

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2251 Session of
2005

INTRODUCED BY T. STEVENSON, BARRAR, BOYD, CALTAGIRONE, CAPPELLI,
CAUSER, CREIGHTON, GEIST, GOODMAN, HERSHEY, KAUFFMAN,
KILLION, LEH, MARKOSEK, MARSICO, McILHATTAN, MUSTIO, O'NEILL,
PETRI, REICHLEY, ROHRER, ROSS, SCHRODER, R. STEVENSON,
E. Z. TAYLOR, THOMAS, TURZAI, WILT, YOUNGBLOOD AND
BENNINGHOFF, NOVEMBER 21, 2005

REFERRED TO COMMITTEE ON COMMERCE, NOVEMBER 21, 2005

AN ACT

1 Amending Title 15 (Corporations and Unincorporated Associations)
2 of the Pennsylvania Consolidated Statutes, repealing annual
3 registration requirements for registered limited liability
4 partnerships and limited liability companies; and making an
5 editorial change.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 8201(e), 8221 and 8998 of Title 15 of
9 the Pennsylvania Consolidated Statutes are amended to read:

10 § 8201. Scope.

11 * * *

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

17 * * *

1 [§ 8221. Annual registration.

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

14 (b) Annual registration fee.--

15 (1) The annual registration fee to be paid when filing a
16 certificate of annual registration shall be equal to a base
17 fee of \$200 times the number of persons who were general
18 partners of the partnership on December 31 of the year with
19 respect to which the certificate of annual registration is
20 being filed and who:

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

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

26 (2) The base fee of \$200 shall be increased on December
27 31, 1997, and December 31 of every third year thereafter by
28 the percentage increase in the Consumer Price Index for Urban
29 Workers during the most recent three calendar years for which
30 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), 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 party of the obligation to file the certificate of annual registration.

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

(e) Failure to pay annual fee.--

(1) Failure to file the certificate of annual registration required by this section for five consecutive years shall result in the automatic termination of the status of the registered limited liability partnership as such. In addition, any annual registration fee that is not paid when due shall be a lien in the manner provided in this subsection from the time the annual registration fee is due and payable. If a certificate of annual registration is not filed within 30 days after the date on which it is due, the department

1 shall assess a penalty of \$500 against the partnership, which
2 shall also be a lien in the manner provided in this
3 subsection. The imposition of that penalty shall not be
4 construed to relieve the partnership from liability for any
5 other penalty or interest provided for under other applicable
6 law.

7 (2) If the annual registration fee paid by a registered
8 limited liability partnership is subsequently determined to
9 be less than should have been paid because it was based on an
10 incorrect number of general partners or was otherwise
11 incorrectly computed, that fact shall not affect the
12 existence or status of the registered limited liability
13 partnership as such, but the amount of the additional annual
14 registration fee that should have been paid shall be a lien
15 in the manner provided in this subsection from the time the
16 incorrect payment is discovered by the department.

17 (3) The annual registration fee shall bear simple
18 interest from the date that it becomes due and payable until
19 paid. The interest rate shall be that provided for in section
20 806 of the act of April 9, 1929 (P.L.343, No.176), known as
21 The Fiscal Code, with respect to unpaid taxes. The penalty
22 provided for in paragraph (1) shall not bear interest. The
23 payment of interest shall not relieve the registered limited
24 liability partnership from liability for any other penalty or
25 interest provided for under other applicable law.

26 (4) The lien created by this subsection shall attach to
27 all of the property and proceeds thereof of the registered
28 limited liability partnership in which a security interest
29 can be perfected in whole or in part by filing in the
30 department under 13 Pa.C.S. Div. 9 (relating to secured

1 transactions; sales of accounts, contract rights and chattel
2 paper), whether the property and proceeds are owned by the
3 partnership at the time the annual registration fee or any
4 penalty or interest becomes due and payable or whether the
5 property and proceeds are acquired thereafter. Except as
6 otherwise provided by statute, the lien created by this
7 subsection shall have priority over all other liens, security
8 interests or other charges, except liens for taxes or other
9 charges due the Commonwealth. The lien created by this
10 subsection shall be entered on the records of the department
11 and indexed in the same manner as a financing statement filed
12 under 13 Pa.C.S. Div. 9. At the time an annual registration
13 fee, penalty or interest that has resulted in the creation of
14 a lien under this subsection is paid, the department shall
15 terminate the lien with respect to that annual registration
16 fee, penalty or interest without requiring a separate filing
17 by the partnership for that purpose.

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

22 (6) Termination of the status of a registered limited
23 liability partnership as such, whether voluntarily or
24 involuntarily, shall not release it from the obligation to
25 pay any accrued fees, penalties and interest and shall not
26 release the lien created by this subsection.

27 (f) Exception for bankrupt partnerships.--A partnership that
28 would otherwise be required to pay the annual registration fee
29 set forth in subsection (b) shall not be required to pay that
30 fee with respect to any year during any part of which the

1 partnership is a bankrupt as defined in section 8903 (relating
2 to definitions and index of definitions). The partnership shall,
3 instead, indicate on its certificate of annual registration for
4 that year that it is exempt from payment of the annual
5 registration fee pursuant to this subsection. If the partnership
6 fails to file timely a certificate of annual registration, a
7 lien shall be entered on the records of the department pursuant
8 to subsection (e) which shall not be removed until the
9 partnership files a certificate of annual registration
10 indicating its entitlement to an exemption from payment of the
11 annual registration fee as provided in this subsection. See
12 section 8201(e) (relating to scope).

13 § 8998. Annual registration.

14 (a) General rule.--Every domestic restricted professional
15 company in existence on December 31 of any year and every
16 qualified foreign restricted professional company that is
17 registered to do business in this Commonwealth on December 31 of
18 any year shall file in the Department of State with respect to
19 that year, and on or before April 15 of the following year, a
20 certificate of annual registration on a form provided by the
21 department, executed by the company and accompanied by the
22 annual registration fee prescribed by subsection (b). The
23 department shall not charge a fee other than the annual
24 registration fee for filing the certificate of annual
25 registration. The certificate of annual registration shall
26 include a statement by the company as to whether or not it
27 engaged in any business not permitted by section 8996(a)
28 (relating to purposes of restricted professional companies)
29 during the year with respect to which the certificate is being
30 filed.

(b) Annual registration fee.--

(1) The annual registration fee to be paid when filing a certificate of annual registration shall be equal to a base fee of \$300 times the number of persons who:

(i) were members of the company on December 31 of the year with respect to which the certificate of annual registration is being filed;

(ii) were licensed persons; and

(iii) had their principal residence at the time in this Commonwealth.

(2) The base fee of \$300 shall be increased on December 31, 1997, 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 restricted professional company 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), if applicable, and shall be accompanied by the form of certificate 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 party of the obligation to file the certificate.

(d) Credit to Corporation Bureau Restricted Account.--The

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

7 (e) Functions of Department of State.--The department shall
8 send to the Department of Revenue a copy of any certificate that
9 discloses the conduct of any business not permitted by section
10 8996(a).

11 (f) Annual fee to be lien.--

12 (1) Failure to file the certificate of annual
13 registration required by this section shall not affect the
14 existence or status of the restricted professional company as
15 such, but the annual registration fee that would have been
16 payable shall be a lien in the manner provided in this
17 subsection from the time the annual registration fee is due
18 and payable. If a certificate of annual registration is not
19 filed within 30 days after the date on which it is due, the
20 department shall assess a penalty of \$500 against the
21 company, which shall also be a lien in the manner provided in
22 this subsection. The imposition of that penalty shall not be
23 construed to relieve the company from liability for any other
24 penalty or interest provided for under other applicable law.

25 (2) If the annual registration fee paid by a restricted
26 professional company is subsequently determined to be less
27 than should have been paid because it was based on an
28 incorrect number of members or was otherwise incorrectly
29 computed, that fact shall not affect the existence or status
30 of the restricted professional company as such, but the

1 amount of the additional annual registration fee that should
2 have been paid shall be a lien in the manner provided in this
3 subsection from the time the incorrect payment is discovered
4 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 restricted
12 professional company 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 restricted
16 professional company in which a security interest can be
17 perfected, in whole or in part, by filing in the department
18 under 13 Pa.C.S. Div. 9 (relating to secured transactions;
19 sales of accounts, contract rights and chattel paper),
20 whether the property and proceeds are owned by the company at
21 the time the annual registration fee or any penalty or
22 interest becomes due and payable or whether the property and
23 proceeds are acquired thereafter. Except as otherwise
24 provided by statute, the lien created by this subsection
25 shall have priority over all other liens, security interests
26 or other charges, except liens for taxes or other charges due
27 the Commonwealth. The lien created by this subsection shall
28 be entered on the records of the department and indexed in
29 the same manner as a financing statement filed under 13
30 Pa.C.S. Div. 9. At the time an annual registration fee,

1 penalty or interest that has resulted in the creation of a
2 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 company for that purpose.

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

10 (g) Cross references.--See section 8907 (relating to
11 execution of documents) and 18 Pa.C.S. § 4904 (relating to
12 unsworn falsification to authorities).]

13 Section 2. This act shall take effect immediately.