

Another Step in Making Connecticut More Business Friendly

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Business bar turns its attention to modernizing LLC regulations

The year 2014 saw innovation by the state Legislature with its passage of the Model Entity Transactions Act (META) and the Social Benefit Corporation Act (SBCA). The Business Law Section of the Connecticut Bar Association was instrumental in shepherding these acts through the legislative process to ensure their passage as well as crafting specific language to include in the drafts of the proposed legislation.

The hope is that the business bar will continue to serve as a catalyst for business development by continuing its efforts at making Connecticut a forum of choice for the formation of business entities. The business bar looks poised to introduce new legislation to its bar section toward the end of 2015 with the hope of passage in early 2016 as it looks for new ways to modernize the laws that affect business formation and governance in Connecticut.

The most significant innovation of the 2014 enactments was the passage of the SBCA, which became effective Oct. 1. This law permits organizers of corporations to specifically create a benefit corporation as a form of entity which has, as its primary goal, a social good. Although such corporations are still "for profit," the SBCA establishes procedures for the articulation of, for example, a social, cultural or environmental objective as one of the primary business missions of a corporation. SBCA also provides a framework for the adoption of governance structures and reporting mechanisms which make it clear that officers and directors who carry out the business mission, in accordance with adopted rules, will be free from shareholder claims of breach of fiduciary duty if a traditional profit objective is not the primary motive of the business entity. The statute creates legal protections, rules of accountability and processes for reporting and transparency that simply were not available in Connecticut before enactment of the SBCA.

According to James Woulfe, the public policy and impact investing specialist with reSet Social Enterprise Trust, Connecticut is now one of only 27 U.S. jurisdictions that has adopted this social benefits corporate model. ReSet has been the key Connecticut-based organization providing advice and guidance to the business bar as the statute was developed. ReSet has also created a business accelerator focusing on the promotion, preservation and protection of social enterprises as a viable business concept. With the help of reSet, Connecticut can and will be a center for social entrepreneurship.

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The Business Law Section of the CBA will continue its push toward competitiveness and innovation in 2015 as it looks to update and modernize the rules for organizing and administering limited liability companies in Connecticut. A subcommittee, cochaired by attorneys Marcel Bernier and David Levine, has been meeting since January 2013 undertaking the painstaking process of overhauling Connecticut's LLC law in an effort to adopt "best practices" in LLC organization and governance and to bring Connecticut in line with the Uniform Limited Liability Company Act. The goal, according to Bernier, is to "ensure reliability and predictability in the interpretation of LLC members' rights, the LLC's administrative protocols and LLC members' access to a body of decisions relating to dispute settlements and derivative claims."

The task force is currently comparing Connecticut's existing LLC statute to the uniform act and its various revisions. Business bar members are in general agreement that if Connecticut comes in line with the 17 other states that have adopted the Uniform Limited Liability Company Act, or some closely aligned variant of that act, it will allow practitioners to refer to an existing body of case law in those other jurisdictions, Connecticut common law and the legal commentary associated with the uniform act so that practitioners can better advise their clients contemplating business and investment strategies.

Look for the Business Law Section subcommittee to complete its work by the fall of 2015 with legislation to be introduced in early 2016.

Andrew Glassman is the chairman of the business and finance practice at Pullman & Comley. He's based in the Hartford office and his practice includes corporate law, commercial transactions and employment and labor relations advisory services. Reprinted with permission from the December 16th issue of Connecticut Law Tribune. ©2014 ALM Properties, Inc. Further duplication without permission is prohibited. All rights reserved.

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