

7552

I N S E N A T E

May 9, 2016

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Corporations, Author-
ities and Commissions

AN ACT to amend the business corporation law and the limited liability
company law, in relation to the incorporation of certain businesses
for the purpose of practicing professional geology; and to amend chap-
ter 475 of the laws of 2014 amending the education law, the business
corporation law and other laws relating to providing for the licensing
of the profession of geology, in relation to the effectiveness thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1503 of the business corporation law is amended by
2 adding two new paragraphs (b-6) and (b-7) to read as follows:
3 (B-6) (1) PRIOR TO THE FIRST DAY OF MARCH, TWO THOUSAND EIGHTEEN, THE
4 STATE EDUCATION DEPARTMENT AND THE DEPARTMENT OF STATE SHALL ALLOW AN
5 EXISTING BUSINESS CORPORATION ORGANIZED UNDER ARTICLE FOUR OF THIS CHAP-
6 TER TO BECOME A PROFESSIONAL CORPORATION AS DEFINED IN THIS ARTICLE FOR
7 THE PURPOSE OF PRACTICING PROFESSIONAL GEOLOGY, PROVIDED THAT THE
8 SURVIVING CORPORATION MEET ALL OF THE REQUIREMENTS TO BECOME A PROFES-
9 SIONAL CORPORATION, INCLUDING THAT THE NAME OF A PROFESSIONAL CORPO-
10 RATION SHALL END WITH THE WORDS "PROFESSIONAL CORPORATION" OR THE ABBRE-
11 VIATION "P.C." BY AMENDING ITS CERTIFICATE OF INCORPORATION SO THAT IT
12 CONTAINS THE FOLLOWING:
13 (I) THE NAMES AND RESIDENCE ADDRESSES OF ALL INDIVIDUALS WHO WILL BE
14 THE ORIGINAL SHAREHOLDERS, DIRECTORS AND OFFICERS OF THE PROFESSIONAL
15 SERVICE CORPORATION;
16 (II) A STATEMENT THAT THE PROFESSIONAL SERVICE CORPORATION IS FORMED
17 PURSUANT TO THIS SECTION; AND
18 (III) A STATEMENT THAT THE AMENDMENT SHALL NOT EFFECT A DISSOLUTION OF
19 THE CORPORATION, BUT SHALL BE DEEMED A CONTINUATION OF ITS CORPORATE
20 EXISTENCE, WITHOUT AFFECTING ITS THEN EXISTING PROPERTY RIGHTS OR
21 LIABILITIES OR THE LIABILITIES OF ITS MEMBERS OR OFFICERS AS SUCH, BUT
22 THEREAFTER IT SHALL HAVE ONLY SUCH RIGHTS, POWERS AND PRIVILEGES, AND BE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SUBJECT ONLY TO SUCH OTHER DUTIES AND LIABILITIES, AS A CORPORATION
2 CREATED FOR THE SAME PURPOSES UNDER THIS ARTICLE.

3 (2) THE CERTIFICATE OF AMENDMENT SHALL HAVE ATTACHED THERETO A CERTIF-
4 ICATE OR CERTIFICATES ISSUED BY THE LICENSING AUTHORITY CERTIFYING THAT
5 EACH OF THE PROPOSED SHAREHOLDERS, DIRECTORS AND OFFICERS LISTED:

6 (I) IS AUTHORIZED BY LAW TO PRACTICE A PROFESSION WHICH THE CORPO-
7 RATION IS ORGANIZED TO PRACTICE AND, IF APPLICABLE, THAT ONE OR MORE OF
8 SUCH INDIVIDUALS IS AUTHORIZED TO PRACTICE EACH PROFESSION WHICH THE
9 CORPORATION WILL BE AUTHORIZED TO PRACTICE; AND

10 (II) HAS BEEN DEEMED TO BE OF GOOD MORAL CHARACTER AS MAY BE ESTAB-
11 LISHED BY THE REGULATIONS OF THE COMMISSIONER OF EDUCATION.

12 (3) THE CERTIFICATE OF AMENDMENT SHALL ALSO HAVE ATTACHED THERETO A
13 TAX CLEARANCE ISSUED BY THE DEPARTMENT OF TAXATION AND FINANCE CERTIFY-
14 ING THAT THE EXISTING BUSINESS CORPORATION IS CURRENT WITH RESPECT TO
15 PAYMENT OF ITS STATE TAX LIABILITIES.

16 (4) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY CORPO-
17 RATION FORMED UNDER THIS SECTION SHALL BE REQUIRED TO COMPLY WITH ALL
18 APPLICABLE LAWS, RULES, OR REGULATIONS RELATING TO THE PRACTICE OF A
19 PROFESSION UNDER TITLE EIGHT OF THE EDUCATION LAW.

20 (B-7) (1) PRIOR TO THE FIRST DAY OF MARCH, TWO THOUSAND EIGHTEEN, THE
21 STATE EDUCATION DEPARTMENT AND THE DEPARTMENT OF STATE SHALL ALLOW AN
22 EXISTING BUSINESS CORPORATION ORGANIZED UNDER ARTICLE FOUR OF THIS CHAP-
23 TER TO BECOME A DESIGN PROFESSIONAL SERVICE CORPORATION AS DEFINED IN
24 THIS ARTICLE FOR THE PURPOSE OF PRACTICING PROFESSIONAL GEOLOGY,
25 PROVIDED THAT THE SURVIVING CORPORATION MEET ALL OF THE REQUIREMENTS TO
26 BECOME A DESIGN PROFESSIONAL SERVICE CORPORATION, INCLUDING THAT THE
27 NAME SHALL END WITH THE WORDS "DESIGN PROFESSIONAL SERVICE CORPORATION"
28 OR THE ABBREVIATION "D.P.C." BY AMENDING ITS CERTIFICATE OF INCORPO-
29 RATION SO THAT IT CONTAINS THE FOLLOWING:

30 (I) THE NAMES AND RESIDENCE ADDRESSES OF ALL INDIVIDUALS OR ESOPS WHO
31 WILL BE THE ORIGINAL SHAREHOLDERS, DIRECTORS AND OFFICERS OF THE PROFES-
32 SIONAL SERVICE CORPORATION;

33 (II) A STATEMENT THAT THE DESIGN PROFESSIONAL SERVICE CORPORATION IS
34 FORMED PURSUANT TO THIS SECTION;

35 (III) THE PROFESSION OR PROFESSION OF EACH SHAREHOLDER, DIRECTOR AND
36 OFFICER WHO IS A DESIGN PROFESSIONAL OF THE ORIGINAL DESIGN PROFESSIONAL
37 SERVICE CORPORATION;

38 (IV) THE NAMES OF THE OFFICERS AND DIRECTORS WHO WILL BE THE PRESI-
39 DENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE
40 OFFICER OR OFFICERS OF THE ORIGINAL DESIGN PROFESSIONAL SERVICE CORPO-
41 RATION;

42 (V) THE OWNERSHIP INTEREST OF EACH SHAREHOLDER OF THE ORIGINAL DESIGN
43 PROFESSIONAL SERVICE CORPORATION; AND

44 (VI) A STATEMENT THAT THE AMENDMENT SHALL NOT EFFECT A DISSOLUTION OF
45 THE CORPORATION, BUT SHALL BE DEEMED A CONTINUATION OF ITS CORPORATE
46 EXISTENCE, WITHOUT AFFECTING ITS THEN EXISTING PROPERTY RIGHTS OR
47 LIABILITIES OR THE LIABILITIES OF ITS MEMBERS OR OFFICERS AS SUCH, BUT
48 THEREAFTER IT SHALL HAVE ONLY SUCH RIGHTS, POWERS AND PRIVILEGES, AND BE
49 SUBJECT ONLY TO SUCH OTHER DUTIES AND LIABILITIES, AS A CORPORATION
50 CREATED FOR THE SAME PURPOSES UNDER THIS ARTICLE.

51 (2) THE CERTIFICATE OF AMENDMENT SHALL HAVE ATTACHED THERETO A CERTIF-
52 ICATE OR CERTIFICATES ISSUED BY THE LICENSING AUTHORITY CERTIFYING THAT
53 EACH OF THE PROPOSED SHAREHOLDERS, DIRECTORS AND OFFICERS LISTED:

54 (I) IS AUTHORIZED BY LAW TO PRACTICE A PROFESSION WHICH THE CORPO-
55 RATION IS ORGANIZED TO PRACTICE AND, IF APPLICABLE, THAT ONE OR MORE OF

1 SUCH INDIVIDUALS IS AUTHORIZED TO PRACTICE EACH PROFESSION WHICH THE
2 CORPORATION WILL BE AUTHORIZED TO PRACTICE; AND

3 (II) HAS BEEN DEEMED TO BE OF GOOD MORAL CHARACTER AS MAY BE ESTAB-
4 LISHED BY THE REGULATIONS OF THE COMMISSIONER OF EDUCATION.

5 (3) THE CERTIFICATE OF AMENDMENT SHALL ALSO HAVE ATTACHED THERETO A
6 TAX CLEARANCE ISSUED BY THE DEPARTMENT OF TAXATION AND FINANCE CERTIFY-
7 ING THAT THE EXISTING BUSINESS CORPORATION IS CURRENT WITH RESPECT TO
8 PAYMENT OF ITS STATE TAX LIABILITIES.

9 (4) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY CORPO-
10 RATION FORMED UNDER THIS SECTION SHALL BE REQUIRED TO COMPLY WITH ALL
11 APPLICABLE LAWS, RULES, OR REGULATIONS RELATING TO THE PRACTICE OF A
12 PROFESSION UNDER TITLE EIGHT OF THE EDUCATION LAW.

13 S 2. The limited liability company law is amended by adding a new
14 section 1105 to read as follows:

15 S 1105. LIMITED LIABILITY GEOLOGY COMPANY. (A) PRIOR TO THE FIRST DAY
16 OF MARCH, TWO THOUSAND EIGHTEEN, THE STATE EDUCATION DEPARTMENT AND THE
17 DEPARTMENT OF STATE SHALL ALLOW AN EXISTING LIMITED LIABILITY COMPANY
18 ORGANIZED UNDER ARTICLE TWO OF THIS CHAPTER TO BECOME A PROFESSIONAL
19 SERVICE LIMITED LIABILITY COMPANY AS DEFINED IN ARTICLE TWELVE OF THIS
20 CHAPTER FOR THE PURPOSE OF PRACTICING PROFESSIONAL GEOLOGY, PROVIDED THE
21 LIMITED LIABILITY COMPANY MEET ALL OF THE REQUIREMENTS TO BECOME A
22 PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, INCLUDING THAT THE NAME
23 OF A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY SHALL END WITH THE
24 WORDS "PROFESSIONAL LIMITED LIABILITY COMPANY" OR "LIMITED LIABILITY
25 COMPANY", OR THE ABBREVIATIONS "P.L.L.C.", "PLLC", "L.L.C.", OR "LLC" BY
26 AMENDING ITS ARTICLES OF ORGANIZATION SO THAT IT CONTAINS THE FOLLOWING:

27 (1) THE NAMES AND RESIDENCE ADDRESSES OF ALL INDIVIDUALS WHO ARE TO BE
28 THE ORIGINAL MEMBERS AND THE ORIGINAL MANAGERS, IF ANY;

29 (2) A STATEMENT THAT THE PROFESSIONAL LIMITED LIABILITY COMPANY IS
30 FORMED PURSUANT TO SECTION TWELVE HUNDRED THREE OF THE LIMITED LIABILITY
31 COMPANY LAW; AND

32 (3) A STATEMENT THAT THE AMENDMENT SHALL NOT EFFECT A DISSOLUTION OF
33 THE LIMITED LIABILITY COMPANY, BUT SHALL BE DEEMED A CONTINUATION OF ITS
34 EXISTENCE, WITHOUT AFFECTING ITS THEN EXISTING PROPERTY RIGHTS OR
35 LIABILITIES OR THE LIABILITIES OF ITS MEMBERS OR OFFICERS AS SUCH, BUT
36 THEREAFTER IT SHALL HAVE ONLY SUCH RIGHTS, POWERS AND PRIVILEGES, AND BE
37 SUBJECT ONLY TO SUCH OTHER DUTIES AND LIABILITIES, AS A PROFESSIONAL
38 SERVICE LIMITED LIABILITY COMPANY CREATED FOR THE SAME PURPOSES UNDER
39 THIS ARTICLE.

40 (B) THE CERTIFICATE OF AMENDMENT SHALL HAVE ATTACHED THERETO A CERTIF-
41 ICATE OR CERTIFICATES ISSUED BY THE LICENSING AUTHORITY CERTIFYING THAT
42 EACH OF THE PROPOSED MEMBERS AND MANAGERS LISTED:

43 (1) IS AUTHORIZED BY LAW TO PRACTICE A PROFESSION WHICH THE PROFES-
44 SIONAL SERVICE LIMITED LIABILITY COMPANY IS ORGANIZED TO PRACTICE AND,
45 IF APPLICABLE, THAT ONE OR MORE OF SUCH INDIVIDUALS IS AUTHORIZED TO
46 PRACTICE EACH PROFESSION WHICH THE PROFESSIONAL SERVICE LIMITED LIABIL-
47 ITY COMPANY WILL BE AUTHORIZED TO PRACTICE; AND

48 (2) HAS BEEN DEEMED TO BE OF GOOD MORAL CHARACTER AS MAY BE ESTAB-
49 LISHED BY THE REGULATIONS OF THE COMMISSIONER OF EDUCATION.

50 (C) THE CERTIFICATE OF AMENDMENT SHALL ALSO HAVE ATTACHED THERETO A
51 TAX CLEARANCE ISSUED BY THE DEPARTMENT OF TAXATION AND FINANCE CERTIFY-
52 ING THAT THE EXISTING LIMITED LIABILITY COMPANY IS CURRENT WITH RESPECT
53 TO PAYMENT OF ITS STATE TAX LIABILITIES.

54 (D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY COMPANY
55 FORMED UNDER THIS SECTION SHALL BE REQUIRED TO COMPLY WITH ALL APPLICA-

1 BLE LAWS, RULES, OR REGULATIONS RELATING TO THE PRACTICE OF A PROFESSION
2 UNDER TITLE EIGHT OF THE EDUCATION LAW.

3 S 3. Section 28 of chapter 475 of the laws of 2014 amending the educa-
4 tion law, the business corporation law and other laws relating to
5 providing for the licensing of the profession of geology, as amended by
6 chapter 9 of the laws of 2015, is amended to read as follows:

7 S 28. This act shall take effect two years after the date on which it
8 shall have become a law; provided however that:

9 A. the authority of the commissioner to promulgate regulations and the
10 board of regents to appoint board members, and take any other action
11 necessary for the implementation of this act shall take effect imme-
12 diately; AND

13 B. PROVIDED FURTHER THAT SECTION TEN OF THIS ACT AND SECTION 7204-B OF
14 THE EDUCATION LAW AS ADDED BY SECTION THREE OF THIS ACT SHALL TAKE
15 EFFECT MARCH 1, 2018.

16 S 4. This act shall take effect immediately; provided, however, that
17 sections one and two of this act shall take effect on the same date and
18 in the same manner as chapter 475 of the laws of 2014 takes effect.