STATE OF NEW YORK

2709--A

Cal. No. 209

2019-2020 Regular Sessions

IN SENATE

January 29, 2019

Introduced by Sens. KENNEDY, HELMING -- 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the business corporation law, in relation to providing for expanded ownership in design professional corporations by employee stock ownership plans and non-licensed employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraphs (i) and (ii) of paragraph (b-1) of section 1503 of the business corporation law, as added by chapter 550 of the laws of 2011, are amended to read as follows:

(i) greater than seventy-five percent of the outstanding shares of stock of the corporation are owned by design professionals **and an ESOP (or ESOPs) with greater than seventy-five percent of the plan's voting trustees and greater than seventy-five percent of the plan's committee members being 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 **unless greater than seventy-five percent of the plan's voting trustees and greater than seventy-five percent of the plan's committee members are design professionals**,

§ 2. Subparagraphs (i) and (ii) of paragraph (b) of section 1507 of the business corporation law, as added by chapter 550 of the laws of 2011, are amended to read as follows:

(i) greater than seventy-five percent of the outstanding shares of stock of the corporation are owned by design professionals **and an ESOP (or ESOPs) with greater than seventy-five percent of the plan's voting**

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

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trustees and greater than seventy-five percent of the plan's committee members being 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 **unless greater than seventy-five percent of the plan's voting trustees and greater than seventy-five percent of the plan's committee members are design professionals**,

§ 3. Subparagraph (i) of paragraph (b) of section 1514 of the business corporation law, as added by chapter 550 of the laws of 2011, is amended to read as follows:

(i) greater than seventy-five percent of the outstanding shares of stock of the corporation are and were owned by design professionals **and an ESOP (or ESOPs) with greater than seventy-five percent of the plan's voting trustees and greater than seventy-five percent of the plan's committee members being design professionals**,

§ 4. Paragraph (a) of section 1505 of the business corporation law, as amended by chapter 550 of the laws of 2011, is amended to read as follows:

(a) **(i)** Each shareholder, employee or agent of a professional service corporation and a design professional service corporation shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering professional services on behalf of such corporation.

(ii) An employee stock ownership plan owning greater than twenty-five percent of the outstanding shares of a design professional service corporation organized under paragraph (b-1) of section fifteen hundred three of this article shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its authority to hold shares of such corporation shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in title eight of the education law relating to the applicable profession.

§ 5. Subparagraphs (v) and (vi) of paragraph (b-1) of section 1503 of the business corporation law, as added by chapter 550 of the laws of 2011, are amended and a new subparagraph (vii) is added to read as follows:

(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[~~.~~]**, and**

(vii) notwithstanding any other provision of law, not less than five percent of the outstanding shares of stock of the corporation shall be owned by design professionals.

§ 6. This act shall take effect immediately.