

SMALL BUSINESS LAW CHANGES COMING?

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*Reprinted from September/October 2015 **Working Parts** magazine*

The House Commerce Committee held a hearing in late June on a bill, sponsored by House Commerce Committee Chairman Adam Harris (R, Juniata), that would modernize Pennsylvania laws that impact many small businesses throughout the state, establishing laws and rules to govern general partnerships, limited partnerships and limited liability companies. The Committee is considering further action on this update during this session.

Harris said HB 1398 is based on legislation drafted by the Title 15 Committee of the Pennsylvania Bar Association, to replace and clarify existing Pennsylvania laws that control many small business operations.

Pennsylvania general partnerships currently are governed by the 1914 version of the Uniform Partnership Act (UPA) which was revised in 1997 and 2013. The new bill would make it easier for transfers of property to and from partnerships by clarifying that a general partnership is an "entity." It would also clarify that the agreement among partners governs the partnership, and that the UPA rules are essentially default rules. It clarifies duties of loyalty and care to address suits by partners for breach of fiduciary responsibilities. Among other items, the changes would allow a partnership to file a "certificate of authority" with the Department of State to give third parties notice that any partner has authority to conduct business on behalf of the company.

Pennsylvania's limited partnerships operate under the 1985 version of the Uniform Limited Partnership Act (ULPA). HB 1398 makes several changes in these entities that include eliminating the right of a limited partner to dissociate from a partnership before the termination of the partnership, unless the partnership agreement allows that, and is modernizes the written consent requirements for dissolution. The bill would also unlike the rules governing limited partnerships from those of general partnerships.

Pennsylvania limited liability companies (LLC's) were first authorized in 1994 and now would find themselves subject to a Uniform Limited Liability Company Act. Because LLC's have become the entity of choice for organizing privately owned businesses, Harris proposes several important changes, making clear that an LLC's operating agreement governs the rights and obligations of members, re-establishes rules for transfers of rights to distributions, and clarifies that a member is not an agent of an LLC simply because they are a member. The updated law would also permit a member to seek a court order to dissolve the company if the member feels the manager or controlling members have acted in a manner that is directly harmful to that member.