



SENATE OF PENNSYLVANIA BILL SUMMARY

House Bill 665 Printer's No. 1187

Prime Sponsor: Representative M. K. Keller
Committee: Judiciary

SYNOPSIS:

This bill amends Title 20 (Decedents, Estates and Fiduciaries) and Title 57 (Notaries Public) to correct provisions of Act 95 of 2014 relating to commercial powers of attorney. The bill also eliminates conflicts between provisions in the Notary Law and provisions governing commercial powers of attorney.

SUMMARY:

Act 95 of 2014, which re-wrote Chapter 56, inadvertently subjected commercial powers of attorney to the requirements applicable to non-commercial powers of attorney. Non-commercial powers of attorney must have a notice signed by the principal and an acknowledgment signed by the agent. The notice and acknowledgment form the contract by which the agent agrees to act for the principal. A non-commercial power of attorney must be signed by two witnesses.

In a commercial setting, the business works through attorneys and other officers or partners. This bill exempts from the notice and duty requirements that apply to non-commercial powers of attorney all powers of attorney enacted pursuant to the governing document of a legal entity, the law governing the internal affairs of a legal entity, the authorization by a director or manager on behalf of a legal entity, or a proxy for voting or management rights for a member of a legal entity.

Current law allows an attorney to witness a principal's signature and also acknowledge the witnesses' signatures. The bill clarifies that an attorney may acknowledge the signature of the witnesses to a power of attorney before a notary public if the attorney is not also a subscribing witness. If the attorney drafts a power of attorney that the principal executes in his or her presence, but there is not a notary public present to notarize the witness signatures, this legislation requires that two other individuals must acknowledge the power of attorney.

EFFECTIVE DATE:

This bill is effective immediately.

BILL HISTORY:

There is no history for this bill during this legislative session.

Prepared by: Cawley 3/11/2016