S T A T E O F N E W Y O R K

3810--B

2013-2014 Regular Sessions

I N S E N A T E

February 21, 2013

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, the business corporation law, the limited liability company law and the partnership law, in relation to providing for the licensing of the profession of geology; and to repeal section 12 of chapter 550 of the laws of 2011, amending the business corporation law and the education law relating to design professional service corporations

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

Section 1. The article heading of article 145 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

ENGINEERING [AND], LAND SURVEYING
AND GEOLOGY

S 2. Section 7200 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

S 7200. Introduction. This article applies to the professions of engineering [and], land surveying AND GEOLOGY. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

S 3. The education law is amended by adding three new sections 7204-a, 7204-b and 7206-b to read as follows:

S 7204-A. DEFINITION OF THE PROFESSION OF GEOLOGY. THE PRACTICE OF THE PROFESSION OF GEOLOGY IS DEFINED AS PERFORMING PROFESSIONAL SERVICE SUCH AS RESEARCHING, INVESTIGATING, CONSULTING AND GEOLOGICAL MAPPING,

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

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DESCRIBING THE NATURAL PROCESSES THAT ACT UPON THE EARTH'S MATERIALS, PREDICTING THE PROBABLE OCCURRENCE OF NATURAL RESOURCES, PREDICTING AND LOCATING NATURAL OR HUMAN-INDUCED PHENOMENA WHICH MAY BE USEFUL OR HAZARDOUS TO HUMANKIND AND RECOGNIZING, DETERMINING AND EVALUATING GEOLOGICAL FACTORS, AND THE INSPECTION AND PERFORMANCE OF GEOLOGICAL WORK AND THE RESPONSIBLE SUPERVISION THEREOF IN FURTHERANCE OF THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC; PROVIDED, HOWEVER, THAT GEOLOGICAL MAPPING SHALL NOT INCLUDE THE PRACTICE OF LAND SURVEYING AS DEFINED IN SECTION SEVENTY-TWO HUNDRED THREE OF THIS ARTICLE.

S 7204-B. PRACTICE OF GEOLOGY AND THE USE OF TITLE "PROFESSIONAL GEOLOGIST". ONLY A PERSON LICENSED OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE SHALL PRACTICE GEOLOGY OR USE THE TITLE "PROFESSIONAL GEOLOGIST".

S 7206-B. REQUIREMENTS FOR A LICENSE AS A PROFESSIONAL GEOLOGIST. 1. TO QUALIFY FOR A LICENSE AS A PROFESSIONAL GEOLOGIST, AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

(B) EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING A BACHELOR'S OR HIGHER DEGREE IN GEOLOGICAL SCIENCES, IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(C) EXPERIENCE: HAVE AT LEAST FIVE YEARS PRACTICAL EXPERIENCE SATISFACTORY TO THE BOARD IN APPROPRIATE GEOLOGICAL WORK; UP TO ONE YEAR OF EXPERIENCE MAY BE CREDITED FOR AN ADVANCED DEGREE (MASTERS, DOCTORATE OR AN EQUIVALENT THEREOF) IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(D) EXAMINATION: PASS AN EXAMINATION SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(E) AGE: BE AT LEAST TWENTY-ONE YEARS OF AGE;

(F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT; AND

(G) FEES: PAY A FEE OF TWO HUNDRED TWENTY DOLLARS TO THE DEPARTMENT FOR ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND FOR AN INITIAL LICENSE, AND A FEE OF TWO HUNDRED TEN DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

2. IN LIEU OF THE DEGREE AND EXPERIENCE REQUIREMENTS SPECIFIED IN PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OF THIS SECTION, TWELVE YEARS OF PRACTICAL EXPERIENCE IN GEOLOGICAL WORK OF A GRADE AND CHARACTER SATISFACTORY TO THE BOARD MAY BE ACCEPTED BY THE DEPARTMENT.

3. FOR AN IDENTIFICATION CARD AS AN "INTERN GEOLOGIST", AN APPLICANT SHALL FULFILL THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION, EXCEPT THOSE IN PARAGRAPHS (C) AND (E) OF SUCH SUBDIVISION, PROVIDED THAT ADMISSION TO THE EXAMINATION MAY BE GIVEN WHEN THE APPLICANT IS WITHIN TWENTY CREDITS OF THE COMPLETION OF THE REQUIREMENTS OF THE BACHELOR'S DEGREE OR HIGHER AS PRESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, OR HAS COMPLETED THE PRACTICAL EXPERIENCE REQUIREMENT OF SUBDIVISION TWO OF THIS SECTION. THE FEE FOR THE EXAMINATION AND IDENTIFICATION CARD AS AN "INTERN GEOLOGIST" SHALL BE SEVENTY DOLLARS AND THE FEE FOR EACH REEXAMINATION SHALL BE SEVENTY DOLLARS.

4. AN APPLICANT WHO APPLIES FOR LICENSURE WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL BE QUALIFIED FOR A LICENSE AS A PROFESSIONAL GEOLOGIST WITHOUT A WRITTEN EXAMINATION IF THE APPLICANT HAS SATISFIED THE REQUIREMENTS OF EDUCATION AND DEGREE DESCRIBED IN PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OR SUBDIVISION TWO OF THIS SECTION NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

S 4. Section 7205 of the education law, as amended by chapter 521 of the laws of 1998, is amended to read as follows:

S 7205. State board for engineering [and], land surveying AND GEOLOGY. A state board for engineering [and], land surveying AND GEOLOGY shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven professional engineers [and], not less than two land surveyors AND NOT LESS THAN TWO PROFESSIONAL GEOLOGISTS licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a professional engineer [or], land surveyor OR PROFESSIONAL GEOLOGIST licensed in this state.

S 5. Subdivision 2 of section 7207 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

2. A limited permit to practice as a professional engineer [or], land surveyor OR PROFESSIONAL GEOLOGIST in this state may be issued by the department to a person not a resident in this state and having no established place of practice in this state, when such practice does not aggregate more than thirty days in any calendar year, provided that such person is legally qualified to practice in his own state or country. The limited permit authorizing such right to practice in this state shall specify the dates within the calendar year when such right may be exercised.

S 6. Subdivision 3 of section 7207 of the education law is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. ON RECOMMENDATION OF THE BOARD, THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO PRACTICE GEOLOGY TO A GEOLOGIST NOT A RESIDENT OF THIS STATE AND HAVING NO ESTABLISHED PLACE OF PRACTICE IN THIS STATE WHO IS LEGALLY QUALIFIED TO PRACTICE AS SUCH IN HIS OR HER OWN COUNTRY OR STATE WITH STANDARDS EQUIVALENT TO THOSE ENUMERATED IN THIS ARTICLE AND WHO SUBMITS EVIDENCE SATISFACTORY TO THE BOARD ESTABLISHED AND RECOGNIZED PROFESSIONAL STANDING IN HIS OR HER OWN COUNTRY OR STATE AND WHO SUBMITS SATISFACTORY CERTIFICATION AS TO CHARACTER AND QUALIFICATIONS FROM AT LEAST TWO PROFESSIONAL GEOLOGISTS, ONE OF WHOM SHALL BE A RESIDENT OF THIS STATE. SUCH LIMITED PERMIT SHALL BE ISSUED SOLELY IN CONNECTION WITH THE SPECIFIC PROJECT FOR WHICH SUCH LIMITED PERMIT IS GRANTED.

S 7. The section heading of section 7208 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

Exempt persons FOR THE PROFESSIONS OF ENGINEERING AND LAND SURVEYING.

S 8. The education law is amended by adding a new section 7208-a to read as follows:

S 7208-A. EXEMPT PERSONS FOR THE PROFESSION OF GEOLOGY. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT THE FOLLOWING, PROVIDED THAT NO TITLE, SIGN CARD OR DEVICE SHALL BE USED IN SUCH A MANNER AS TO TEND TO CONVEY THE IMPRESSION THAT THE PERSON RENDERING SUCH SERVICE IS A PROFESSIONAL GEOLOGIST LICENSED IN THIS STATE OR IS PRACTICING GEOLOGY.

1. THE EMPLOYMENT AND SUPERVISION OF INTERNS AND OTHER PERSONS QUALIFIED BY EDUCATION OR EXPERIENCE BY PROFESSIONAL GEOLOGISTS AS ASSISTANTS IN THE PERFORMANCE OF GEOLOGICAL SERVICES, OR AS CONSULTANTS OR EMPLOYEES IN SPECIAL FIELDS RELATED TO BUT NOT UNIQUELY GEOLOGY, PROVIDED THAT THE PROFESSIONAL GEOLOGIST EMPLOYING OR SUPERVISING SUCH PERSONS SHALL NOT BE RELIEVED OF ANY RESPONSIBILITY WHATSOEVER BY DELEGATION TO SUCH PERSONS.

2. THE PRACTICE OF PROFESSIONAL ENGINEERING BY A PROFESSIONAL ENGINEER LICENSED PURSUANT TO THIS ARTICLE TO PRACTICE ENGINEERING IN THIS STATE OR AN ENTITY AUTHORIZED PURSUANT TO SECTION SEVENTY-TWO HUNDRED TEN OF

THIS ARTICLE TO PROVIDE ENGINEERING IN THIS STATE, INCLUDING THE INVESTIGATION, ACQUISITION, EVALUATION, AND INTERPRETATION OF THE PHYSICAL AND CHEMICAL PROPERTIES OF THE SOIL, ROCK, GROUNDWATER, EARTH MATERIALS AND DATA RELATED THERETO, AND THE PERFORMANCE OF ACTIVITIES AS SPECIFIED IN SECTION SEVENTY-TWO HUNDRED FOUR-A OF THIS ARTICLE, PROVIDED THAT NO SUCH PERSON SHALL USE THE DESIGNATION, OR HOLD HIMSELF OR HERSELF OUT AS A "PROFESSIONAL GEOLOGIST," UNLESS LICENSED AS SUCH IN THIS STATE.

3. THE PRACTICE OF LAND SURVEYING BY ANY PERSON THAT IS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE LAND SURVEYING IN THIS STATE, PROVIDED THAT NO SUCH PERSON SHALL USE THE DESIGNATION OR HOLD HIMSELF OR HERSELF OUT AS A "PROFESSIONAL GEOLOGIST" UNLESS LICENSED AS SUCH IN THIS STATE.

4. THE EXECUTION OF WORK BY CONTRACTORS OR BY OTHERS OF WORK PREPARED BY A PROFESSIONAL GEOLOGIST, OR THE SUPERINTENDENCE OF SUCH WORK AS A SUPERINTENDENT, FOREMAN OR INSPECTOR.

5. THE PRACTICE OF THE PROFESSION OF GEOLOGY BY OFFICERS AND EMPLOYEES OF THIS STATE PRACTICING SOLELY AS OFFICERS AND EMPLOYEES; PROVIDED, HOWEVER, THAT THIS EXEMPTION SHALL NOT APPLY TO OFFICERS AND EMPLOYEES OF THE STATE OF NEW YORK WHO COMMENCE EMPLOYMENT OR THE PERFORMANCE OF WORK RELATED ACTIVITIES AFTER THE EFFECTIVE DATE OF THIS SECTION.

6. THE EXECUTION OF GEOLOGICAL RESEARCH AND/OR TEACHING CONDUCTED AT ACCREDITED EDUCATIONAL INSTITUTIONS AND NOT-FOR-PROFIT RESEARCH INSTITUTIONS, CONDUCTED SOLELY THROUGH THOSE INSTITUTIONS.

7. WORK CUSTOMARILY PERFORMED BY PHYSICAL OR NATURAL SCIENTISTS PROVIDED SUCH WORK DOES NOT INCLUDE GEOLOGICAL INVESTIGATIONS, BEING IN RESPONSIBLE CHARGE OF GEOLOGICAL WORK, OR THE DRAWING OF GEOLOGICAL CONCLUSIONS AND RECOMMENDATIONS.

8. WORK CUSTOMARILY PERFORMED BY WATER WELL DRILLERS WHO HAVE RECEIVED A CERTIFICATE OF REGISTRATION PURSUANT TO SECTION 15-1525 OF THE ENVIRONMENTAL CONSERVATION LAW.

S 9. Subdivisions 1, 2 and 4 of section 7209 of the education law, subdivisions 1 and 2 as added by chapter 987 of the laws of 1971, the opening paragraph of subdivision 1 as amended by chapter 994 of the laws of 1971 and subdivision 4 as amended by chapter 550 of the laws of 2011, are amended to read as follows:

1. Every professional engineer [and every], land surveyor AND PROFESSIONAL GEOLOGIST shall have a seal, approved by the board, which shall contain the name of the professional engineer and the words "Licensed Professional Engineer" [or], the name of the land surveyor and the words "Licensed Land Surveyor" OR THE NAME OF THE PROFESSIONAL GEOLOGIST AND THE WORDS "LICENSED PROFESSIONAL GEOLOGIST", and such other words or figures as the board may deem necessary. All plans, specifications, plats and reports relating to the construction or alteration of buildings or structures, OR GEOLOGIC DRAWINGS AND REPORTS prepared by such professional engineer [and], all plans, specifications, plats and reports prepared by such land surveyor AND ALL GEOLOGIC DRAWINGS AND REPORTS PREPARED BY SUCH PROFESSIONAL GEOLOGIST or by a full-time or part-time subordinate under his OR HER supervision, shall be stamped with such seal and shall also be signed, on the original with the personal signature of such professional engineer [or], land surveyor OR PROFESSIONAL GEOLOGIST when filed with public officials. No official of this state, or of any city, county, town or village therein, charged with the enforcement of laws, ordinances or regulations shall accept or approve any plans [or], specifications, OR GEOLOGIC DRAWINGS OR REPORTS that are not stamped:

a. With the seal of an architect or professional engineer or land surveyor OR PROFESSIONAL GEOLOGIST licensed in this state and bearing

the authorized facsimile of the signature of such architect or professional engineer or land surveyor OR PROFESSIONAL GEOLOGIST, or

b. With the official seal and authorized facsimile of the signature of a professional engineer or land surveyor OR PROFESSIONAL GEOLOGIST not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his OR HER own state or country, provided that such person may lawfully practice as such in this state, and provided further that the plans [or], specifications, OR GEOLOGIC DRAWINGS OR REPORTS are accompanied by and have attached thereto written authorization issued by the department certifying to such right to practice at such time.

2. A. To all plans, specifications, plats and reports to which the seal of a professional engineer or land surveyor has been applied, there shall also be applied a stamp with appropriate wording warning that it is a violation of this [law] ARTICLE for any person, unless he OR SHE is acting under the direction of a licensed professional engineer or land surveyor, to alter an item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his OR HER seal and the notation "altered by" followed by his OR HER signature and the date of such alteration, and a specific description of the alteration.

B. TO ALL GEOLOGIC DRAWINGS AND REPORTS TO WHICH THE SEAL OF A PROFESSIONAL GEOLOGIST OR PROFESSIONAL ENGINEER HAS BEEN APPLIED, THERE SHALL ALSO BE APPLIED A STAMP WITH APPROPRIATE WORDING WARNING THAT IT IS A VIOLATION OF THIS ARTICLE FOR ANY PERSON, UNLESS HE OR SHE IS ACTING UNDER THE DIRECTION OF A PROFESSIONAL GEOLOGIST OR PROFESSIONAL ENGINEER, TO ALTER A DRAWING OR REPORT IN ANY WAY. IF AN ITEM BEARING THE SEAL OF A LICENSED PROFESSIONAL GEOLOGIST OR PROFESSIONAL ENGINEER IS ALTERED, THE ALTERING PARTY SHALL AFFIX TO THE ITEM HIS OR HER SEAL AND THE NOTATION "ALTERED BY" FOLLOWED BY HIS OR HER SIGNATURE AND THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION. NOTHING CONTAINED IN THIS ARTICLE SHALL BE DEEMED TO AUTHORIZE A PROFESSIONAL GEOLOGIST TO PRACTICE PROFESSIONAL ENGINEERING UNLESS HE OR SHE IS LICENSED AS A PROFESSIONAL ENGINEER PURSUANT TO THIS ARTICLE.

4. Engineers, land surveyors, GEOLOGISTS, architects, and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

S 10. Subdivision 1 of section 7210 of the education law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

1. Domestic or foreign professional service corporations, design professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered limited liability partnerships, New York registered foreign limited liability partnerships, partnerships and joint enterprises specified in subdivision four of section seventy-two hundred nine of this article, provided each of the foregoing entities is authorized to provide professional engineering [or], land surveying OR PROFESSIONAL GEOLOGY services and general business corporations authorized to provide professional engineering or land surveying services pursuant to subdivision six of section seventy-two hundred nine of this article may offer to provide or provide professional engineering [or], land surveying OR PROFESSIONAL GEOLOGY services only after obtaining a certificate of

authorization from the department. Except as otherwise authorized by statute, rule or regulation, other business entities are not authorized to offer or provide professional engineering [or], land surveying OR PROFESSIONAL GEOLOGY services and may not obtain certificates of authorization provided that nothing contained herein shall prohibit an individual who is licensed to practice professional engineering [or], land surveying OR PROFESSIONAL GEOLOGY under this article from obtaining a certificate of authorization upon application and payment of the appropriate fees provided for under this section.

S 11. Subdivision 2 of section 7307 of the education law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

2. Engineers, land surveyors, GEOLOGISTS, architects and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

S 12. Subdivision 2 of section 7327 of the education law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

2. Engineers, land surveyors, GEOLOGISTS, architects and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

S 13. Paragraphs (g) and (h) of section 1501 of the business corporation law, as added by chapter 9 of the laws of 2013, are amended to read as follows:

(g) "Design professional service corporation" means a corporation organized under this article practicing professional engineering, architecture, landscape architecture, GEOLOGY, or land surveying, or practicing any combination of such professions. 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.

(h) "Design professional" means an individual licensed and registered pursuant to title eight of the education law to practice professional engineering, architecture, landscape architecture, GEOLOGY or land surveying.

S 14. Paragraph (a) of section 1503 of the business corporation law, as amended by chapter 550 of the laws of 2011, is amended 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 OR GEOLOGY 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.

S 15. The opening paragraph of paragraph (b-5) of section 1503 of the business corporation law, as amended by chapter 9 of the laws of 2013, is amended to read as follows:

On or after January first, two thousand twelve, the state education department and the department of state shall allow an existing professional service corporation organized under this article and practicing professional engineering, architecture, landscape architecture, GEOLOGY or land surveying, or practicing any combination of such professions to become a design professional service corporation as defined in this article, provided the professional service corporation meets all of the requirements to become a design professional service corporation, including that its name shall end with the words "design professional corporation" or the abbreviation "D.P.C.", by amending its certificate of incorporation so that it contains the following statements:

S 16. Paragraph (b) of section 1504 of the business corporation law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

(b) Each final plan and report made or issued by a corporation practicing one or more of the professions of professional engineering, architecture, landscape architecture [or], land surveying OR GEOLOGY shall bear the name and seal of one or more professional engineers, architects, landscape architects, [or] land surveyors OR PROFESSIONAL GEOLOGISTS, respectively, who are in responsible charge of such plan or report.

S 17. Section 12 of chapter 550 of the laws of 2011, amending the business corporation law and the education law relating to design professional service corporations, is REPEALED.

S 18. Section 1516 of the business corporation law, as amended by chapter 564 of the laws of 2011, is amended to read as follows:

S 1516. Corporate mergers, consolidations and other reorganizations.

(a) Notwithstanding any inconsistent provision of this article, AND SUBJECT TO THE LIMITATIONS IN PARAGRAPH (D) OF THIS SECTION, a professional service corporation, INCLUDING A DESIGN PROFESSIONAL SERVICE CORPORATION, pursuant to the provisions of article nine of this chapter, may be merged or consolidated with another corporation formed pursuant to the provisions of this chapter [or], with a corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) [or], subdivision four of section seventy-three hundred seven of the education law (architect) OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE EDUCATION LAW (LANDSCAPE ARCHITECT) of [article] ARTICLES one hundred forty-five, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED FORTY-EIGHT of the education law, or with a foreign corporation, or other business entity practicing the same profession or professions in this state or the state of its formation, or may be otherwise reorganized, provided that the corporation which survives or which is formed pursuant thereto is a professional service corporation, A DESIGN PROFESSIONAL SERVICE CORPORATION, a professional service limited liability company or a foreign professional service corporation practicing the same profession or professions in this state or the state of incorporation or, if one of the original corporations is authorized to practice pursuant to the provisions of either subdivision six of section seventy-two hundred nine [or], subdivision four of section seventy-three hundred seven OR SUBDI-

VISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW, a corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) [or], subdivision four of section seventy-three hundred seven of the education law (architect) of [article] ARTICLES one hundred forty-five, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED FORTY-EIGHT OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN of the education law.

(b) If the surviving business entity is a professional corporation, the restrictions on the issuance, transfer or sale of shares of a professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPORATION shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of shares made pursuant to such merger, consolidation or reorganization, provided that: (i) no person who would not be eligible to be a shareholder in the absence of this section shall vote the shares of or receive any distribution from such corporation; (ii) after such merger, consolidation or reorganization, any professional service corporation OR A DESIGN PROFESSIONAL SERVICE CORPORATION which survives or which is created thereby shall be subject to all of the provisions of this article; and (iii) shares thereafter only may be held by persons who are eligible to receive shares of such professional service corporation, DESIGN PROFESSIONAL SERVICE CORPORATION or such other corporation authorized and registered to practice the same profession pursuant to the applicable provisions of subdivision six of section seventy-two hundred nine of the education law (engineer or land surveyor) [or], subdivision four of section seventy-three hundred seven of the education law (architect) OR SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE EDUCATION LAW (LANDSCAPE ARCHITECT) of [article] ARTICLES one hundred forty-five, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED FORTY-EIGHT of the education law, which survives. Nothing herein contained shall be construed as permitting the practice of a profession in this state by a corporation which is not incorporated pursuant to the provisions of this article or authorized to do business in this state pursuant to the provisions of article fifteen-A of this chapter, AUTHORIZED PURSUANT TO SUBDIVISION SIX OF SECTION SEVENTY-TWO HUNDRED NINE OF THE EDUCATION LAW, AUTHORIZED PURSUANT TO SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED SEVEN OF THE EDUCATION LAW, AUTHORIZED PURSUANT TO SUBDIVISION FOUR OF SECTION SEVENTY-THREE HUNDRED TWENTY-SEVEN OF THE EDUCATION LAW or authorized and registered to practice a profession pursuant to the applicable provisions of article one hundred forty-five, ONE HUNDRED FORTY-SEVEN OR ONE HUNDRED FORTY-EIGHT of the education law. For the purposes of this section, other reorganizations shall be limited to those reorganizations defined in paragraph one of subsection (a) of section three hundred sixty-eight of the internal revenue code.

(c) If the surviving business entity is a professional service limited liability company, the restrictions on the issuance, transfer or sale of membership interests of a professional service limited liability company other than the requirements of the first two sentences of subdivision (c) of section twelve hundred eleven of the limited liability company law, shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of membership interests made pursuant to such merger or consolidation, provided that: (i) no person or business entity who would not be eligible to be a member in the absence of this section shall vote or receive any distribution from such

limited liability company; (ii) after such merger or consolidation, any professional service limited liability company that survives or that is created thereby shall be subject to all the provisions of the limited liability company law; and (iii) membership interests thereafter may be held only by persons or business entities who are eligible to be a member of such professional service limited liability company. Nothing herein contained shall be construed as permitting the practice of a profession in this state by a limited liability company that is not formed pursuant to the provisions of the limited liability company law or authorized to do business in the state pursuant to the provisions of article thirteen of the limited liability company law.

(D) NOTWITHSTANDING THE PROVISIONS CONTAINED IN PARAGRAPHS (A), (B) AND (C) OF THIS SECTION, NO DESIGN PROFESSIONAL SERVICE CORPORATION SHALL BE MERGED OR CONSOLIDATED WITH ANY ENTITY UNLESS SUCH ENTITY IS A PROFESSIONAL BUSINESS ORGANIZATION LAWFULLY ORGANIZED TO PROVIDE PROFESSIONAL SERVICES PURSUANT TO ARTICLES ONE HUNDRED FORTY-FIVE, ONE HUNDRED FORTY-SEVEN AND ONE HUNDRED FORTY-EIGHT OF THE EDUCATION LAW.

S 19. Paragraph (b) of section 1526 of the business corporation law, as added by chapter 505 of the laws of 1983, is amended to read as follows:

(b) Each final plan, DRAWING and report made or issued by a foreign professional service corporation practicing professional engineering, architecture, landscape architecture, GEOLOGY or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects, PROFESSIONAL GEOLOGISTS or land surveyors, respectively, who are in responsible charge of such plan or report.

S 20. Section 1529 of the business corporation law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

S 1529. Business corporation law applicable.

Except for the provisions of sections thirteen hundred three, thirteen hundred four, thirteen hundred sixteen, thirteen hundred seventeen and thirteen hundred twenty, this chapter shall be applicable to a foreign professional service corporation to the extent that the provisions thereof are not in conflict with the provisions of this article. A foreign professional service corporation may practice in this state, or may consolidate or merge with another corporation, or may be a member of a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership or foreign limited liability partnership, only if all of the professions practiced by such corporations, limited liability companies or limited liability partnerships could be practiced by a single professional service corporation organized in this state; and, further, only if such foreign professional service corporation is domiciled in a state or territory of the United States the laws of which, at the time of application by such corporation under section fifteen hundred thirty of this article, contain a reciprocal provision under which professional service corporations domiciled in this state may similarly apply for the privilege of doing business in any such state or territory; provided further however, that nothing herein shall authorize a foreign professional service corporation practicing professional engineering, land surveying, GEOLOGY, architecture and/or landscape architecture to be a member or partner of a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership or a foreign limited liability partnership unless all of the shareholders, directors and officers of such foreign

professional service corporation are licensed to practice one or more of such professions in this state.

S 21. Subdivision (a) of section 1203 of the limited liability company law, as separately amended by chapters 420 and 676 of the laws of 2002, is amended to read as follows:

(a) Notwithstanding the education law or any other provision of law, one or more professionals each of whom is authorized by law to render a professional service within the state, or one or more professionals, at least one of whom is authorized by law to render a professional service within the state, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this article for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural [and/or], landscape architectural AND/OR GEOLOGICAL services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed

pursuant to article 163 of the education law to practice psychoanalysis in this state. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

S 22. Subdivision (b) of section 1207 of the limited liability company law, as separately amended by chapters 420 and 676 of the laws of 2002, is amended to read as follows:

(b) with respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural [and/or], landscape architectural AND/OR GEOLOGICAL services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state.

With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 23. Subdivisions (a) and (f) of section 1301 of the limited liability company law, subdivision (a) as separately amended by chapters 420 and 676 of the laws of 2002 and subdivision (f) as amended by chapter 170 of the laws of 1996, are amended to read as follows:

(a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in this state shall be licensed in this state. With respect to a foreign professional service limited liability company which provides veterinary services as such services are defined in article 135 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 135 of the education law to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services as such services are defined in article 131 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a foreign professional service limited liability company which provides dental services as such services are defined in article 133 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, GEOLOGIC, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a foreign professional service limited liability company which provides licensed clinical social work services as such services are defined in article 154 of the education law, each member of such

foreign professional service limited liability company shall be licensed pursuant to article 154 of the education law to practice clinical social work in this state. With respect to a foreign professional service limited liability company which provides creative arts therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a foreign professional service limited liability company which provides marriage and family therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a foreign professional service limited liability company which provides mental health counseling services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a foreign professional service limited liability company which provides psychoanalysis services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

(f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional partnership that provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; except that all partners of a professional partnership that provides veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state; and further except that all partners of a professional partnership that provides professional engineering, land surveying, GEOLOGIC, architectural, and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions.

S 24. Subdivision (b) of section 1302 of the limited liability company law is amended to read as follows:

(b) Each final plan and report made or issued by a foreign professional service limited liability company practicing professional engineering, GEOLOGY, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, PROFESSIONAL GEOLOGISTS, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.

S 25. The ninth and fourteenth undesignated paragraphs of section 2 of the partnership law, the ninth undesignated paragraph as amended by chapter 643 of the laws of 1995 and the fourteenth undesignated paragraph as added by chapter 576 of the laws of 1994, are amended to read as follows:

"Foreign limited liability partnership" means (i) any partnership without limited partners operating under an agreement governed by the laws of any jurisdiction, other than this state, each of whose partners is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such partnership or a predecessor entity, or will engage in the practice of such profession in the foreign limited liability partnership within thirty days of the date of the effectiveness of the notice provided for in subdivision (a) of section 121-1502 of this chapter or each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such partnership or a predecessor entity, or will engage in the practice of such profession in the foreign limited liability partnership within thirty days of the date of the effectiveness of the notice provided for in subdivision (a) of section 121-1502 of this chapter, (ii) any partnership without limited partners operating under an agreement governed by the laws of any jurisdiction, other than this state, authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state, which renders or intends to render professional services within this state and which is denominated as a registered limited liability partnership or limited liability partnership under such laws, regardless of any difference between such laws and the laws of this state, or (iii) a foreign related limited liability partnership; except that all partners of a foreign limited liability partnership that provides health, professional engineering, land surveying, GEOLOGIC, architectural and/or landscape architectural services in this state shall be licensed in this state.

"Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all partners of a professional partnership that provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; and further except that all partners of a professional partnership that provides professional engineering, land surveying, GEOLOGIC, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state.

S 26. Subdivision (q) of section 121-1500 of the partnership law, as separately amended by chapters 420 and 676 of the laws of 2002, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide professional engineering, GEOLOGICAL SERVICES, land surveying, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 27. Subdivision (q) of section 121-1502 of the partnership law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

(q) Each partner of a foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides professional engineering, land surveying, GEOLOGICAL SERVICES, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a foreign limited liability partnership which provides marriage and family therapy services in this

state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a foreign limited liability partnership which provides mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 28. This act shall take effect two years after the date on which it shall have become a law.