

STATE OF NEW YORK

3514--B

2019-2020 Regular Sessions

IN ASSEMBLY

January 29, 2019

Introduced by M. of A. LUPARDO, SCHIMMINGER, THIELE, JOHNS, SANTABARBARA, MANKTELOW -- Multi-Sponsored by -- M. of A. CROUCH, McDONOUGH, B. MILLER -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Subparagraphs (i) and (ii) of paragraph (b-1) of section
2 1503 of the business corporation law, as added by chapter 550 of the
3 laws of 2011, are amended to read as follows:

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

9 (ii) an ESOP, either in part or in its entirety, shall not constitute
10 part of the greater than seventy-five percent owned by design profes-
11 sionals unless greater than seventy-five percent of the plan's voting
12 trustees and greater than seventy-five percent of the plan's committee
13 members are design professionals,

14 § 2. Subparagraphs (i) and (ii) of paragraph (b) of section 1507 of
15 the business corporation law, as added by chapter 550 of the laws of
16 2011, are amended to read as follows:

17 (i) greater than seventy-five percent of the outstanding shares of
18 stock of the corporation are owned by design professionals and an ESOP

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

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1 (or ESOPs) with greater than seventy-five percent of the plan's voting
2 trustees and greater than seventy-five percent of the plan's committee
3 members being design professionals,

4 (ii) an ESOP, either in part or in its entirety, shall not constitute
5 part of the greater than seventy-five percent owned by design profes-
6 sionals unless greater than seventy-five percent of the plan's voting
7 trustees and greater than seventy-five percent of the plan's committee
8 members are design professionals,

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

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

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

20 (a) (i) Each shareholder, employee or agent of a professional service
21 corporation and a design professional service corporation shall be
22 personally and fully liable and accountable for any negligent or wrong-
23 ful act or misconduct committed by him or by any person under his direct
24 supervision and control while rendering professional services on behalf
25 of such corporation.

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

37 § 5. Subparagraphs (v) and (vi) of paragraph (b-1) of section 1503 of
38 the business corporation law, as added by chapter 550 of the laws of
39 2011, are amended and a new subparagraph (vii) is added to read as
40 follows:

41 (v) the president, the chairperson of the board of directors and the
42 chief executive officer or officers are design professionals, [~~and~~]

43 (vi) the single largest shareholder is either a design professional or
44 an ESOP with greater than seventy-five percent of the plan's voting
45 trustees being design professionals and greater than seventy-five
46 percent of the plan's committee members being design professionals[~~],~~
47 and

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

51 § 6. Subparagraphs (v) and (vi) of paragraph (b) of section 1507 of
52 the business corporation law, as added by chapter 550 of the laws of
53 2011, are amended and a new subparagraph (vii) is added to read as
54 follows:

55 (v) the president, the chairperson of the board of directors and the
56 chief executive officer or officers are design professionals, [~~and~~]

1 (vi) the single largest shareholder is either a design professional or
2 an ESOP with greater than seventy-five percent of the plan's voting
3 trustees being design professionals and greater than seventy-five
4 percent of the plan's committee members being design professionals[+].
5 and

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

9 § 7. Subparagraphs (iv) and (v) of paragraph (b) of section 1514 of
10 the business corporation law, as added by chapter 550 of the laws of
11 2011, are amended and a new subparagraph (vi) is added to read as
12 follows:

13 (iv) the president, the chairperson of the board of directors and the
14 chief executive officer or officers are and were design professionals,
15 [~~and~~]

16 (v) the single largest shareholder is and was either a design profes-
17 sional or an ESOP with greater than seventy-five percent of the plan's
18 voting trustees being design professionals and greater than seventy-five
19 percent of the plan's committee members being design professionals[+].
20 and

21 (vi) notwithstanding any other provision of law, not less than five
22 percent of the outstanding shares of stock of the corporation are and
23 were owned by design professionals.

24 § 8. This act shall take effect immediately.