



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 304

PRINTERS NO. 1210

PRIME SPONSOR: Greenleaf

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
Corporation Bureau Restricted Account	\$0	(\$241,830)
General Fund	\$0	(\$326,146)

SUMMARY: Amends Titles 15 (Corporations and Unincorporated Associations), and Title 54 (Names) to recodify the Nonprofit Corporation Law (Title 15, Part II, Subpart C). The declaration of intent section is retroactive to January 30, 1978 to remove any question on the full effectiveness of the NPCL. The section which allows for expedited fees shall take effect upon publication in the PA Bulletin by the Department of State. The fee decrease for a change of address will be effective in 60 days as will the remainder of the legislation.

ANALYSIS: This legislation updates Title 15 and Title 54 to complete the codification of the Nonprofit Corporation Law and to provide for filings with the Bureau of Corporations and Charitable Organizations (previously called the Corporation Bureau). Specifically, this legislation will allow actual corporate filings to be done online, make available an expedited filing option, establish the Bureau's name change and clarify the nature of certain fees.

Codification of Non-Profit Corporation Law: The legislation will recodify the nonprofit business law. Many of the provisions of legislation make minor changes to the language of the Non-Profit Corporation Law (NPCL) which simply conforms the wording of the NPCL to the language of the Business Corporation Law (BCL). This legislation ensures that parallel sections of the two laws read alike, ensuring that both laws are interpreted similarly, and where the two laws are intended to differ, shall be clear. The BCL contains a number of provisions permitting business corporations to use modern electronic communications technology for purposes of granting of proxies, acting by consent without a meeting, etc.

PA Uniform Unincorporated Nonprofit Association Law: The legislation enacts the PA Uniform Unincorporated Nonprofit Association Law (PUUNAL). The PUUNAL defines an unincorporated nonprofit association, which will govern such associations in PA, and recognizes nonprofit associations as legal entities separate from their members and managers. The proposed language is similar to the National Conference of Commissioners on Uniform State Laws proposal.

Expedited Service: The legislation provides for the use of electronic technology for online filing of documents and for payments. The legislation also allows for the payment of an additional fee for voluntary expedited service as requested by a business. The legislation sets these fees for expedited services which are in addition to the current statutory fee:

- 1 hour: \$1,000
- 3 hours: \$300
- Same day: \$100

These expedited fees will not take effect until the Department is ready to provide expedited services and notice is published in the PA Bulletin.

Fee Schedule: The legislation repeals Section 618-A(2) of the Administrative Code of 1929 and brings the existing fee schedule into Section 153 of Title 15. The fee for updating addresses will be lowered from the current \$70 to \$5. This legislation clarifies that the Bureau’s fees are nonrefundable and are meant to modernize and improve operations for the Bureau.

The legislation also repeals Section 814 of the Administrative Code of 1929 but reestablishes the Corporation Bureau Restricted Account within Section 155 of Title 15 to hold a portion of fees under Title 15. The change keeps the same 70/30 revenue split between the General Fund/Corporation Bureau Restricted Account. The Account shall continue to receive 5% of fees received under Section 9525(a)(1)(ii) of Title 13 (Commercial Code). If there is a surplus in two consecutive fiscal years, above what is necessary to carry out the operation of the Bureau, the Secretary of State shall transfer the surplus into the General Fund.

Bank Provisions: This legislation allows banks to become limited liability companies. The legislation ensures that a bank that incorporates as a limited liability company is considered an institution as defined in the Tax Reform Code.

FISCAL IMPACT: According to the Department of State, this legislation would result in approximately \$326,146 in savings/revenues annually for the General Fund and approximately \$241,830 in savings/revenues annually for the Corporation Bureau Restricted Account. See below for a more detailed breakdown:

Provision	Cost/(Savings)	Impact to General Fund	Impact to Corporation Bureau Restricted Account
Address Change - Reduced Fee	\$412,955	\$289,069	\$123,887
Expedited Services - Title 15	(\$819,500)	(\$573,650)	(\$245,850)
Expedited Services - UCC	(\$197,250)	(\$187,388)	(\$9,863)
Savings for Processing Refund Requests	(\$172,500)	\$0	(\$172,500)
Credit/Debit Fees for Online Filing	\$208,319	\$145,823	\$62,496
Totals	(\$567,976)	(\$326,146)	(\$241,830)

See below for a more detailed analysis on the computation of savings to the Commonwealth:

Address Change - Reduced Fee: A reduction in the current address change fee would mean a net annual loss of about \$412,955, assuming the number of filings remains at the 2012 level. Because 70% of business processing filing revenue is deposited into the General Fund, this would be a \$289,069 revenue loss to the General Fund and a \$123,887 revenue loss to Corporation Bureau Restricted Account annually. However, it is anticipated that the reduced fee for address changes will result in a greater number of entities filing address changes, though it is difficult to anticipate the number of additional address changes the Bureau will receive and the resulting impact on revenues.

Expedited Services (Title 15 and Uniform Commercial Code): In addition, the Bureau anticipates that the fiscal impact of the addition of expedited services will more than make up for any loss from the reduction of address change fees. The implementation of expedited services would permit filers to choose options for faster processing of filings, where no such alternatives exist now. As noted, 70% of business processing filing revenue is deposited into the General Fund, while 95% of Uniform Commercial Code filing fees goes to the General Fund. The Bureau estimates that if 2% of current corporate filings (3,278 filings) are expedited at each level (one-hour (10%), three-hour (30%) and same day (60%)); additional annual revenue of \$819,500 is possible, with \$573,650 of that amount deposited to the General Fund.

On the Uniform Commercial Code side, the Bureau estimates that if 0.5% of current UCC filings (789 filings) are expedited at each level (one-hour (10%), three-hour (30%) and same day (60%)), additional annual revenue of \$197,250 is possible, with \$187,388 of that amount deposited to the General Fund. The total annual estimated amount of monies deposited to the General Fund from the new expedited services would be \$761,038. The Corporation Bureau Restricted Account would gain an estimated \$255,713 annually from the advent of expedited services.

Savings for Processing Refund Requests: The Bureau incurs additional staff time in processing refund requests. It therefore estimates that this change would result in cost savings to the Bureau from \$120,000 - \$225,000 annually. An average of \$172,500 is used in the above breakdown and is based on the average number of monthly refund requests from 2007 through 2012. The Bureau has received between 600 and 1500 requests for refund over the past several years, with the majority of those being requests for business entity filings that were submitted for filing, rejected by the Bureau and never successfully resubmitted. Some entity filings are resubmitted several times before the submitter abandons the attempt to file and requests a refund. Meanwhile, the Bureau has incurred staff time and effort to review the filing at least once and to generate the rejection(s).

Credit/Debit Fees for Online Filing: The Department indicates that the Bureau will incur costs associated with fees charged by credit and debit card companies for processing of the online transactions. The Department assumes that approximately 70% of business entity filings

will be processed online. At an average cost of \$125 per transaction, these filings would yield approximately \$12,250,000 per year. The percentages charged by credit/debit card companies (1.83% for Visa and MasterCard and 2.15% for Discover and American Express) would reduce this revenue by approximately \$231,466. However, because approximately 10% of business entity filings are currently filed through the PA Open for Business website, where credit card fees are already assessed, it is necessary to reduce this total impact by 10% to \$208,319. Because 70% of business processing filing revenue is deposited into the General Fund, this would be a \$145,823 revenue loss to the General Fund and a \$62,496 revenue loss to Corporation Bureau Restricted Account annually.

The codification of the Non-Profit Corporation Law and the enactment of the PA Uniform Unincorporated Nonprofit Association Law would have no adverse fiscal impact on Commonwealth funds.

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House Appropriations Committee (R)

DATE: June 11, 2013

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.