

CHAPTER 40—H.F.No.378

[Coded]

An act relating to the formation of professional corporations; repealing Minnesota Statutes 1971, Chapter 319.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [319A.01] **PROFESSIONAL CORPORATIONS ACT; CITATION.** This act may be cited as "The Minnesota Professional Corporations Act".

Sec. 2. [319A.02] **DEFINITIONS.** Subdivision 1. For the purposes of this act the terms defined in this section have the meanings given them.

Subd. 2. "Professional service" means personal service rendered by a professional pursuant to a license or certificate issued to him by the state of Minnesota pursuant to Minnesota Statutes, Sections 147.01 to 147.29, 148.01 to 148.101, 148.52 to 148.62, 150A.01 to 150A.12, 156.001 to 156.14, 326.17 to 326.23, or 481.01 to 481.17, or a license or certificate issued to him by another state pursuant to similar laws.

Subd. 3. "Professional" means a natural person who is licensed by the laws of the state of Minnesota or similar laws of another state to render professional service.

Subd. 4. "Professional corporation" means a corporation organized under this act for the purpose of rendering professional service.

Subd. 5. "Foreign professional corporation" means a corporation organized under laws other than the laws of this state for a purpose for which a professional corporation may be organized hereunder.

Subd. 6. "Board" means an agency of the state of Minnesota which has jurisdiction to grant a license to render professional service of a type which a professional corporation is authorized to render. In the case of a professional corporation formed to practice law, "board" means the board of professional responsibility.

Sec. 3. [319A.03] **FORMATION OF CORPORATION.** One or more natural professional persons may form a corporation pursuant to Minnesota Statutes, Chapters 301 or 317 for the purposes hereinafter set forth.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Sec. 4. [319A.04] PURPOSE FOR WHICH INCORPORATED. A professional corporation may be organized pursuant to this act for the purpose of rendering one specific kind of professional service and services ancillary thereto, or two or more kinds of professional services which are specifically authorized to be practiced in combination under the licensing laws of each of the professional services to be practiced by a licensed individual or a partnership of licensed individuals and services ancillary thereto; provided, however, that a professional corporation may own real and personal property necessary or appropriate for rendering professional service and may invest its funds in real estate, mortgages, stocks, bonds, or any other type of investment.

Sec. 5. [319A.05] APPLICABILITY OF CORPORATION ACTS. A corporation incorporating under this act and Minnesota Statutes, Chapters 301 or 317 shall proceed in the manner specified in Minnesota Statutes, Chapters 301 or 317. After incorporation a professional corporation shall enjoy the powers and privileges and shall be subject to the duties and liabilities of other corporations organized under Minnesota Statutes, Chapters 301 or 317, except insofar as the same may be limited or enlarged by this act. If any provision of this act conflicts with the provisions of Minnesota Statutes, Chapters 301 or 317, this act takes precedence.

Sec. 6. [319A.06] RENDERING OF PROFESSIONAL SERVICES. Subdivision 1. A professional corporation may provide professional service in another state if it complies with all applicable laws of that state regulating the rendering of professional service therein.

Subd. 2. A foreign professional corporation may provide professional service in this state only upon compliance with Minnesota Statutes, Sections 303.01 to 303.24, regulating foreign corporations. The secretary of state shall promulgate forms for such purpose. The provisions of this act relating to the rendering of professional service by a professional corporation apply to a foreign professional corporation. This act shall not be construed to prohibit the rendering of professional service in this state by a person who is a shareholder, director, officer, employee, or agent of a foreign professional corporation, if the person could lawfully render professional service in this state in the absence of any relationship to the foreign professional corporation, irrespective of whether the foreign professional corporation is authorized to provide professional service in this state.

Sec. 7. [319A.07] CORPORATE NAME. The corporate name of any corporation organized under this act shall not be used to imply superiority and shall end with the word "Chartered," or the word "Limited," or the abbreviation "Ltd.," or the words "Professional Association," or the abbreviation "P.A."

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Sec. 8. [319A.08] **PROFESSIONAL REGULATION.** No professional corporation or foreign professional corporation shall begin to render professional service in the state of Minnesota until it has filed with each board having jurisdiction of professional service of a type which the corporation is authorized to render a copy of its articles of incorporation. Except as provided in this section, nothing in this act shall restrict or limit in any manner the authority or duty of a board with respect to persons rendering professional service within the jurisdiction of the board, even if the person is a shareholder, director, officer, employee or agent of a professional corporation or foreign professional corporation and renders professional service through such corporation.

Sec. 9. [319A.09] **HOW SERVICES RENDERED.** A professional corporation or foreign professional corporation may render professional service only through natural persons who are licensed or otherwise authorized by the state of Minnesota to render professional service of a kind which the corporation is authorized to render and may so render professional service notwithstanding any provision of law to the contrary. Such persons need not be shareholders of the corporation but may be employed by the corporation to render professional service.

Sec. 10. [319A.10] **RELATIONSHIP TO PERSON SERVED.** This act does not alter any law applicable to the relationship between a person furnishing professional service and a person receiving the professional service, including liability arising out of the professional service and the confidential relationship and privilege of communications between the person rendering professional service and the person receiving the professional service; provided, however, that no person is personally liable in tort for any act in which he has not personally participated. No director, officer, or employee of a professional corporation or foreign professional corporation is personally liable in contract for any contract which he executes on behalf of the corporation within the limits of his actual authority.

Sec. 11. [319A.11] **TO WHOM SHARES MAY BE ISSUED.** Subdivision 1. A professional corporation may issue its stock only to and admit as a member only natural persons licensed to render a kind of professional service which the corporation is authorized to render. A person who becomes a shareholder or member of any such corporation may transfer his shares of stock or his membership only to a natural person to whom the corporation could have issued the shares of stock or membership. No proxy to vote any share in a professional corporation or membership may be given to a person who is not so licensed, nor may any voting trust be established with respect to the shares of the professional corporation unless all the voting trustees are natural persons so licensed.

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Subd. 2. Minnesota Statutes, Chapter 80 shall not be applicable to nor govern any transaction relating to any shares of a professional corporation.

Sec. 12. [319A.12] DEATH OR DISQUALIFICATION OF SHAREHOLDER. Subdivision 1. A professional corporation or foreign professional corporation shall report to the board having jurisdiction of the professional service which the corporation is authorized to render the death of any of its shareholders or members within 30 days of such death. Within 90 days following the date of death of a shareholder of a professional corporation or the loss of his license to render professional service, all of the shares of stock owned by such shareholder or his membership shall be transferred to and acquired by the professional corporation or persons qualified to own such shares of stock or membership. If the articles of incorporation, bylaws, or a written agreement of the shareholders of a professional corporation fail to state a price or a method of determining a price at which the corporation or its shareholders may purchase the shares of stock or membership of a deceased shareholder or a shareholder no longer qualified to own shares of stock in the corporation or membership, then the price for the shares of stock or membership shall be the fair market value as determined by the board of directors but not less than the book value as of the end of the month immediately preceding the death or disqualification of the shareholder or member. Book value shall be determined from the books and records of the corporation in accordance with its regular method of accounting.

Subd. 2. If within 90 days following the date of death of a shareholder or member of a professional corporation or the loss of his license to render professional service all of the shares or membership owned by the deceased or disqualified shareholder or member have not been transferred to and acquired by the corporation or persons qualified to own the shares or membership, the corporation shall thereafter be governed solely by the provisions of Minnesota Statutes, Chapters 301 or 317 and shall not enjoy any of the powers and privileges conferred by this act. When the corporation ceases to be authorized to render professional service, its corporate name must be changed to comply with the corporate name provision of Minnesota Statutes, Chapters 301 or 317, and any words, phrases or abbreviations contained therein to comply with the provisions of this act shall be eliminated.

Subd. 3. A professional corporation may purchase its shares of stock without regard to any restrictions provided by law upon the repurchase of its stock if after each repurchase at least one share of stock remains outstanding.

Sec. 13. [319A.13] TRANSFER OF SHARES. No share of stock of a professional corporation, nor any beneficial interest

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therein, nor any membership, may be transferred to any person to whom the share or membership could not have been issued by the professional corporation. The articles of incorporation or bylaws or a written agreement of the shareholders may contain provisions restricting the transfer of shares or memberships.

Sec. 14. [319A.14] CONVERTIBLE SECURITIES; STOCK RIGHTS AND OPTIONS. No professional corporation shall create or issue any securities convertible into shares of the professional corporation. The provisions of this act with respect to the issuance and transfer of shares apply to the creation, issuance, and transfer of any rights or options entitling the holder to purchase from a professional corporation any shares of the corporation. Rights or options shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or whenever the holder ceases to be licensed to render professional service which the corporation is authorized to render, the rights or options shall expire.

Sec. 15. [319A.15] MERGER; CONSOLIDATION. No professional corporation shall merge or consolidate with any other corporation except another professional corporation or foreign professional corporation subject to this act. Merger or consolidation shall not be permitted unless the surviving or new corporation is a professional corporation or a foreign professional corporation which complies with all requirements of this act.

Sec. 16. [319A.16] OFFICERS; DIRECTORS. Every director and officer of a professional corporation shall be a professional licensed to render professional service of a type the corporation is authorized to render; provided, however, that if the professional corporation organizes pursuant to Chapter 317, a majority of its board of directors need not be professionals authorized to provide professional services.

Sec. 17. [319A.17] EXAMINATION BY BOARD. Any board, or any employee designated by such board, shall have the right at all reasonable times of free access to all books and records of any professional corporation and any foreign professional corporation holding a certificate of authority to do business in this state and may summon and examine under oath the officers, directors, and employees of any such corporation in all matters concerning the operations of any such corporation which are governed by this act or the corporation laws of Minnesota or the rules and regulations of such board provided, however, that nothing contained in this section shall authorize anyone to have access to, or to compel anyone to testify with respect to, books, records, or information of any type subject to a privilege recognized by law. Any information obtained by the board as a result of any proceeding authorized by this section shall be confidential except that on request a copy

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thereof shall be made available to a duly authorized representative of the professional corporation or foreign professional corporation involved, and shall be immune from subpoena and inadmissible as evidence at a trial, hearing or proceeding before any court, board or commissioner except a proceeding to cancel the corporate charter or to revoke the certificate of authority to render professional service in this state.

Sec. 18. [319A.18] **REGULATIONS.** Each board may make such rules and regulations as are necessary to carry out the provisions of this act.

Sec. 19. [319A.19] **SAVINGS CLAUSE.** Nothing contained herein is intended to alter the right of natural persons licensed to provide professional service, to organize as a partnership, an unincorporated association, a business trust, or any other form recognized under laws of this state.

Sec. 20. [319A.20] **SUSPENSION OR REVOCATION.** The corporate charter of a professional corporation or the certificate of authority of a foreign professional corporation may be suspended or revoked pursuant to Minnesota Statutes, Sections 301.57 or 317.62 for the reasons enumerated therein or for failure to comply with the provisions of this act or the rules and regulations of any board. A board through the attorney general may institute such suspension or revocation proceedings.

Sec. 21. [319A.21] **ANNUAL REPORT.** Every professional corporation and foreign professional corporation holding a certificate of authority to do business in this state shall file annually on or before January 1, with the board or boards having jurisdiction over the kind of professional service the corporation is authorized to render a report containing the following: (a) the name and address of each shareholder and each officer and director; (b) a statement under oath whether or not all shareholders, directors, officers, employees, and agents rendering professional service in this state on behalf of the corporation are licensed by this state or otherwise authorized to render such professional service; and (c) such additional information as the board may by rule or regulation prescribe as appropriate to assist in determining whether a professional corporation or a foreign professional corporation is complying with the provisions of this act. For filing the first of such reports the professional corporation or foreign professional corporation shall pay to each board with which such report is filed a fee of \$100 which shall be for the use of such board, and for filing each successive report the fee shall be \$25 which shall be for the use of the board.

Sec. 22. [319A.22] **RETROACTIVE EFFECT.** A professional corporation heretofore organized pursuant to authority granted by

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any provision of law applicable to an individual profession is hereby recognized, validated and continued and the provisions of this act apply retroactively to any such professional corporation so that any such professional corporation is deemed to have been organized pursuant to the authority granted by this act. Any such corporation that fails to comply with the provisions of this act within one year of the effective date hereof shall forfeit its corporate charter in the manner prescribed by law.

Sec. 23. Minnesota Statutes 1971, Chapter 319 is repealed.

Sec. 24. **EFFECTIVE DATE.** This act is effective upon enactment.

Approved March 22, 1973.

CHAPTER 41—H.F.No.506

An act relating to highway bridges; inventory and inspection thereof; directing the commissioner of highways to prescribe standards therefor by rule and regulation; amending Minnesota Statutes 1971, Section 165.03, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 165.03, Subdivision 2, is amended to read:

Subd. 2. **HIGHWAYS; BRIDGES; INSPECTION AND INVENTORY.** The commissioner of highways shall adopt official inventory and bridge inspection report forms for use in making type I, and type II, bridge inspections by the highway authorities specified by this subdivision. Bridge inspections ~~of the appropriate type~~ shall be made by the following officials:

(a) The commissioner of highways for all bridges located wholly or partially within or over the right-of-way of a state trunk highway.

(b) The county highway engineer for all bridges located wholly or partially within or over the right-of-way of any county or township road, or any street within a municipality which does not have a city engineer regularly employed.

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