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March 12, 2009

IN SENATE -- Introduced by Sens. LAVALLE, VALESKY, DeFRANCISCO, DIAZ, DILAN, FLANAGAN, HANNON, KRUEGER, LARKIN, MORAHAN, ONORATO, RANZENHOFER, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI, ENGLEBRIGHT, CALHOUN, CUSICK, JAFFEE, KOON -- Multi-Sponsored by -- M. of A. ABBATE, COOK, GLICK, JOHN, MAGEE, MAGNARELLI, MARKEY, McENENY, MORELLE, PRETLOW, TOBACCO -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the business corporation law and the education law, in relation to design professional service corporations

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

1 Section 1. Section 1501 of the business corporation law, as added by
2 chapter 974 of the laws of 1970, is amended to read as follows:
3 S 1501. Definitions.
4 As used in this article, unless the context otherwise requires, the
5 term: (a) "licensing authority" means the regents of the university of
6 the state of New York or the state education department, as the case may
7 be, in the case of all professions licensed under title eight of the
8 education law, and the appropriate appellate division of the supreme
9 court in the case of the profession of law.

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

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(b) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those occupations designated in title eight of the education law.

(c) "Professional service" means any type of service to the public which may be lawfully rendered by a member of a profession within the purview of his profession.

(d) "Professional service corporation" means a corporation organized under this article.

(e) "DESIGN PROFESSIONAL SERVICE CORPORATION" MEANS A CORPORATION ORGANIZED UNDER THIS ARTICLE PRACTICING PROFESSIONAL ENGINEERING, ARCHITECTURE, LANDSCAPE ARCHITECTURE, OR LAND SURVEYING, OR PRACTICING ANY COMBINATION OF SUCH PROFESSIONS, FIRST ORGANIZED ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN. THE PROVISIONS OF THIS ARTICLE APPLICABLE TO PROFESSIONAL SERVICE CORPORATIONS SHALL APPLY TO DESIGN PROFESSIONAL SERVICE CORPORATIONS EXCEPT TO THE EXTENT THAT ANY PROVISION IS EITHER INCONSISTENT WITH A PROVISION EXPRESSLY APPLYING TO DESIGN PROFESSIONAL SERVICE CORPORATIONS OR NOT RELEVANT THERETO.

(F) "DESIGN PROFESSIONAL" MEANS AN INDIVIDUAL LICENSED AND REGISTERED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW TO PRACTICE PROFESSIONAL ENGINEERING, ARCHITECTURE, LANDSCAPE ARCHITECTURE OR LAND SURVEYING.

(G) "EMPLOYEE STOCK OWNERSHIP PLAN" (ESOP) MEANS A DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO SECTION 4975(E)(7) OF THE INTERNAL REVENUE CODE.

(H) "Officer" does not include the secretary or an assistant secretary of a corporation having only one shareholder.

S 2. Paragraphs (a), (d) and (f) of section 1503 of the business corporation law, paragraphs (a) and (f) as added by chapter 974 of the laws of 1970 and paragraph (d) as amended by chapter 109 of the laws of 1975, are amended and four new paragraphs (b-1), (b-2), (b-3) and (b-4) are added to read as follows:

(a) Notwithstanding any other provision of law, one or more individuals duly authorized by law to render the same professional service within the state may organize, or cause to be organized, a professional service corporation for pecuniary profit under this article for the purpose of rendering the same professional service, except that one or more individuals duly authorized by law to practice professional engineering, architecture, landscape architecture or land surveying within the state may organize, or cause to be organized, a professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPORATION for pecuniary profit under this article for the purpose of rendering such professional services as such individuals are authorized to practice.

(B-1) THE CERTIFICATE OF INCORPORATION OF A DESIGN PROFESSIONAL SERVICE CORPORATION SHALL MEET THE REQUIREMENTS OF THIS CHAPTER, PROVIDED THAT SHAREHOLDERS MAY INCLUDE EMPLOYEE STOCK OWNERSHIP PLANS (ESOPS) AND EMPLOYEES OF THE CORPORATION NOT LICENSED AS DESIGN PROFESSIONALS, AND PROVIDED FURTHER HOWEVER THAT:

(I) GREATER THAN SEVENTY-FIVE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF THE CORPORATION ARE OWNED BY DESIGN PROFESSIONALS,

(II) AN ESOP, EITHER IN PART OR IN ITS ENTIRETY, SHALL NOT CONSTITUTE PART OF THE GREATER THAN SEVENTY-FIVE PERCENT OWNED BY DESIGN PROFESSIONALS,

(III) GREATER THAN SEVENTY-FIVE PERCENT OF THE DIRECTORS ARE DESIGN PROFESSIONALS,

(IV) GREATER THAN SEVENTY-FIVE PERCENT OF THE OFFICERS ARE DESIGN PROFESSIONALS,

1 (V) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
2 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE DESIGN PROFESSIONALS, AND

3 (VI) THE SINGLE LARGEST SHAREHOLDER IS EITHER A DESIGN PROFESSIONAL OR
4 AN ESOP WITH GREATER THAN SEVENTY-FIVE PERCENT OF THE PLAN'S VOTING
5 TRUSTEES BEING DESIGN PROFESSIONALS AND GREATER THAN SEVENTY-FIVE
6 PERCENT OF THE PLAN'S COMMITTEE MEMBERS BEING DESIGN PROFESSIONALS.

7 (B-2) THE CERTIFICATE OF INCORPORATION OF A DESIGN PROFESSIONAL
8 SERVICE CORPORATION SHALL:

9 (I) STATE THE PROFESSION OR PROFESSIONS TO BE PRACTICED BY SUCH CORPO-
10 RATION,

11 (II) STATE THE NAMES AND RESIDENCE ADDRESSES OF ALL INDIVIDUALS OR
12 ESOPS WHO ARE TO BE THE ORIGINAL SHAREHOLDERS, DIRECTORS AND OFFICERS OF
13 SUCH CORPORATION,

14 (III) INDICATE THE PROFESSION OR PROFESSIONS OF EACH ORIGINAL SHARE-
15 HOLDER, DIRECTOR AND OFFICER WHO IS A DESIGN PROFESSIONAL,

16 (IV) STATE THE OWNERSHIP INTEREST OF EACH ORIGINAL SHAREHOLDER, AND

17 (V) INDICATE THE NAMES OF THE ORIGINAL OFFICERS AND DIRECTORS WHO ARE
18 THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF
19 EXECUTIVE OFFICER OR OFFICERS.

20 (B-3) THE CERTIFICATE OF INCORPORATION OF A DESIGN PROFESSIONAL
21 SERVICE CORPORATION SHALL HAVE ATTACHED THERETO A CERTIFICATE OR CERTIF-
22 ICATES ISSUED BY THE LICENSING AUTHORITY CERTIFYING THAT EACH OF THE
23 PROPOSED SHAREHOLDERS, DIRECTORS AND OFFICERS WHO IS LISTED AS A DESIGN
24 PROFESSIONAL IS AUTHORIZED BY LAW TO PRACTICE A PROFESSION WHICH THE
25 CORPORATION IS BEING ORGANIZED TO PRACTICE AND, IF APPLICABLE, THAT ONE
26 OR MORE OF SUCH INDIVIDUALS IS AUTHORIZED TO PRACTICE EACH PROFESSION
27 WHICH THE CORPORATION WILL BE AUTHORIZED TO PRACTICE. THE ATTACHED
28 CERTIFICATE OR CERTIFICATES SHALL ALSO CERTIFY THAT THE PRESIDENT, THE
29 CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE OFFICER OR
30 OFFICERS ARE AUTHORIZED BY LAW TO PRACTICE A PROFESSION WHICH THE CORPO-
31 RATION IS BEING ORGANIZED TO PRACTICE.

32 (B-4) THE CERTIFICATE OF INCORPORATION OF A DESIGN PROFESSIONAL
33 SERVICE CORPORATION SHALL ALSO HAVE ATTACHED THERETO A CERTIFICATE OR
34 CERTIFICATES ISSUED BY THE LICENSING AUTHORITY CERTIFYING THAT EACH OF
35 THE SHAREHOLDERS, OFFICERS, DIRECTORS AND OWNERS HAVE BEEN DEEMED TO
36 HAVE BEEN OF GOOD MORAL CHARACTER AS MAY BE ESTABLISHED BY THE REGU-
37 LATIONS OF THE COMMISSIONER OF EDUCATION.

38 (d) A professional service corporation, INCLUDING A DESIGN PROFES-
39 SIONAL SERVICE CORPORATION, other than a corporation authorized to prac-
40 tice law, shall be under the supervision of the regents of the universi-
41 ty of the state of New York and be subject to disciplinary proceedings
42 and penalties, and its certificate of incorporation shall be subject to
43 suspension, revocation or annulment for cause, in the same manner and to
44 the same extent as is provided with respect to individuals and their
45 licenses, certificates, and registrations in title eight of the educa-
46 tion law relating to the applicable profession. Notwithstanding the
47 provisions of this [subdivision] PARAGRAPH, a professional service
48 corporation authorized to practice medicine shall be subject to the
49 prehearing procedures and hearing procedures as is provided with respect
50 to individual physicians and their licenses in [Title] TITLE II-A of
51 article two of the public health law.

52 (f) The order of suspension, revocation or annulment of the certifi-
53 cate of incorporation of a professional service corporation pursuant to
54 [subdivisions (e) and (f)] PARAGRAPHS (D) AND (E) of this section shall
55 be effective upon the filing of such order with the department of state.

1 S 3. Paragraphs (a) and (b) of section 1504 of the business corpo-
2 ration law, as added by chapter 974 of the laws of 1970, are amended to
3 read as follows:

4 (a) No professional service corporation, INCLUDING A DESIGN PROFES-
5 SIONAL SERVICE CORPORATION, may render professional services except
6 through individuals authorized by law to render such professional
7 services as individuals.

8 (b) Each final plan and report made or issued by a corporation prac-
9 ticing ONE OR MORE OF THE PROFESSIONS OF professional engineering,
10 architecture, landscape architecture or land surveying shall bear the
11 name and seal of one or more professional engineers, architects, land-
12 scape architects, or land surveyors, respectively, who are in responsi-
13 ble charge of such plan or report.

14 S 4. Sections 1505 and 1506 of the business corporation law, as added
15 by chapter 974 of the laws of 1970, are amended to read as follows:
16 S 1505. Professional relationships and liabilities.

17 (a) Each shareholder, employee or agent of a professional service
18 corporation AND A DESIGN PROFESSIONAL SERVICE CORPORATION shall be
19 personally and fully liable and accountable for any negligent or wrong-
20 ful act or misconduct committed by him or by any person under his direct
21 supervision and control while rendering professional services on behalf
22 of such corporation.

23 (b) The relationship of an individual to a professional service corpo-
24 ration OR A DESIGN PROFESSIONAL SERVICE CORPORATION with which such
25 individual is associated, whether as shareholder, director, officer,
26 employee or agent, shall not modify or diminish the jurisdiction over
27 him of the licensing authority and in the case of an attorney and coun-
28 sellor-at-law, the other courts of this state.

29 S 1506. Purposes of incorporation.

30 No professional service corporation OR DESIGN PROFESSIONAL SERVICE
31 CORPORATION shall engage in any business other than the rendering of the
32 professional services for which it was incorporated; provided that such
33 corporation may invest its funds in real estate, mortgages, stocks,
34 bonds or any other type of investments.

35 S 5. Section 1507 of the business corporation law, as amended by chap-
36 ter 1022 of the laws of 1971, is amended to read as follows:

37 S 1507. Issuance of shares.

38 (A) A professional service corporation may issue shares only to indi-
39 viduals who are authorized by law to practice in this state a profession
40 which such corporation is authorized to practice and who are or have
41 been engaged in the practice of such profession in such corporation or a
42 predecessor entity, or who will engage in the practice of such profes-
43 sion in such corporation within thirty days of the date such shares are
44 issued. No shareholder of a professional service corporation shall enter
45 into a voting trust agreement, proxy, or any other type agreement vest-
46 ing in another person, other than another shareholder of the same corpo-
47 ration or a person who would be eligible to become a shareholder if
48 employed by the corporation, the authority to exercise voting power of
49 any or all of his shares. All shares issued, agreements made, or prox-
50 ies granted in violation of this section shall be void.

51 (B) A DESIGN PROFESSIONAL SERVICE CORPORATION MAY ISSUE SHARES TO
52 INDIVIDUALS WHO ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A
53 PROFESSION WHICH SUCH CORPORATION IS AUTHORIZED TO PRACTICE AND WHO ARE
54 OR HAVE BEEN ENGAGED IN THE PRACTICE OF SUCH PROFESSION IN SUCH CORPO-
55 RATION OR A PREDECESSOR ENTITY, OR WHO WILL ENGAGE IN THE PRACTICE OF
56 SUCH PROFESSION IN SUCH CORPORATION WITHIN THIRTY DAYS OF THE DATE SUCH

SHARES ARE ISSUED. A DESIGN PROFESSIONAL SERVICE CORPORATION MAY ALSO ISSUE SHARES TO EMPLOYEE STOCK OWNERSHIP PLANS (ESOPS) AND EMPLOYEES OF THE CORPORATION NOT LICENSED AS DESIGN PROFESSIONALS, PROVIDED THAT:

(I) GREATER THAN SEVENTY-FIVE PERCENT OF THE OUTSTANDING SHARES OF STOCK OF THE CORPORATION ARE OWNED BY DESIGN PROFESSIONALS,

(II) AN ESOP, EITHER IN PART OR IN ITS ENTIRETY, SHALL NOT CONSTITUTE PART OF THE GREATER THAN SEVENTY-FIVE PERCENT OWNED BY DESIGN PROFESSIONALS,

(III) GREATER THAN SEVENTY-FIVE PERCENT OF THE DIRECTORS ARE DESIGN PROFESSIONALS,

(IV) GREATER THAN SEVENTY-FIVE PERCENT OF THE OFFICERS ARE DESIGN PROFESSIONALS,

(V) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE OFFICER OR OFFICERS ARE DESIGN PROFESSIONALS, AND

(VI) THE SINGLE LARGEST SHAREHOLDER IS EITHER A DESIGN PROFESSIONAL OR AN ESOP WITH GREATER THAN SEVENTY-FIVE PERCENT OF THE PLAN'S VOTING TRUSTEES BEING DESIGN PROFESSIONALS AND GREATER THAN SEVENTY-FIVE PERCENT OF THE PLAN'S COMMITTEE MEMBERS BEING DESIGN PROFESSIONALS.

NO SHAREHOLDER OF A DESIGN PROFESSIONAL SERVICE CORPORATION SHALL ENTER INTO A VOTING TRUST AGREEMENT, PROXY OR ANY OTHER TYPE OF AGREEMENT VESTING IN ANOTHER PERSON, OTHER THAN ANOTHER SHAREHOLDER OF THE SAME CORPORATION, THE AUTHORITY TO EXERCISE VOTING POWER OF ANY OR ALL OF HIS OR HER SHARES. ALL SHARES ISSUED, AGREEMENTS MADE OR PROXIES GRANTED IN VIOLATION OF THIS SECTION SHALL BE VOID.

S 6. Sections 1508 and 1509 of the business corporation law, as added by chapter 974 of the laws of 1970, are amended to read as follows:

S 1508. Directors and officers.

(A) No individual may be a director or officer of a professional service corporation unless he is authorized by law to practice in this state a profession which such corporation is authorized to practice and is either a shareholder of such corporation or engaged in the practice of his profession in such corporation.

(B) THE DIRECTORS AND OFFICERS OF A DESIGN PROFESSIONAL SERVICE CORPORATION MAY INCLUDE INDIVIDUALS WHO ARE NOT DESIGN PROFESSIONALS, PROVIDED HOWEVER THAT GREATER THAN SEVENTY-FIVE PERCENT OF THE DIRECTORS, GREATER THAN SEVENTY-FIVE PERCENT OF THE OFFICERS AND THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE CHIEF EXECUTIVE OFFICER OR OFFICERS ARE AUTHORIZED BY LAW TO PRACTICE IN THIS STATE A PROFESSION WHICH SUCH CORPORATION IS AUTHORIZED TO PRACTICE, AND ARE EITHER SHAREHOLDERS OF SUCH CORPORATION OR ENGAGED IN THE PRACTICE OF THEIR PROFESSIONS IN SUCH CORPORATION.

S 1509. Disqualification of shareholders, directors, officers and employees.

If any shareholder, director, officer or employee of a professional service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE CORPORATION, who has been rendering professional service to the public becomes legally disqualified to practice his profession within this state, he shall sever all employment with, and financial interests (other than interests as a creditor) in, such corporation forthwith or as otherwise provided in section 1510 OF THIS ARTICLE. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a shareholder, director, officer and employee of such corporation in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice his profession within this state shall be deemed to constitute an irrevocable offer by the disqualified sharehold-

er to sell his shares to the corporation, pursuant to the provisions of section 1510 OF THIS ARTICLE or of the certificate of incorporation, by-laws or agreement among the corporation and all shareholders, which ever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the courts of this state. A professional service corporation's failure to enforce compliance with this provision shall constitute a ground for forfeiture of its certificate of incorporation and its dissolution.

S 7. Section 1510 of the business corporation law, as amended by chapter 1022 of the laws of 1971, is amended to read as follows:

S 1510. [(a)] Death or disqualification of shareholders.

(A) A professional service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE CORPORATION, shall purchase or redeem the shares of a shareholder in case of his death or disqualification pursuant to the provisions of section 1509 OF THIS ARTICLE, within six months after the appointment of the executor or administrator or other legal representative of the estate of such deceased shareholder, or within six months after such disqualification, at the book value of such shares as of the end of the month immediately preceding the death or disqualification of the shareholder as determined from the books and records of the corporation in accordance with its regular method of accounting. The certificate of incorporation, the by-laws of the corporation or an agreement among the corporation and all shareholders may modify this section by providing for a shorter period of purchase or redemption, or an alternate method of determining the price to be paid for the shares, or both. If the corporation shall fail to purchase or redeem such shares within the required period, a successful plaintiff in an action to recover the purchase price of such shares shall also be awarded reasonable attorneys' fees and costs. Limitations on the purchase or redemption of shares set forth in section [five hundred thirteen] 513 OF THIS CHAPTER shall not apply to the purchase or redemption of shares pursuant to this section. Nothing herein contained shall prevent a corporation from paying pension benefits or other deferred compensation to or on behalf of a former or deceased officer, director or employee thereof as otherwise permitted by law. The provisions of this section shall not be deemed to require the purchase of the shares of a disqualified shareholder where the period of disqualification is for less than six months, and the shareholder again becomes eligible to practice his profession within six months from the date of disqualification.

(b) Notwithstanding the provisions of [subdivision] PARAGRAPH (a) OF THIS SECTION, the corporation shall not be required to purchase or redeem the shares of a deceased or disqualified shareholder if such shares, within the time limit prescribed by [subdivision] PARAGRAPH (a) OF THIS SECTION, are sold or transferred to another professional pursuant to the provisions of section 1511 OF THIS ARTICLE.

S 8. Section 1511 of the business corporation law, as amended by chapter 1022 of the laws of 1971, is amended to read as follows:

S 1511. Transfer of shares.

(A) No shareholder of a professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPORATION may sell or transfer his shares in such corporation except to another individual who is eligible to have shares issued to him by such corporation or except in trust to another individual who would be eligible to receive shares if he were employed by the corporation. Nothing herein contained shall be construed to prohibit the transfer of shares by operation of law or by court decree. No transferee of shares by operation of law or court decree may vote the shares for

1 any purpose whatsoever except with respect to corporate action under
2 [section nine hundred nine and section one thousand one] SECTIONS 909
3 AND 1001 OF THIS CHAPTER. The restriction in the preceding sentence
4 shall not apply, however, where such transferee would be eligible to
5 have shares issued to him if he were an employee of the corporation and,
6 if there are other shareholders, a majority of such other shareholders
7 shall fail to redeem the shares so transferred, pursuant to section 1510
8 OF THIS ARTICLE, within sixty days of receiving written notice of such
9 transfer. Any sale or transfer, except by operation of law or court
10 decree or except for a corporation having only one shareholder, may be
11 made only after the same shall have been approved by the board of direc-
12 tors, or at a shareholders' meeting specially called for such purpose by
13 such proportion, not less than a majority, of the outstanding shares as
14 may be provided in the certificate of incorporation or in the by-laws of
15 such professional service corporation. At such shareholders' meeting the
16 shares held by the shareholder proposing to sell or transfer his shares
17 may not be voted or counted for any purpose, unless all shareholders
18 consent that such shares be voted or counted. The certificate of incor-
19 poration or the by-laws of the professional service corporation, or the
20 professional service corporation and the shareholders by private agree-
21 ment, may provide, in lieu of or in addition to the foregoing
22 provisions, for the alienation of shares and may require the redemption
23 or purchase of such shares by such corporation at prices and in a manner
24 specifically set forth therein. The existence of the restrictions on
25 the sale or transfer of shares, as contained in this article and, if
26 applicable, in the certificate of incorporation, by-laws, stock purchase
27 or stock redemption agreement, shall be noted conspicuously on the face
28 or back of every certificate for shares issued by a professional service
29 corporation. Any sale or transfer in violation of such restrictions
30 shall be void.

31 (B) A DESIGN PROFESSIONAL SERVICE CORPORATION SHALL PURCHASE OR REDEEM
32 THE SHARES OF A NON-DESIGN PROFESSIONAL SHAREHOLDER IN THE CASE OF HIS
33 OR HER TERMINATION OF EMPLOYMENT WITHIN THIRTY DAYS AFTER SUCH TERMI-
34 NATION. A DESIGN PROFESSIONAL SERVICE CORPORATION SHALL NOT BE REQUIRED
35 TO PURCHASE OR REDEEM THE SHARES OF A TERMINATED NON-DESIGN PROFESSIONAL
36 SHAREHOLDER IF SUCH SHARES, WITHIN THIRTY DAYS AFTER SUCH TERMINATION,
37 ARE SOLD OR TRANSFERRED TO ANOTHER EMPLOYEE OF THE CORPORATION PURSUANT
38 TO THIS ARTICLE.

39 S 9. Section 1512 of the business corporation law, as added by chapter
40 974 of the laws of 1970, is amended to read as follows:

41 S 1512. Corporate name.

42 (a) Notwithstanding any other provision of law, the name of a profes-
43 sional service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE
44 CORPORATION, may contain any word which, at the time of incorporation,
45 could be used in the name of a partnership practicing a profession which
46 the corporation is authorized to practice, and may not contain any word
47 which could not be used by such a partnership. Provided, however, the
48 name of a professional service corporation may not contain the name of a
49 deceased person unless

50 (1) such person's name was part of the corporate name at the time of
51 such person's death; or

52 (2) such person's name was part of the name of an existing partnership
53 and at least two-thirds of such partnership's partners become sharehold-
54 ers of the corporation.

55 (b) [Such corporate] THE name OF A PROFESSIONAL SERVICE CORPORATION
56 shall end with the words "Professional Corporation" or the abbreviation

1 "P.C." THE NAME OF A DESIGN PROFESSIONAL SERVICE CORPORATION SHALL END
2 WITH THE WORDS "DESIGN PROFESSIONAL CORPORATION" OR THE ABBREVIATION
3 "D.P.C." The provisions of [paragraph] SUBPARAGRAPH one of [subdivision]
4 PARAGRAPH (a) of section [three hundred one] 301 OF THIS CHAPTER shall
5 not apply to a professional service corporation.

6 S 10. Section 1513 of the business corporation law, as amended by
7 chapter 576 of the laws of 1994, is amended to read as follows:

8 S 1513. Business corporation law applicable.

9 This chapter, except article [thirteen] 13 and article [fifteen-A]
10 15-A, shall be applicable to a professional service corporation, INCLUD-
11 ING A DESIGN PROFESSIONAL SERVICE CORPORATION, except to the extent that
12 the provisions thereof conflict with this article. A professional
13 service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE CORPO-
14 RATION, may consolidate or merge only with another corporation organized
15 under this article or authorized to do business in this state under
16 article [fifteen-A] 15-A of this chapter or authorized and registered to
17 practice the same profession, OR IN THE CASE OF A DESIGN PROFESSIONAL
18 SERVICE CORPORATION ONE OR MORE PROFESSIONS AS PROVIDED IN PARAGRAPH (E)
19 OF SECTION 1501 OF THIS ARTICLE, pursuant to the applicable provisions
20 of subdivision six of section seventy-two hundred nine of the education
21 law [or], subdivision four of section seventy-three hundred seven of the
22 education law OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWEN-
23 TY-SEVEN OF THE EDUCATION LAW, or may be a member of a professional
24 service limited liability company, a foreign professional service limit-
25 ed liability company, a registered limited liability partnership or
26 foreign limited liability partnership, and only if all of the
27 professions practiced by such corporations, limited liability companies
28 or limited liability partnerships could be practiced by a single corpo-
29 ration organized under this article.

30 S 11. The opening paragraph of section 1514 of the business corpo-
31 ration law is designated paragraph (a) and a new paragraph (b) is added
32 to read as follows:

33 (B) EACH DESIGN PROFESSIONAL SERVICE CORPORATION SHALL, AT LEAST ONCE
34 EVERY THREE YEARS ON OR BEFORE THE DATE PRESCRIBED BY THE LICENSING
35 AUTHORITY, FURNISH A STATEMENT TO THE LICENSING AUTHORITY LISTING THE
36 NAMES AND RESIDENCE ADDRESSES OF EACH SHAREHOLDER, DIRECTOR AND OFFICER
37 OF SUCH CORPORATION AND CERTIFY AS THE DATE OF CERTIFICATION AND AT ALL
38 TIMES OVER THE ENTIRE THREE YEAR PERIOD THAT:

39 (I) GREATER THAN SEVENTY-FIVE PERCENT OF THE OUTSTANDING SHARES OF
40 STOCK OF THE CORPORATION ARE AND WERE OWNED BY DESIGN PROFESSIONALS,

41 (II) GREATER THAN SEVENTY-FIVE PERCENT OF THE DIRECTORS ARE AND WERE
42 DESIGN PROFESSIONALS,

43 (III) GREATER THAN SEVENTY-FIVE PERCENT OF THE OFFICERS ARE AND WERE
44 DESIGN PROFESSIONALS,

45 (IV) THE PRESIDENT, THE CHAIRPERSON OF THE BOARD OF DIRECTORS AND THE
46 CHIEF EXECUTIVE OFFICER OR OFFICERS ARE AND WERE DESIGN PROFESSIONALS,
47 AND

48 (V) THE SINGLE LARGEST SHAREHOLDER IS AND WAS EITHER A DESIGN PROFES-
49 SIONAL OR AN ESOP WITH GREATER THAN SEVENTY-FIVE PERCENT OF THE PLAN'S
50 VOTING TRUSTEES BEING DESIGN PROFESSIONALS AND GREATER THAN SEVENTY-FIVE
51 PERCENT OF THE PLAN'S COMMITTEE MEMBERS BEING DESIGN PROFESSIONALS.

52 THE STATEMENT SHALL BE SIGNED BY THE PRESIDENT OR ANY DESIGN PROFES-
53 SIONAL VICE-PRESIDENT AND ATTESTED TO BY THE SECRETARY OR ANY ASSISTANT
54 SECRETARY OF THE CORPORATION.

55 S 12. Section 1516 of the business corporation law, as amended by
56 chapter 851 of the laws of 1992, is amended to read as follows:

1 S 1516. Corporate mergers, consolidations and other reorganizations.
2 (A) Notwithstanding any inconsistent provision of this article, AND
3 SUBJECT TO THE LIMITATIONS IN PARAGRAPH (B) OF THIS SECTION, a profes-
4 sional service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE
5 CORPORATION, pursuant to the provisions of article [nine] 9 of this
6 chapter, may be merged or consolidated with another corporation formed
7 pursuant to the provisions of this chapter [or], with a corporation
8 authorized and registered to practice the same profession pursuant to
9 the applicable provisions of subdivision six of section seventy-two
10 hundred nine of the education law (engineer or land surveyor) [or],
11 subdivision four of section seventy-three hundred seven of the education
12 law (architect) OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED
13 TWENTY-SEVEN OF THE EDUCATION LAW (LANDSCAPE ARCHITECT) of [article]
14 ARTICLES one hundred forty-five, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED
15 FORTY-EIGHT of the education law, or with a foreign corporation, or may
16 be otherwise reorganized, provided that the corporation OR ENTITY which
17 survives or which is formed pursuant thereto is a professional service
18 corporation, A DESIGN PROFESSION SERVICE CORPORATION or a foreign
19 professional service corporation practicing the same profession or
20 professions in this state or the state of incorporation or, if one of
21 the original corporations is authorized to practice pursuant to the
22 provisions of [either] subdivision six of section [seven thousand two]
23 SEVENTY-TWO hundred nine [or] OF THE EDUCATION LAW, subdivision four of
24 section [seven thousand three] SEVENTY-THREE hundred seven OF THE EDUCA-
25 TION LAW OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED
26 TWENTY-SEVEN OF THE EDUCATION LAW, a corporation authorized and regis-
27 tered to practice the same profession pursuant to the applicable
28 provisions of subdivision six of section seventy-two hundred nine of the
29 education law (engineer or land surveyor) [or], subdivision four of
30 section seventy-three hundred seven of the education law (architect) of
31 [article] ARTICLES one hundred forty-five, ONE HUNDRED FORTY-SEVEN AND
32 ONE HUNDRED FORTY-EIGHT of the education law OR SUBDIVISION FOUR OF
33 SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE EDUCATION LAW (LAND-
34 SCAPE ARCHITECT). The restrictions on the issuance, transfer or sale of
35 shares of a professional service corporation OR A DESIGN PROFESSIONAL
36 SERVICE CORPORATION shall be suspended for a period not exceeding thirty
37 days with respect to any issuance, transfer or sale of shares made
38 pursuant to such merger, consolidation or reorganization, provided that
39 (i) no person who would not be eligible to be a shareholder in the
40 absence of this section shall vote the shares of or receive any distrib-
41 ution from such corporation; (ii) after such merger, consolidation or
42 reorganization, any professional service corporation OR DESIGN PROFES-
43 SIONAL SERVICE CORPORATION which survives or which is created thereby
44 shall be subject to all of the provisions of this article, and (iii)
45 shares thereafter only may be held by persons who are eligible to
46 receive shares of such professional service corporation, DESIGN PROFES-
47 SIONAL SERVICE CORPORATION or such other corporation authorized and
48 registered to practice the same profession pursuant to the applicable
49 provisions of subdivision six of section seventy-two hundred nine of the
50 education law (engineer or land surveyor) [or], subdivision four of
51 section seventy-three hundred seven of the education law (architect) OR
52 SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE
53 EDUCATION LAW (LANDSCAPE ARCHITECT) of [article] ARTICLES one hundred
54 forty-five, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED FORTY-EIGHT of the
55 education law, which survives. Nothing herein contained shall be
56 construed as permitting the practice of a profession in this state by a

1 corporation which is not incorporated pursuant to the provisions of this
2 article [or], authorized to do business in this state pursuant to the
3 provisions of article [fifteen-A] 15-A of this chapter, AUTHORIZED
4 PURSUANT TO SUBDIVISION SIX OF SECTION SEVENTY-TWO HUNDRED NINE OF THE
5 EDUCATION LAW, AUTHORIZED PURSUANT TO SUBDIVISION FOUR OF SECTION SEVEN-
6 TY-THREE HUNDRED SEVEN OF THE EDUCATION LAW, AUTHORIZED PURSUANT TO
7 SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE
8 EDUCATION LAW or authorized and registered to practice a profession
9 pursuant to the applicable provisions of article one hundred forty-five,
10 ARTICLE ONE HUNDRED FORTY-SEVEN OR ARTICLE ONE HUNDRED FORTY-EIGHT of
11 the education law. For the purposes of this section, other reorganiza-
12 tions shall be limited to those reorganizations defined in paragraph one
13 of subsection (a) of section three hundred sixty-eight of the internal
14 revenue code.

15 (B) NOTWITHSTANDING THE PROVISIONS CONTAINED IN PARAGRAPH (A) OF THIS
16 SECTION, NO DESIGN PROFESSIONAL SERVICE CORPORATION SHALL BE MERGED OR
17 CONSOLIDATED WITH ANY ENTITY UNLESS SUCH ENTITY IS A PROFESSIONAL BUSI-
18 NESS ORGANIZATION LAWFULLY ORGANIZED TO PROVIDE PROFESSIONAL SERVICES
19 PURSUANT TO ARTICLES ONE HUNDRED FORTY-FIVE, ONE HUNDRED FORTY-SEVEN AND
20 ONE HUNDRED FORTY-EIGHT OF THE EDUCATION LAW.

21 S 13. Subdivision 4 of section 7209 of the education law, as added by
22 chapter 987 of the laws of 1971, is amended to read as follows:

23 4. Engineers, land surveyors, architects, and landscape architects may
24 join in the formation of a joint enterprise, or a partnership or a
25 professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPO-
26 RATION or may form any desired combination of such professions and may
27 use in the name of such corporation the title of any of the professions
28 which will be practiced. After the name of each member his OR HER
29 profession shall be indicated.

30 S 14. Subdivision 1 of section 7210 of the education law, as amended
31 by chapter 483 of the laws of 2001, is amended to read as follows:

32 1. Domestic or foreign professional service corporations, DESIGN
33 PROFESSIONAL SERVICE CORPORATIONS, professional service limited liabil-
34 ity companies, foreign professional service limited liability companies,
35 registered limited liability partnerships, New York registered foreign
36 limited liability partnerships, partnerships and joint enterprises spec-
37 ified in subdivision four of section seventy-two hundred nine of this
38 article, provided each of the foregoing entities is authorized to
39 provide professional engineering or land surveying services and general
40 business corporations authorized to provide professional engineering or
41 land surveying services pursuant to subdivision six of section seventy-
42 two hundred nine of this article may offer to provide or provide profes-
43 sional engineering or land surveying services only after obtaining a
44 certificate of authorization from the department. Except as otherwise
45 authorized by statute, rule or regulation, other business entities are
46 not authorized to offer or provide professional engineering or land
47 surveying services and may not obtain certificates of authorization
48 provided that nothing contained herein shall prohibit an individual who
49 is licensed to practice professional engineering or land surveying under
50 this article from obtaining a certificate of authorization upon applica-
51 tion and payment of the appropriate fees provided for under this
52 section.

53 S 15. Subdivision 2 of section 7307 of the education law, as added by
54 chapter 987 of the laws of 1971, is amended to read as follows:

55 2. Engineers, land surveyors, architects and landscape architects may
56 join in the formation of a joint enterprise, or a partnership or a

1 professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPO-
2 RATION or may form any desired combination of such professions and may
3 use in the name of such corporation the title of any of the professions
4 which will be practiced. After the name of each member his OR HER
5 profession shall be indicated.

6 S 16. Subdivision 2 of section 7327 of the education law, as added by
7 chapter 987 of the laws of 1971, is amended to read as follows:

8 2. Engineers, land surveyors, architects and landscape architects may
9 join in the formation of a joint enterprise, or a partnership or a
10 professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPO-
11 RATION or may form any desired combination of such professions and may
12 use in the name of such corporation the title of any of the professions
13 which will be practiced. After the name of each member his OR HER
14 profession shall be indicated.

15 S 17. This act shall take effect January 1, 2011. Provided, however,
16 that effective immediately, the addition, amendment and/or repeal of any
17 rule or regulation necessary for the implementation of this act on its
18 effective date are authorized and directed to be made and completed on
19 or before such effective date.