

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY STERN, CREIGHTON, BUNT, CALTAGIRONE, GODSHALL,  
R. MILLER, CAPPELLI, DENLINGER, SONNEY, SAYLOR, TURZAI, LEH,  
HALUSKA, BELFANTI, KOTIK, GINGRICH, REICHLEY, SATHER AND  
CRAHALLA, JUNE 28, 2006

REFERRED TO COMMITTEE ON COMMERCE, JUNE 28, 2006

AN ACT

1 Amending Titles 15 (Corporations and Unincorporated  
2 Associations) and 54 (Names) of the Pennsylvania Consolidated  
3 Statutes, further providing for definitions; further  
4 providing, in registered limited liability partnerships, for  
5 ownership of certain professional partnerships, for scope,  
6 for definitions, for limitation on liability of partners, for  
7 liability of withdrawing partner, for foreign registered  
8 limited liability partnerships, for annual registration;  
9 further providing, in general partnerships, for definitions,  
10 for rules of construction; providing, in limited  
11 partnerships, for advertisement; further providing, in  
12 limited partnerships, for assignment of partnership interest  
13 and for changes and amendments; further providing, in limited  
14 liability companies, for definitions and index of  
15 definitions; providing, in limited liability companies, for  
16 validation of prohibitions of assignments; further providing,  
17 in limited liability companies, for operating agreement, for  
18 management, for limitation on dissociation or assignment of  
19 membership interest and for dissolution; providing, in  
20 limited liability companies, for advertisement; further  
21 providing, in limited liability companies, for distribution  
22 of assets upon dissolution and for certificate of  
23 dissolution; further providing, in business trusts, for  
24 liability of trustees and beneficiaries; further providing,  
25 in names, for definitions; and further providing, in  
26 corporate and other association names, for register  
27 establishment.

28 The General Assembly of the Commonwealth of Pennsylvania  
29 hereby enacts as follows:

Section 1. The definition of "limited liability company" in section 102 of Title 15 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding definitions to read:

§ 102. Definitions.

Subject to additional or inconsistent definitions contained in subsequent provisions of this title that are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

"Bankrupt." A person who is the subject of any of the following:

(1) An order for relief or a voluntary case under 11 U.S.C. (relating to bankruptcy).

(2) A comparable order or case under a State insolvency statute.

\* \* \*

"Limited liability company." A domestic or foreign limited liability company as defined in section 8903 (relating to definitions [and index of definitions]).

"Officially publish." Publish in two newspapers of general circulation in the English language in the county in which the registered office of the association is located or, in the case of a proposed association, will be located, one of which must be the legal newspaper, if any, designated by the rules of court for the publication of legal notices. If there is only one newspaper of general circulation in the county, advertisement in that newspaper is sufficient. If no other frequency is

1 specified, the notice must be published one time. See section  
2 109(a)(2) (relating to name of commercial registered office  
3 provider in lieu of registered address).

4 \* \* \*

5 Section 2. Section 8105 of Title 15 is amended to read:

6 § 8105. Ownership of certain professional partnerships.

7 Except as otherwise provided by statute, rule or regulation  
8 applicable to a particular profession, all of the ultimate  
9 beneficial owners of the partnership interests in a partnership  
10 that renders one or more restricted professional services shall  
11 be licensed persons. As used in this section, the term  
12 "restricted professional services" shall have the meaning  
13 specified in section 8903 (relating to definitions [and index of  
14 definitions]).

15 Section 3. Section 8201(e) of Title 15 is amended and  
16 subsection (a) is amended by adding a paragraph to read:

17 § 8201. Scope.

18 (a) Application of subchapter.--This subchapter applies to a  
19 general or limited partnership formed under the laws of this  
20 Commonwealth that registers under this section. Any partnership  
21 that desires to register under this subchapter or to amend or  
22 terminate its registration shall file in the Department of State  
23 a statement of registration, amendment or termination, as the  
24 case may be, which shall be signed by a general partner and  
25 shall set forth:

26 \* \* \*

27 (5) If the partnership is a restricted professional  
28 partnership, a statement identifying the type of restricted  
29 professional services to be rendered by the partnership.

30 \* \* \*

(e) Prohibited termination.--A registration under this subchapter may not be terminated while the partnership is a bankrupt [as that term is defined in section 8903 (relating to definitions and index of definitions)]. See section 8221(f) (relating to annual registration).

\* \* \*

Section 4. Section 8202 of Title 15 is amended by adding definitions to read:

§ 8202. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Restricted professional partnership." A domestic or foreign registered limited liability partnership that renders one or more restricted professional services.

"Restricted professional services." The term shall have the meaning specified in section 8903 (relating to definitions).

Section 5. Section 8204 of Title 15 is amended to read:

§ 8204. Limitation on liability of partners.

(a) General rule.--Except as provided in subsection (b)[, a]:

(1) A partner in a registered limited liability partnership that is not a restricted professional partnership shall not be [individually] liable directly or indirectly, whether by way of indemnification, contribution, assessment or otherwise, [for debts and obligations] under an order of court or in any other manner for a debt, obligation or liability of, or chargeable to, the partnership, whether sounding in contract or tort or otherwise, that [arise]

1 arises from any negligent or wrongful acts or misconduct  
2 committed by another partner or other representative of the  
3 partnership while the registration of the partnership under  
4 this subchapter is in effect.

5 (2) A partner in a restricted professional partnership  
6 shall not be liable directly or indirectly, whether by way of  
7 indemnification, contribution, assessment or otherwise, under  
8 an order of court or in any other manner for a debt,  
9 obligation or liability of any kind of, or chargeable to, the  
10 partnership that arises while the partnership has the status  
11 of a restricted professional partnership or for acts of  
12 another partner or other representative of the partnership  
13 committed while the partnership has the status of a  
14 restricted professional partnership.

15 (b) Exceptions.--

16 (2) Subsection (a) shall not affect the liability of a  
17 partner:

18 (i) Individually for any negligent or wrongful acts  
19 or misconduct committed by him or by any person under his  
20 direct supervision and control.

21 (ii) For any debts [or], obligations or liabilities  
22 of the partnership[:]

23 (A) arising from any cause other than those  
24 specified in subsection (a); or

25 (B)] as to which the partner has agreed in  
26 [writing] record form to be liable.

27 (iii) To the extent expressly undertaken in the  
28 partnership agreement or the certificate of limited  
29 partnership.

30 (3) Subsection (a) shall not affect in any way:

(i) the liability of the partnership itself for all its debts [and], obligations and liabilities;

(ii) the availability of the entire assets of the partnership to satisfy its debts [and obligations], obligations and liabilities; or

(iii) any obligation undertaken by a partner in [writing] record form to individually indemnify another partner of the partnership or to individually contribute toward a liability of another partner.

(4) Subsection (a)(1) shall not affect the liability of a partner for any debts, obligations or liabilities of the partnership arising from any cause other than those specified in subsection (a)(1).

(5) Subsection (a)(2) shall not apply to debts, obligations or liabilities arising, or acts committed, before (the Legislative Reference Bureau shall insert here the effective date of subsection (a)(2)).

(c) Continuation of limited liability.--Neither the termination of the registration of a partnership under this subchapter nor the dissolution of the partnership shall affect the limitation on the liability of a partner in the partnership under this section [with respect to negligent or wrongful acts or misconduct occurring] for debts, obligations or liabilities that arose while the registration under this subchapter was in effect.

(c.1) Proper parties.--A partner in a registered limited liability partnership is not a proper party to an action or proceeding by or against the partnership, the object of which is to recover damages or enforce debts, obligations or liabilities for which the partner is not liable under this section.

(d) Cross reference.--See section 103 (relating to subordination of title to regulatory laws).

Section 6. Section 8205(a) and (b)(2), (5) and (7) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 8205. Liability of withdrawing partner.

(a) General rule.--Except as provided in subsection (b), if the business of a registered limited liability partnership is continued without liquidation of the partnership affairs following the dissolution of the partnership as a result of the withdrawal for any reason of a partner, the withdrawing partner shall not be [individually] liable directly or indirectly, whether by way of indemnification, contribution, assessment or otherwise, under an order of court or in any other manner for any of the debts [and], obligations or liabilities of any kind of either the dissolved partnership or any partnership continuing the business if a statement of withdrawal is filed as provided in this section.

(b) Exceptions.--Subsection (a) shall not affect the liability of a partner:

\* \* \*

(2) For any debts [or], obligations or liabilities of the partnership as to which the withdrawing partner has agreed in [writing] record form to be liable.

\* \* \*

(5) To the extent a debt [or], obligation or liability of the partnership has been expressly undertaken by the partner in the partnership agreement or the certificate of limited partnership.

\* \* \*

(7) For any obligation undertaken by a partner in [writing] record form to individually indemnify another partner of the partnership or to individually contribute toward a liability of another partner.

\* \* \*

(h.1) Proper parties.--A partner in a registered limited liability partnership is not a proper party to an action or proceeding by or against the partnership, the object of which is to recover damages or enforce debts, obligations or liabilities for which the partner is not liable under this section.

\* \* \*

Section 7. Sections 8211(b)(1) and (c) and 8221 of Title 15 are amended to read:

§ 8211. Foreign registered limited liability partnerships.

\* \* \*

(b) Registration to do business.--A foreign registered limited liability partnership, regardless of whether or not it is also a foreign limited partnership, shall be subject to Subchapter K of Chapter 85 (relating to foreign limited partnerships) as if it were a foreign limited partnership, except that:

(1) Its application for registration shall state that it is a registered limited liability partnership[.] and, if the partnership is a restricted professional partnership, shall also include a statement to that effect with a brief description of the restricted professional service or services to be rendered by the partnership.

\* \* \*

(c) Exception.--The liability of the partners in a foreign registered limited liability partnership shall be governed by



1 the laws of the jurisdiction under which it is organized, except  
2 that the partners in a foreign registered limited liability  
3 partnership that is not a restricted professional partnership  
4 shall not be entitled to greater protection from liability than  
5 is available to the partners in a domestic registered limited  
6 liability partnership that is not a restricted professional  
7 partnership.

8 § 8221. Annual registration.

9 (a) General rule.--Every domestic registered limited  
10 liability partnership in existence on December 31 of any year  
11 and every foreign registered limited liability partnership that  
12 is registered to do business in this Commonwealth on December 31  
13 of any year shall file in the Department of State with respect  
14 to that year, and on or before April 15 of the following year, a  
15 certificate of annual registration on a form provided by the  
16 department, signed by a general partner and accompanied by the  
17 annual registration fee prescribed by subsection (b). The  
18 department shall not charge a fee other than the annual  
19 registration fee for filing the certificate of annual  
20 registration.

21 (b) Annual registration fee.--

22 (1) The annual registration fee to be paid when filing a  
23 certificate of annual registration shall be equal to [a] the  
24 base fee [of \$200] set forth in paragraph (2) or (3) times  
25 the number of persons who were general partners of the  
26 partnership on December 31 of the year with respect to which  
27 the certificate of annual registration is being filed and  
28 who:

29 (i) in the case of a natural person, had his  
30 principal residence on that date in this Commonwealth; or

(ii) in the case of any other person, was incorporated or otherwise organized or existing on that date under the laws of this Commonwealth.

(2) The base fee [of \$200] for a partnership that is not a restricted professional partnership shall be \$240 and shall be increased on December 31, [1997] 2005, and December 31 of every third year thereafter by the percentage increase in the Consumer Price Index for Urban Workers during the most recent three calendar years for which that index is available on the date of adjustment. Each adjustment under this paragraph shall be rounded up to the nearest \$10.

(3) The base fee for a restricted professional partnership shall be \$300 and shall be increased on December 31, 2008, and December 31 of every third year thereafter by the percentage increase in the Consumer Price Index for Urban Workers during the most recent three calendar years for which that index is available on the date of adjustment. Each adjustment under this paragraph shall be rounded up to the nearest \$10.

(c) Notice of annual registration.--Not later than February 1 of each year, the department shall give notice to every partnership required to file a certificate of annual registration with respect to the preceding year of the requirement to file the certificate. The notice shall state the amount of the base fee payable under subsection (b)(1), as adjusted pursuant to subsection (b)(2) or (3), if applicable, and shall be accompanied by the form of certificate of annual registration to be filed. Failure by the department to give notice to any party, or failure by any party to receive notice, of the annual registration requirement shall not relieve the

1 party of the obligation to file the certificate of annual  
2 registration.

3 (d) Credit to Corporation Bureau Restricted Account.--The  
4 annual registration fee shall not be deemed to be an amount  
5 received by the department under Subchapter C of Chapter 1 for  
6 purposes of section 155 (relating to disposition of funds),  
7 except that \$25 of the fee shall be credited to the Corporation  
8 Bureau Restricted Account.

9 (e) Failure to pay annual fee.--

10 (1) Failure to file the certificate of annual  
11 registration required by this section for five consecutive  
12 years shall result in the automatic termination of the status  
13 of the registered limited liability partnership as such. In  
14 addition, any annual registration fee that is not paid when  
15 due shall be a lien in the manner provided in this subsection  
16 from the time the annual registration fee is due and payable.  
17 If a certificate of annual registration is not filed within  
18 30 days after the date on which it is due, the department  
19 shall assess a penalty of \$500 against the partnership, which  
20 shall also be a lien in the manner provided in this  
21 subsection. The imposition of that penalty shall not be  
22 construed to relieve the partnership from liability for any  
23 other penalty or interest provided for under other applicable  
24 law.

25 (2) If the annual registration fee paid by a registered  
26 limited liability partnership is subsequently determined to  
27 be less than should have been paid because it was based on an  
28 incorrect number of general partners or was otherwise  
29 incorrectly computed, that fact shall not affect the  
30 existence or status of the registered limited liability

1 partnership as such, but the amount of the additional annual  
2 registration fee that should have been paid shall be a lien  
3 in the manner provided in this subsection from the time the  
4 incorrect payment is discovered by the department.

5 (3) The annual registration fee shall bear simple  
6 interest from the date that it becomes due and payable until  
7 paid. The interest rate shall be that provided for in section  
8 806 of the act of April 9, 1929 (P.L.343, No.176), known as  
9 The Fiscal Code, with respect to unpaid taxes. The penalty  
10 provided for in paragraph (1) shall not bear interest. The  
11 payment of interest shall not relieve the registered limited  
12 liability partnership from liability for any other penalty or  
13 interest provided for under other applicable law.

14 (4) The lien created by this subsection shall attach to  
15 all of the property and proceeds thereof of the registered  
16 limited liability partnership in which a security interest  
17 can be perfected in whole or in part by filing in the  
18 department under 13 Pa.C.S. Div. 9 (relating to secured  
19 transactions[; sales of accounts, contract rights and chattel  
20 paper]), whether the property and proceeds are owned by the  
21 partnership at the time the annual registration fee or any  
22 penalty or interest becomes due and payable or whether the  
23 property and proceeds are acquired thereafter. Except as  
24 otherwise provided by statute, the lien created by this  
25 subsection shall have priority over all other liens, security  
26 interests or other charges, except liens for taxes or other  
27 charges due the Commonwealth. The lien created by this  
28 subsection shall be entered on the records of the department  
29 and indexed in the same manner as a financing statement filed  
30 under 13 Pa.C.S. Div. 9. At the time an annual registration

1 fee, penalty or interest that has resulted in the creation of  
2 a lien under this subsection is paid, the department shall  
3 terminate the lien with respect to that annual registration  
4 fee, penalty or interest without requiring a separate filing  
5 by the partnership for that purpose.

6 (5) If the annual registration fee paid by a registered  
7 limited liability partnership is subsequently determined to  
8 be more than should have been paid for any reason, no refund  
9 of the additional fee shall be made.

10 (6) Termination of the status of a registered limited  
11 liability partnership as such, whether voluntarily or  
12 involuntarily, shall not release it from the obligation to  
13 pay any accrued fees, penalties and interest and shall not  
14 release the lien created by this subsection.

15 (f) Exception for bankrupt partnerships.--A partnership that  
16 would otherwise be required to pay the annual registration fee  
17 set forth in subsection (b) shall not be required to pay that  
18 fee with respect to any year during any part of which the  
19 partnership is a bankrupt [as defined in section 8903 (relating  
20 to definitions and index of definitions)]. The partnership  
21 shall, instead, indicate on its certificate of annual  
22 registration for that year that it is exempt from payment of the  
23 annual registration fee pursuant to this subsection. If the  
24 partnership fails to file timely a certificate of annual  
25 registration, a lien shall be entered on the records of the  
26 department pursuant to subsection (e) which shall not be removed  
27 until the partnership files a certificate of annual registration  
28 indicating its entitlement to an exemption from payment of the  
29 annual registration fee as provided in this subsection. See  
30 section 8201(e) (relating to scope).

Section 8. The definition of "bankrupt" in section 8302 of Title 15 is amended to read:

§ 8302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

["Bankrupt." Includes bankrupt under the Bankruptcy Code (11 U.S.C. § 101 et seq.) or insolvent under any State insolvency act.]

\* \* \*

Section 9. Section 8304 of Title 15 is amended by adding a subsection to read:

§ 8304. Rules of construction.

\* \* \*

(c) Validation of prohibition of assignments.--

(1) The provisions of 13 Pa.C.S. §§ 9406 (relating to discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles and promissory notes ineffective) and 9408 (relating to restrictions on assignment of promissory notes, health-care-insurance receivables and certain general intangibles ineffective) shall not apply to any interest in a domestic partnership, including any right, power and interest arising under a partnership agreement or this part.

(2) This subsection shall be construed to prevail over 13 Pa.C.S. §§ 9406 and 9408.

Section 10. Section 8503(b) of Title 15 is amended by adding a definition to read:

§ 8503. Definitions and index of definitions.

1       \* \* \*

2       (b) Index of definitions.--Other definitions applying to  
3 this chapter and the sections in which they appear are:

4       \* \* \*

5       "Bankrupt." Section 102.

6       \* \* \*

7       Section 11. Title 15 is amended by adding a section to read:  
8 § 8511.1. Advertisement.

9       (a) Requirement.--The prospective partners or the limited  
10 partnership must officially publish a notice of intent to file  
11 or of filing a certificate of limited partnership.

12       (b) Time.--The notice may appear prior to or after the  
13 certificate is filed with the department.

14       (c) Content.--The notice shall set forth briefly:

15           (1) The name of the limited partnership.

16           (2) The fact that the limited partnership is formed  
17 under Chapter 85 (relating to limited partnerships).

18       (d) Transitional rule.--This section does not apply to a  
19 limited partnership whose certificate of limited partnership is  
20 filed on or before (the Legislative Reference Bureau shall  
21 insert here the effective date of this section).

22       Section 12. Section 8562(a) of Title 15 is amended and the  
23 section is amended by adding a subsection to read:

24       § 8562. Assignment of partnership interest.

25       (a) General rule.--Except as otherwise provided in the  
26 partnership agreement:

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

29           (2) an assignment of a partnership interest does not  
30 dissolve a limited partnership or entitle the assignee to

1       become or to exercise any rights of a partner;

2           (3)   an assignment entitles the assignee to share in such  
3       profits and losses, to receive such distributions, and to  
4       receive such allocations of income, gain, loss, deduction, or  
5       credit or similar item to which the assignor was entitled, to  
6       the extent assigned; [and]

7           (4)   a partner ceases to be a partner and to have the  
8       power to exercise any rights or powers of a partner upon  
9       assignment of all of his partnership interest[.]; and

10          (5)   the pledge of, or granting of a security interest,  
11       lien or other encumbrance in or against, any or all of the  
12       partnership interest of a partner shall not cause the partner  
13       to cease to be a partner or to have the power to exercise any  
14       rights or powers of a partner.

15       \* \* \*

16       (d)   Validation of prohibition of assignments.--

17           (1)   The provisions of 13 Pa.C.S. §§ 9406 (relating to  
18       discharge of account debtor; notification of assignment;  
19       identification and proof of assignment; restrictions on  
20       assignment of accounts, chattel paper, payment intangibles  
21       and promissory notes ineffective) and 9408 (relating to  
22       restrictions on assignment of promissory notes, health-care-  
23       insurance receivables and certain general intangibles  
24       ineffective) shall not apply to any interest in a domestic  
25       limited partnership, including any right, power and interest  
26       arising under a partnership agreement or this part.

27           (2)   This subsection shall be construed to prevail over  
28       13 Pa.C.S. §§ 9406 and 9408.

29       Section 13.   Title 15 is amended by adding a section to read:

30   § 8573.1.   Advertisement.



1     (a) Requirement.--The limited partnership must promptly  
2     cause notice of the winding up proceedings to be officially  
3     published.

4     (b) Content.--The notice shall set forth briefly:

5         (1) The name of the limited partnership.

6         (2) The fact that winding up of the limited partnership  
7         has commenced.

8     (c) Transitional rule.--This section does not apply to  
9     winding up of a limited partnership that is commenced on or  
10    before (the Legislative Reference Bureau shall insert here the  
11    effective date of this section).

12    Section 14. Section 8585 of Title 15 is amended by adding a  
13    subsection to read:

14    § 8585. Changes and amendments.

15         \* \* \*

16    (b.1) Registered office.--A qualified foreign limited  
17    partnership may, from time to time, change the address of its  
18    registered office in the manner provided by section 8506(b)  
19    (relating to registered office).

20         \* \* \*

21    Section 15. Title 15 is amended by adding a section to read:

22    § 8590.1. Advertisement.

23    (a) Registration.--

24         (1) A foreign limited partnership must officially  
25         publish notice of its intention to apply or its application  
26         for registration as a foreign limited partnership.

27         (2) The notice may appear prior to or after the  
28         application for registration has been filed with the  
29         department.

30         (3) The notice shall set forth briefly:

1           (i) The name of the foreign limited partnership and  
2           the jurisdiction under the laws of which it is formed.

3           (ii) The fact that the foreign limited partnership  
4           will apply or has applied for registration under  
5           Subchapter K of Chapter 85 (relating to foreign limited  
6           partnerships).

7           (iii) The address, including street and number, if  
8           any, of its principal office under the laws of the  
9           jurisdiction in which it is formed.

10          (iv) Subject to section 109 (relating to name of  
11          commercial registered office provider in lieu of  
12          registered address), the address, including street and  
13          number, if any, of its proposed registered office in this  
14          Commonwealth.

15          (4) This subsection does not apply to an application for  
16          registration that is filed on or before (the Legislative  
17          Reference Bureau shall insert here the effective date of this  
18          section).

19          (b) Withdrawal.--

20           (1) A qualified foreign limited partnership must  
21           officially publish notice of its intention to withdraw from  
22           doing business in this Commonwealth.

23           (2) The notice shall set forth briefly:

24           (i) The name of the foreign limited partnership and  
25           the jurisdiction under the laws of which it is formed.

26           (ii) The address, including street and number, if  
27           any, of its principal office under the laws of the  
28           jurisdiction in which it is formed.

29           (iii) Subject to section 109, the address, including  
30           street and number, if any, of its last registered office

1           in this Commonwealth.

2           (3) This subsection does not apply to a qualified  
3           foreign limited partnership that withdraws from doing  
4           business in this Commonwealth on or before (the Legislative  
5           Reference Bureau shall insert here the effective date of this  
6           section).

7           Section 16. Section 8903 heading and the definitions of  
8           "bankrupt" and "obligation" in subsection (a) and subsection (b)  
9           of Title 15 are amended to read:

10          § 8903. Definitions [and index of definitions].

11          (a) [Definitions] General definitions.--The following words  
12          and phrases when used in this chapter shall have the meanings  
13          given to them in this section unless the context clearly  
14          indicates otherwise:

15          ["Bankrupt." A person who is the subject of:

16                  (1) an order for relief or a voluntary case under 11  
17          U.S.C. (relating to bankruptcy);

18                  (2) a comparable order or case under a successor statute  
19          of general application; or

20                  (3) a comparable order or case under a State insolvency  
21          act.]

22          \* \* \*

23          ["Obligation." Includes a note or other form of  
24          indebtedness, whether secured or unsecured.]

25          \* \* \*

26          (b) Index of other definitions.--Other definitions applying  
27          to this chapter and the sections in which they appear are:

28          "Act" or "action." Section 102.

29          "Bankrupt." Section 102.

30          "Department." Section 102.

1 "Licensed person." Section 102.

2 "Obligation." Section 102.

3 "Professional services." Section 102.

4 Section 17. Title 15 is amended by adding sections to read:

5 § 8909. Validation of prohibitions of assignments.

6 (a) General rule.--The provisions of 13 Pa.C.S. §§ 9406  
7 (relating to discharge of account debtor; notification of  
8 assignment; identification and proof of assignment; restrictions  
9 on assignment of accounts, chattel paper, payment intangibles  
10 and promissory notes ineffective) and 9408 (relating to  
11 restrictions on assignment of promissory notes, health-care-  
12 insurance receivables and certain general intangibles  
13 ineffective) shall not apply to any interest in a domestic  
14 limited liability company, including any right, power and  
15 interest arising under an operating agreement or this part.

16 (b) Construction.--This section shall be construed to  
17 prevail over 13 Pa.C.S. §§ 9406 and 9408.

18 § 8912.1. Advertisement.

19 (a) Requirement.--The organizers or the limited liability  
20 company must officially publish a notice of intent to file or of  
21 filing a certificate of organization.

22 (b) Time.--The notice may appear prior to or after the  
23 certificate is filed with the department.

24 (c) Content.--The notice shall set forth briefly:

25 (1) The name of the company.

26 (2) The fact that the company is organized under the act  
27 of December 7, 1994 (P.L.703, No.106), known as the Limited  
28 Liability Company Act.

29 (d) Transitional rule.--This section does not apply to a  
30 limited liability company whose certificate of organization is

1 filed on or before (the Legislative Reference Bureau shall  
2 insert here the effective date of this section).

3 Section 18. Sections 8916(a) and (b), 8941 (b), 8948 and  
4 8971 of Title 15 are amended to read:

5 § 8916. Operating agreement.

6 (a) General rule.--The operating agreement of a limited  
7 liability company need not be in [writing] record form except  
8 where this chapter refers to a [written] provision of the  
9 operating agreement in writing or record form. If a [written]  
10 provision in record form of an operating agreement provides that  
11 [it] the operating agreement cannot be amended or modified  
12 except in writing or record form, an oral agreement, amendment  
13 or modification shall not be enforceable. The certificate of  
14 organization or operating agreement may not authorize an oral  
15 agreement on any subject that this chapter requires to be dealt  
16 with in writing or record form. See section 107(b) (relating to  
17 form of records).

18 (b) Freedom of contract.--An operating agreement may contain  
19 any provision adopted by the members for the regulation of the  
20 internal affairs of a limited liability company [adopted by the  
21 members], whether or not specifically authorized by or in  
22 contravention of this chapter, except where this chapter:

23 (1) refers only to a rule as set forth in the  
24 certificate of organization; or

25 (2) expressly provides that the operating agreement  
26 shall not relax or contravene any provision on a specified  
27 subject.

28 \* \* \*

29 § 8941. Management.

30 \* \* \*

1 (b) Managers.--The certificate of organization may provide  
2 that management of a company shall be vested, to the extent  
3 provided in, or pursuant to, the certificate of organization, in  
4 one or more managers.

5 \* \* \*

6 § 8948. Limitation on dissociation [or assignment of membership  
7 interest].

8 [Notwithstanding anything to the contrary set forth in this  
9 part, an operating agreement may provide that a member may not]

10 (a) General rule.--A member may voluntarily dissociate from  
11 [the] a limited liability company [or assign his membership  
12 interest] prior to the dissolution and winding-up of the  
13 company[, and an attempt by a member to dissociate voluntarily  
14 from the company or to assign his membership interest in  
15 violation of the operating agreement shall be ineffective.] only  
16 at the time or upon the happening of events specified in record  
17 form in the operating agreement.

18 (b) Transitional rule.--This section applies to all limited  
19 liability companies formed after December 31, 2006. If the  
20 operating agreement of a company formed before January 1, 2007,  
21 did not on December 31, 2006, specify in record form the time or  
22 the events upon the happening of which a member could dissociate  
23 or a definite time for the dissolution and winding up of the  
24 company, the provisions of this section that were in effect  
25 prior to January 1, 2007, shall apply until such time, if any,  
26 as the operating agreement is amended in record form after  
27 January 1, 2007, to specify:

28 (1) a time or the events upon the happening of which a  
29 member may dissociate;

30 (2) a definite time for the dissolution and winding up

1 of the company; or

2 (3) that this section as effective January 1, 2007,  
3 shall apply to the company.

4 § 8971. Dissolution.

5 (a) General rule.--A limited liability company is dissolved  
6 and its affairs shall be wound up upon the happening of the  
7 first to occur of the following events:

8 (1) At the time or upon the happening of events  
9 specified in the certificate of organization.

10 (2) At the time or upon the happening of events  
11 specified in [writing] record form in the operating  
12 agreement.

13 (3) Except as otherwise provided in the operating  
14 agreement, by the [unanimous written agreement] vote or  
15 consent of [all] the members.

16 [(4) Except as otherwise provided in writing in the  
17 operating agreement, upon a member becoming a bankrupt or  
18 executing an assignment for the benefit of creditors or the  
19 death, retirement, insanity, resignation, expulsion or  
20 dissolution of a member or the occurrence of any other event  
21 that terminates the continued membership of a member in the  
22 company unless the business of the company is continued by  
23 the vote or consent of a majority in interest, or such  
24 greater number as shall be provided in writing in the  
25 operating agreement, of the remaining members given within  
26 180 days following such event.]

27 (5) Entry of an order of judicial dissolution under  
28 section 8972 (relating to judicial dissolution).

29 (b) Perpetual existence.--[The certificate of organization  
30 may provide that the company shall have perpetual existence, in

1 which case subsection (a)(4) shall not be applicable to the  
2 company.] Except as otherwise provided in record form in the  
3 operating agreement, a limited liability company has perpetual  
4 existence, subject to the power of the General Assembly under  
5 the Constitution of Pennsylvania.

6 Section 19. Title 15 is amended by adding a section to read:

7 § 8973.1. Advertisement.

8 (a) Requirement.--The limited liability company must  
9 promptly cause notice of the winding up proceedings to be  
10 officially published.

11 (b) Content.--The notice shall set forth briefly:

12 (1) The name of the limited liability company.

13 (2) The fact that winding up of the company has  
14 commenced.

15 (c) Transitional rule.--This section does not apply to  
16 winding up of a limited liability company that is commenced on  
17 or before (the Legislative Reference Bureau shall insert here  
18 the effective date of this section).

19 Section 20. Sections 8974 and 8975(a) of Title 15 are  
20 amended to read:

21 § 8974. Distribution of assets upon dissolution.

22 (a) General rule.--In settling accounts after dissolution,  
23 the liabilities of the limited liability company shall be  
24 entitled to payment in the following order:

25 (1) Those to creditors, including members or managers  
26 who are creditors, in the order of priority as provided by  
27 law, in satisfaction of the liabilities of the company,  
28 whether by payment or the making of [reasonable] adequate  
29 provision for payment thereof, other than liabilities for  
30 distributions to members under section 8932 (relating to



distributions and allocation of profits and losses) or 8933  
(relating to distributions upon an event of dissociation).

(2) Unless otherwise provided in the operating  
agreement, to members and former members in satisfaction of  
liabilities for distributions under section 8932 or 8933.

(3) Unless otherwise provided in the operating  
agreement, to members in respect of:

(i) Their contributions to capital.

(ii) Their share of the profits and other  
compensation by way of income on their contributions.

(b) Provision for claims.--A company that has dissolved  
shall pay or make [reasonable] adequate provision to pay all  
claims and obligations, including all contingent, conditional or  
unmatured claims and obligations, known to the company and all  
claims and obligations that are known to the company but for  
which the identity of the claimant is unknown. 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 and obligations of equal priority,  
ratably to the extent of assets available therefor. Unless  
otherwise provided in the operating agreement, any remaining  
assets shall be distributed as provided in this chapter. Any  
liquidating trustee or other person winding up the affairs of a  
company who has complied with this section shall not be  
personally liable to the claimants of the dissolved company by  
reason of his actions in winding up the company.

§ 8975. Certificate of dissolution.

(a) General rule.--When all debts, liabilities and

obligations of the limited liability company have been paid and discharged or adequate provision has been made therefor and all of the remaining property and assets of the company have been distributed to the members, or in case its assets are not sufficient to discharge its debts, liabilities and obligations, when all the assets have been fairly and equitably applied, as far as they will go, to the payment of such debts, liabilities and obligations, a certificate of dissolution shall be executed by the company. The certificate of dissolution shall set forth:

(1) The name of the company.

(2) [That] A statement that:

(i) all debts, obligations and liabilities of the company have been paid and discharged or that adequate provision has been made therefor[.]; or

(ii) the assets of the company are not sufficient to discharge its debts, liabilities and obligations, and that all the assets of the company have been fairly and equitably applied, as far as they will go, to the payment of such debts, liabilities and obligations.

(3) That all the remaining property and assets of the company have been distributed among its members in accordance with their respective rights and interests.

(4) That there are no actions pending against the company in any court or that adequate provision has been made for the satisfaction of any judgment that may be entered against it in any pending action.

\* \* \*

Section 21. Title 15 is amended by adding a section to read:

§ 8983. Advertisement.

(a) Registration.--

1       (1) A foreign limited liability company must officially  
2 publish notice of its intention to apply or its application  
3 for registration as a foreign limited liability company.

4       (2) The notice may appear prior to or after the  
5 application for registration has been filed with the  
6 department.

7       (3) The notice shall set forth briefly:

8           (i) The name of the company and the jurisdiction  
9 under the laws of which it is organized.

10          (ii) The fact that the company will apply or has  
11 applied for registration under Subchapter J of Chapter 89  
12 (relating to foreign companies).

13          (iii) The address, including street and number, if  
14 any, of its principal office under the laws of the  
15 jurisdiction in which it is organized.

16          (iv) Subject to section 109 (relating to name of  
17 commercial registered office provider in lieu of  
18 registered address), the address, including street and  
19 number, if any, of its proposed registered office in this  
20 Commonwealth.

21       (4) This subsection does not apply to an application for  
22 registration that is filed on or before (the Legislative  
23 Reference Bureau shall insert here the effective date of this  
24 section).

25       (b) Withdrawal.--

26       (1) A qualified foreign limited liability company must  
27 officially publish notice of its intention to withdraw from  
28 doing business in this Commonwealth.

29       (2) The notice shall set forth briefly:

30           (i) The name of the foreign limited liability

company and the jurisdiction under the laws of which it  
is organized.

(ii) The address, including street and number, if  
any, of its principal office under the laws of the  
jurisdiction in which it is organized.

(iii) Subject to section 109, the address, including  
street and number, if any, of its last registered office  
in this Commonwealth.

(3) This subsection does not apply to a qualified  
foreign limited liability company that withdraws from doing  
business in this Commonwealth on or before (the Legislative  
Reference Bureau shall insert here the effective date of this  
section).

Section 22. Section 9506(f) of Title 15 is amended to read:

§ 9506. Liability of trustees and beneficiaries.

\* \* \*

(f) Permissible beneficiaries.--Except as otherwise provided  
by a statute, rule or regulation applicable to a particular  
profession, all of the ultimate beneficial owners of interests  
in a business trust that renders one or more restricted  
professional services shall be licensed persons. As used in this  
subsection, the term "restricted professional services" shall  
have the meaning specified in section 8903 (relating to  
definitions [and index of definitions]).

\* \* \*

Section 23. The definition of "domestic corporation not-for-  
profit" in section 101 of Title 54 is amended to read

§ 101. Definitions.

Subject to additional definitions contained in subsequent  
provisions of this title which are applicable to specific

provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

"Domestic corporation not-for-profit." A domestic corporation [not-for-profit as defined in 15 Pa.C.S. § 1103 (relating to definitions).] not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.

\* \* \*

Section 24. Section 501(a)(5) and (7) of Title 54 are amended to read:

§ 501. Register established.

(a) General rule.--A register is established by this chapter which shall consist of such of the following names as are not deleted therefrom by operation of section 504 (relating to effect of failure to make filings) or 506 (relating to voluntary termination of registration by corporations and other associations):

\* \* \*

(5) In the case of a business trust which exists subject to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name of the trust as set forth in the:

- (i) instrument filed in the department under 15 Pa.C.S. § 9503 (relating to documentation of trust); or
- (ii) application for registration filed under 15 Pa.C.S. § 9507 (relating to foreign business trusts).

\* \* \*

[(7) In the case of a business trust which exists subject to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name of the trust as set forth in the instrument filed in

1 the department under 15 Pa.C.S. § 9503 (relating to  
2 documentation of trust), or in the application for  
3 registration filed pursuant to 15 Pa.C.S. § 9507 (relating to  
4 foreign business trusts).]

5 \* \* \*

6 Section 25. This act shall take effect in 60 days.