non-capital contributor partners, who respond unlimitedly to the corporate obligations (General Partners), and one or more capital contributor partners, who are only liable up to the payment of their contributions (Limited Partnerships). Said companies must be identified via a corporate title which will be formed with the names of one or more General Partners followed by the words “*y compañía*” or its abbreviation and must always be accompanied by the words “*Sociedad en Comandita*” or its abbreviation “*S. en C.*” These partnerships are subject to the same rules established for the General Partnerships, with a few exceptions contained in the Law.

**Capital:** The Law does not establish a minimum corporate capital, however there is the obligation to set same in the bylaws. In like manner, the amount of the contributions made by each General Partner and Limited Partner must be indicated in the bylaws. Finally, the global portion of the profits and the

liquidation bonds corresponding to the General Partners and the part of each Limited Partner must be indicated.

**Transfer:** As in the case of the General Partnerships, the capital must be divided in interest units (*cuotas sociales*), which, in principle, cannot be assigned without the unanimous consent of all the partners. However, the bylaws can establish: (a) that the interest units of the Limited Partners may be freely assignable among the partners; (b) that the interest units of the partners can be assigned to third parties with the consent of all the General Partners and the majority in number and capital of the Limited Partners.

**Administration:** These partnerships are administered by managers, which shall be designated by the majority of the partners, unless otherwise established in the bylaws, and their nomination can only be made by the General Partners. The Limited Partners are prohibited from serving as managers.

**Oversight:** The position of accounts *comisario* is not required, inspection and oversight will be exercised by the Limited Partners.

**Members Liability:** The Law prohibits Limited Partners from being part of the corporate title and if the name of a Limited Partner is included in the corporate title, it will respond for corporate obligations in a subsidiary, unlimited and joint manner. Limited Partners cannot be managers nor can they intervene in management. If these rules are violated, the Limited Partner will be jointly liable with the General Partner.

**Dissolution:** The existence of the partnership will survive the death of a Limited Partner, however, in the case of the death of a General Partner, it must be dissolved except for a provision

otherwise. In like manner, the partnership must be dissolved in the event of bankruptcy or in the case of prohibition of a General Partner from the exercise of commerce unless: a) there are one or more General Partners; and, b) the continuation has been foreseen by the bylaws or by unanimous decision of the partners.

### II.3. LIMITED PARTNERSHIPS WITH SHARES

The Limited Partnerships with Shares is one that is composed of one or more General Partners and at least three (3) Limited Partners. The General Partners will respond indefinitely and jointly for the corporate debts.

**Capital:** The Law does not establish a minimum capital, which will be divided into shares, thus the same must be set by the partners in the bylaws.

**Administration:** These partnerships will be administered by one or more managers. The first managers must be designated by the bylaws; in the course of the existence of the partnership, except for a provision otherwise, the managers will be named by the ordinary general meeting pursuant with the agreement of the General Partners. Finally, it is the general partners meeting that will have under its charge the modification of the bylaws, the appointment of the accounts *comisarios*, and the approval of the reports of the oversight council, among others.

**Oversight:** The oversight of the partnership is carried out, on one hand, by an oversight council composed of at least 3 General Partners, which will assume permanent control of the management of the partnership. On the other hand, the ordinary general meeting will designate one or more accounts *comisarios* which will be chosen for a period of three (3) years and who will be subject to the same conditions of

professional qualification, incompatible features, powers, functions, obligations, responsibilities, removal and remuneration foreseen in the Law for the accounts *comisarios* of the Corporations.

These companies will be subject to the rules of Simple Limited Partnerships and the Corporations to the degree they may be compatible.

### II.4. LIMITED LIABILITY COMPANIES

One of the new corporate vehicles introduced by Law 479-08 is the Limited Liability Company (L.L.C.) (*sociedad de responsabilidad limitada* - "S.R.L."). These companies are formed with a minimum of two (2) members and a maximum of fifty (50). In the event an L.L.C. should be composed of more than fifty (50) members, the same must carry out a process of transformation into a Corporation within a term of two (2) years. The same can be given imaginary names, or with the name of one or more of its members and must be preceded or followed, immediately and legible, by the words "*Sociedad de Responsabilidad Limitada*" or its initials in Spanish "S.R.L.".

**Capital:** The minimum capital will be one hundred thousand Dominican pesos (RD\$100,000.00) which will be divided into interest units (*cuotas sociales*) of no less than one hundred Dominican pesos (RD\$100.00) each, which cannot be represented by negotiable instruments. This amount will be reviewed every three (3) years by the Ministry of Industry and Commerce. The Law establishes standards towards guaranteeing the existence of funds for the subscription of the interest units, which must be deposited within the eight (8) days following their receipt into a bank account in the name of the party receiving the funds and on account of the company in formation. These funds will

be unavailable until the matriculation of the company in the Mercantile Registry. In like manner, it establishes particular rules for increases and decreases of authorized corporate capital and subscribed and paid corporate capital.

**Transfer:** The interest units will be freely transferable by way of inheritance or in the event of liquidation of the community property of the spouses and freely assignable between parents and descendants. In order for the interest units to be able to be assigned to third parties, consent will be required from members representing at least three fourths ( $\frac{3}{4}$ ) of the interest units and observing the rules established for these cases in the Law.

**Administration:** L.L.C.s will be administered by one or more managers who must be physical persons and can be members or not. The managers cannot be designated for periods exceeding six (6) years. Except for the approval of the annual report and the financial statements, the rest of the decisions taken by Limited Liability Companies can be made by members meetings, written consults or by consent of all the members contained in an act without the need of presence at a meeting, and via electronic or digital vote. The Law regulates the specific manner and the quorum required for holding the meetings as well as the minimum number of votes required for approval of the diverse resolutions. The partners can decide freely on those aspects of their lives in partnership as long as they do not countervene that established by the Law.

**Oversight:** In this type of company the accounts *comisario* is not obligatory, with the managers being able to render the necessary reports to the members' meeting.

**Liability of Members:** The L.L.C. combines the features of *intuitu personae* and capital companies, since the liability of the members is limited to the amount of the respective contribution amounts at the same time it restricts the negotiability of the interest units. This feature makes the Limited Liability Company the type of choice for medium businesses, subsidiaries of foreign companies, companies with reduced capital and those with members of a specific capacity such as family enterprises.

**Dissolution:** L.L.C.s can be dissolved by: (a) reaching the term set by the bylaws; (b) resolution of an extraordinary general meeting; (c) conclusion of the business which constituted its objective; impossibility to develop the corporate objective; inability of management to function; (d) failure to exercise the activity of its corporate objective for three (3) consecutive years; (e) losses that drop its patrimony to under half of the corporate capital; (f) any other cause expressly indicated in the bylaws.

## II. 5. CORPORATIONS

Corporations can be formed by two (2) or more persons under a corporate title, composed exclusively of shareholders whose liability is limited to their capital contributions. The Law conceives these entities as being *intuitu pecuniae*, being composed of shareholders joined in a commercial activity that requires capital contributions and a detailed regulatory framework for corporate relations. The Law has suppressed the equivalent term "*compañías por acciones*" (share companies); now all corporate titles must be accompanied by the words "*Sociedad Anónima*" or its abbreviation "*S.A.*".

There are two types of corporations, taking into account the source of the funds for its formation and whether or not it participates in the stock exchange:

Public and Private Corporations. Each type has its particular rules and requirements. Public Corporations are supervised by the Superintendency of Securities (*Superintendencia de Valores – SIV*) of the Dominican Republic ("*SIV*").

**Capital:** The minimum amount for the authorized capital for Private Corporations is thirty million Dominican pesos (RD\$30,000,000.00), which will be divided into shares with a minimum face value of one hundred Dominican pesos (RD\$100.00). These amounts must be reviewed every three (3) years by the Ministry of Industry and Commerce. In the other hand, the minimum amount of authorized capital and the face value of shares for Public Corporations will be determined by the SIV. Resolution R-SIV-2009-06-EV from the SIV dated 6 February 2009 provided a minimum of corporate capital and a face value of the shares for Public Corporations to be equal to that established by Law 479-08 for Private Corporations. The capital will be divided into negotiable instruments called shares, which must be fully subscribed and paid before they are issued, verified by way of a receipt of subscription for Private Corporations, and via a subscription bulletin for Public Corporations. For their registration in the Mercantile Registry, at least one tenth of its authorized corporate capital must be subscribed and paid.

**Transfer:** The shares are freely negotiable and any limitation on negotiability of same must be foreseen in the bylaws. The shares will be transferred with respect to third parties and the issuing Corporation, by a transfer noted in the records of the Corporation. No legal act in this regard will exert effects over third parties and the Corporation until it is recorded in the corresponding registry. In these cases, the transfer is effected via a declaration of transfer recorded in the registries of the Corporation and signed

by the party making the transfer or a party they have empowered.

**Administration:** Corporations are administered by a board of directors with at least three (3) members. A director cannot serve simultaneously as administrator in more than five (5) boards of different companies. In the event that a company is designated as member of the board of directors, it must name a physical person to represent it, who will have the same responsibilities and obligations as the company he or she represents. The president of the board at all times must be a physical person. The Law has established certain conditions that the persons named as administrators of a Corporation must meet, as well as those persons who cannot be designated administrators. In like manner, it establishes the particular and general actions that are forbidden to administrators under penalty of compromising their liability.

In like manner, Corporations are administered by shareholders meetings, which are considered to be the supreme corporate body of the Corporation. The Law defines the different categories of shareholders meetings and establishes particular rules for each one of them, such as what provisions can be considered, the manner and the terms for convening notices, the minimum quorum for holding shareholders meetings and the majority for adopting decisions. Prior to the enactment of Law 479-08, most of these provisions were freely established by the shareholders of each company, taking into account their needs. However, each Corporation must adapt their bylaws so they are in conformity with the Law. By virtue thereby, it should be noted that the shareholders meetings that do not meet the requirements and formalities as established, can be declared null and void by any shareholder or third party

with a legitimate interest and adhering to the admissibility of annulment established in the Law.

The decisions of the board of directors as well as those of the shareholders meeting can be approved without the need of presence at the meetings and via electronic or digital vote, except for the shareholders meetings that consider the annual report on performance, financial statements and the report from the Accounts *Comisario*, at which presence is required.

**Oversight:** The actions of the board of directors and the managers are examined by the accounts *comisarios*. The Corporations must designate one or more accounts *comisarios*, who must oversee the accounts and balances of the Corporation. However, it introduces two fundamental changes: (i) it establishes that same must be authorized public accountants, with a minimum experience of three (3) years in auditing of companies; and, (ii) extends from one (1) to three (3) years as the minimum period for which they will be appointed. The Law establishes rules of incompatibility for accounts *comisarios* and specifically provides for the general functions, powers, obligations and responsibilities with respect to the Corporation, the shareholders and third parties of same. In general, these specifications grant an active role to the office of accounts *comisario* and more control on the actions of the board of directors.

**Liability of the Shareholders:** Corporations limit the liability of the shareholders up to the amount of their respective contributions.

**Dissolution:** The Law establishes the following causes for dissolution: (a) by decision of the extraordinary shareholders meetings; (b) by completion of the term set by the bylaws; (c) by the

impossibility of carrying out the corporate objective, rendering its operation impossible; (d) by losses that reduce the accounting patrimony to less than half the corporate capital, unless it is increased or reduced to the corresponding degree; (e) by the reduction of corporate capital to less than half the legal minimum; (f) by the merger or spin-off (*escisión*) of the corporation; (g) reduction of the number of shareholders to less than two (2) for a period of one year; (h) any other cause established in the bylaws.

## II.6. LIMITED LIABILITY PROPRIETORSHIPS

Another innovation of Law 479-08 is the Limited Liability Proprietorships. This corporate vehicle is ideal to accommodate the needs of businesspeople who have being forced to form companies with the formerly required minimum of seven (7) shareholders, when the reality was that the major shareholder was the single person really being the only party to the profits and losses produced of the company.

The main feature of this corporate vehicle is that it belongs to just one (1) physical person and it is subject of rights and obligations. That is, it has a patrimony independent and separate from the other assets of its Proprietor. The name of the Proprietorship must not contain the name, surname, nickname nor any other appellative of the physical person, and must have before or after it the words *Empresa Individual de Responsabilidad Limitada* or the initials "E.I.R.L.". Limited Liability Proprietorships are incorporated by the registration in the Mercantile Registry of the corresponding incorporation act executed by the founder via an authentic notarial act (*acto auténtico*).

**Capital:** The capital is determined by what the proprietor declares in the incorporation act, supported by the corresponding bank deposit slip to an account in the name of the Limited Liability Proprietorships in formation, and documentation on any contributions of assets in kind.

**Transfer:** These enterprises can be transferred via execution of a transfer act registered in the Mercantile Registry.

**Administration:** A Limited Liability Proprietorship can be administered by one or more managers, with the proprietor being able to serve as such. There is no obligation to name an accounts *comisario*.

**Liability:** A Limited Liability Proprietorship responds to its obligations with its patrimony, with no liability for the proprietor once they have met their capital contribution obligation. However, the Limited Liability Proprietorship will be debtors, along with its proprietor, of the proprietor's debts prior to the formation of the enterprise if said debts are recorded in the Mercantile Registry in the three (3) months after the publication of the summary or extract of the incorporation act of the Limited Liability Proprietorship.

**Dissolution:** The proprietor and his or her heirs can agree to early dissolution. Upon the death of the proprietor, the proprietorship can be liquidated by the heirs, assigned to a successor as the result of a distribution, or kept indivisible by agreement of all the heirs, designating a manager for the time agreed to.

## II.7. ACCIDENTAL OR PARTICIPATION COMPANIES

Accidental or Participation Companies are constituted by contract, executed by

just one interested party under their personal credit, charged with rendering accounts and sharing out earnings and losses in the agreed proportion. There is no formal incorporation (it is not subject of rights nor of obligations: *personalidad jurídica*), and does not have denomination, patrimony or domicile of its own. Accidental or Participation Companies are not subject to the requisites of form and matriculation and its existence can be proven by any means.

In lack of special dispositions, Accidental or Participation Companies will function, be dissolved and liquidated by the rules applicable to the General Partnerships.

## III. GENERAL RULES FOR BUSINESS ASSOCIATIONS

### *Annulments*

The Law seeks to discourage annulment actions against the incorporation formalities and other acts and deliberations of the companies. Article 370 provides that annulment of a company or of an act modifying the bylaws or of acts or deliberations can only result from an express provision of the Law or the laws that govern the annulment of contracts. Any annulled clauses will be deemed to be not written and cannot be invoked to request the annulment of a company. Any declaration of annulment must be pronounced by a court. Article 372 establishes that the court can set a term for the annulments to be covered and this pronouncement cannot be given until after two (2) months since the date of the introductory lawsuit.

Except for cases of violation of a public order provision, annulment could be ordered up to the day the court decides on the merits of the lawsuit, at which time the annulment action ceases. With the Code of Commerce, lawsuits ceased

to be admissible if the annulment was covered before the introduction of the instance; however, it did not foresee the possibility of the extinction of lawsuit in the event that the annulment was not covered in the course of the lawsuit.

In addition, Law 479-08 makes it possible for any interested party to place the company in arrears in order for it to make the regularization or to sue for annulment within a term of six (6) months; this is so in the cases in which the annulment of the company or the acts and deliberations subsequent to its constitution should be based on a defect in the consent or the incapacity of a member, shareholder or partner.

In the event that the annulment should be founded on violations of the rules for publicity which are set by the Law, any interested person shall, via a bailiff act, be able to place the company in arrears for it to regularize the situation within a term of thirty (30) days.

The annulment action of a company or acts and deliberations subsequent to its constitution is time-barred after three (3) years as of the day on which the annulment incurred. Still, the liability actions are time-barred three (3) years as of the day on which the statement declaring the annulment acquires the authority of something irrevocably judged.

By virtue of Law 479-08, in the event that the company should cover the annulment, it is not exempted from a liability action, which could be filed within three (3) years of the annulment having been covered; while, in conformity with the Code of Commerce, the liability action was inadmissible if at the date of the introduction of the lawsuit, the cause of the annulment have ceased to exist and if three (3) years have

passed since the day on which the annulment occurred.

The founders, the administrators acting at the time when the annulment incurs and the shareholders, members or partners whose contributions or advantages have not been verified and approved can be declared to be jointly liable for the damages resulting from the pronouncement of the annulment.

If proceeds, once the annulment of the company has been pronounced, the liquidation procedure established by the Law and the bylaws will begin.

#### **Merger and Spin-Off (“Fusión y Escisión”)**

Chapter IV of Law 479-08 refers to the mergers and spin-offs, making it possible that companies in different classes can be merged or spin-off. The merger of different classes of companies was only admitted between Corporations and Limited Liability Partnerships with Shares.

The documentation to be produced in both processes has been established as well as the process to be carried out internally as well as before the Mercantile Registry and the SIV, in the case of Public Corporations.

#### **Liquidation**

The liquidation process for companies in the Dominican Republic is regulated through Chapter V of the Law, whereby it is established that the liquidation is carried out pursuant to that stipulated in the bylaws, the company’s contract and Law 479-08.

This process begins as soon as the dissolution of the company is finalized, which will only exert effects with respect to third parties as of the date on which

the extraordinary general meeting approving the dissolution is registered in the Mercantile Registry. It is important to indicate that the fact of the company being subject of rights and obligations (*personalidad jurídica*) will survive for the needs of the liquidation until the company has been closed.

Regarding the liquidators, its sets forth the functions that will be placed under their charge and establishes those situations that will be forbidden with respect to the assets of the corporation with the purpose of preserving same and guaranteeing that the creditors of same can be fairly compensated.

#### **Transformation**

Another innovation in the Law is that a company of one type can transform itself into another corporate vehicle of those established in the Law. The transformation process does not entail loss of the capacity of being subject to rights and obligations (*personalidad jurídica*) at any point, and the existing rights and obligations remain unaltered.

A special balance sheet and report from the accounts *comisario* (if there is one) must be prepared, along with the bylaws amended in accordance with the formalities required by the new type of corporate vehicle.

The Law expressly specifies that Corporations can be transformed into General Partnerships, Simple Limited Partnerships or Limited Liability Companies. The Law is silent with respect to transforming into other types of companies. Notwithstanding, we can infer this possibility from the need, for example, of a Limited Liability Company to be transformed into a Corporation when the number of members is higher than fifty (50).

## **IV. CRIMINAL PROVISIONS RELATIVE TO COMPANIES AND LIMITED LIABILITY PROPRIETORSHIPS**

Law 479-08 establishes penal liability of administrators, founders, managers, shareholders, partners and other officers of the companies or proprietorships, and divides infractions and sanctions taking into account the type of corporate vehicle in question.

The principal objectives of the new punitive regime are: (a) protection of public investment and savings; (b) protection of the right of the partners, members and shareholders to receive true, timely and effective information, and (c) enforcing the duty to render accounts.

Penalties, include prison for up to ten (10) years and fines ranging from twenty (20) to one hundred twenty (120) minimum salaries on the penalty, are imposed.

These sanctions can be imposed due to not having complied with the publicity requirements, false statements in the incorporation documents and the other acts of the company or limited liability proprietorship, such as the issuance of shares without having subscribed at least ten percent of the authorized capital; as well as the use of the money, goods or services of the company for personal purposes, by the president, the administrators or officers of the company without the approval of the general meeting.

On the other hand, the Law establishes sanctions for the owners or managers of Limited Liability Proprietorships which include up to three (3) years of prison and fines up to sixty (60) minimum salaries.

It is of great importance to note that in addition to the sanctions imposed on administrators, managers, officials and members, partners or shareholders of companies and limited liability proprietorships, the Law also provides penal liability for the company or proprietorship itself, including sanctions consisting of: (a) temporary closure for up to three (3) years of one or more of the commercial establishments operated by the company, or even its legal dissolution; (b) revocation of any facility granted the company by a public authority for up to five (5) years, or even definitively, whether it be a concession, license, permit, authorization or any other; and/or (c) temporary disqualification up to five (5) years, or even definitively, from promoting to the public or to the financial, exchange, or commercial sectors, for savings or placing securities.

#### V. TRANSITIONAL PROVISIONS

Corporations incorporated prior to the Law which are engaged in public offerings of primary or secondary securities or negotiated financial instruments through the Stock Exchange of the Dominican Republic, must adjust their corporate, accounting and operational framework pursuant to the new requirements, within one hundred eighty (180) days after the publication of the Law, i.e., no later than **11 June 2009**.

In like manner, Corporations wishing to continue with that status must submit to a process of adjustment in conformity with the new requirements established for this kind of Corporation, within one hundred eighty (180) days following the publication of the Law.

The Chambers of Commerce and Production will begin receiving the documents for the adjustment process on **1 April 2009**.

The Mercantile Registries will be those in charge of ensuring that the adjustments and transformations of companies are carried out pursuant to Law 479-08. They can receive no renewal or matriculation applications, nor registration, nor corporate documentation related to Corporations that have not complied with the adjustment process within the above mentioned term.

On **11 February 2009** the Chambers of Commerce published guidelines on the criteria and parameters which will serve as the basis for the adjustment and transformation of companies.

Any existing company opting to become another type of company must begin such process as of the Law's entry into effect, which will occur one hundred ninety (190) days after its enactment, i.e., on **19 June 2009**.