

**SENATE, No. 1425**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED FEBRUARY 10, 2022

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Revises “The Professional Service Corporation Act.”

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning professional service corporations, and  
2 amending, supplementing, and repealing various sections of  
3 P.L.1969, c.232.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 3 of P.L.1969, c.232 (C.14A:17-3) is amended to  
9 read as follows:

10 3. Terms defined. As used in **[this act]** P.L.1969, c.232  
11 (C.14A:17-1 et seq.), the following words shall have the meanings  
12 indicated:

13 (1) "Professional service" shall mean any type of personal  
14 service to the public which requires as a condition precedent to the  
15 rendering of such service the obtaining of a license or other legal  
16 authorization and which prior to the passage of **[this act]** P.L.1969,  
17 c.232 (C.14A:17-1 et seq.) and by reason of law could not be  
18 performed by a corporation. By way of example and without  
19 limiting the generality thereof, the personal services which come  
20 within the provisions of **[this act]** P.L.1969, c.232 (C.14A:17-1 et  
21 seq.) are the personal services rendered by certified public  
22 accountants, architects, optometrists, ophthalmic dispensers and  
23 technicians, professional engineers, land surveyors, land planners,  
24 chiropractors, physical therapists, registered professional nurses,  
25 psychologists, dentists, osteopaths, physicians and surgeons,  
26 doctors of medicine, doctors of dentistry, podiatrists, veterinarians  
27 and, subject to the Rules of the Supreme Court, attorneys-at-law;

28 (2) "Professional corporation" means a corporation which is  
29 organized under **[this act]** P.L.1969, c.232 (C.14A:17-1 et seq.) for  
30 the sole and specific purpose of rendering the same or closely allied  
31 professional service as its shareholders, each of whom **[must]** shall  
32 be licensed or otherwise legally authorized **[within this State]** to  
33 render such professional service;

34 (3) "Closely allied professional service" means and is limited to  
35 the practice of (a) architecture, professional engineering, land  
36 surveying and land planning and (b) any branch of medicine and  
37 surgery, optometry, opticianry, physical therapy, registered  
38 professional nursing, psychology, and dentistry;

39 (4) "Domestic professional legal corporation" means a  
40 professional corporation incorporated under P.L.1969, c.232  
41 (C.14A:17-1 et seq.) for the sole purpose of rendering legal services  
42 of the type provided by attorneys-at-law;

43 (5) "Foreign professional legal corporation" means a corporation  
44 incorporated under the laws of another state for the purpose of  
45 rendering legal services of the type provided by attorneys-at-law.

46 (cf: P.L.2014, c.79, s.1)

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. Section 5 of P.L.1969, c.232 (C.14A:17-5) is amended to  
2 read as follows:

3       5. Professional corporation and foreign professional legal  
4 corporation.

5       (a) One or more persons, each of whom is duly licensed or  
6 otherwise legally authorized to render the same or closely allied  
7 professional service within this State, may organize and become a  
8 shareholder or shareholders of a professional corporation for  
9 pecuniary profit under the provisions of the **【Business Corporation**  
10 **Act of New Jersey (Title 14A, Corporations, General, of the New**  
11 **Jersey Statutes)】** “New Jersey Business Corporation Act,”  
12 N.J.S.14A:1-1 et seq. , for the sole and specific purpose of  
13 rendering such professional service.

14       (b) A foreign professional **【legal】** corporation may render  
15 **【legal】** services **【of the type provided by attorneys-at-law】** in this  
16 State provided **【by】** that it secures a certificate of authority from  
17 the **【Secretary of State】** Department of the Treasury in accordance  
18 with Chapter 13 of the **【Business Corporation Act of New Jersey**  
19 **(Title 14A, Corporations, General, of the New Jersey Statutes)】**  
20 “New Jersey Business Corporation Act,” N.J.S.14A:1-1 et seq., and  
21 provided further that every shareholder or employee of the foreign  
22 professional **【legal】** corporation providing **【legal】** professional  
23 services in this State is **【an attorney-at-law】** licensed and eligible to  
24 practice in this State **【under】** by the licensing authority in this State  
25 for the professional service, or in the case of a professional legal  
26 corporation, the Rules of the Supreme Court.

27 (cf: P.L.1995, c.375, s.2)

28

29       3. Section 9 of P.L.1969, c.232 (C.14A:17-9) is amended to  
30 read as follows:

31       9. Limitations on corporate business activity.

32       No professional corporation shall engage in any business other  
33 than the rendering of the professional services for which it was  
34 specifically incorporated; and no foreign professional **【legal】**  
35 corporation shall engage in any business in this State other than the  
36 rendering of **【legal】** professional services of the type **【provided by**  
37 **attorneys-at-law】** for which it was formed ; provided, that nothing  
38 in **【this act】** P.L.1969, c.232 (C.14A:17-1 et seq.) or in any other  
39 provisions of existing law applicable to corporations shall be  
40 interpreted to prohibit such corporation from investing its funds in  
41 real estate, mortgages, stocks, bonds or any other type of  
42 investments, or from owning real or personal property necessary  
43 for, or appropriate or desirable in, the fulfillment or rendering of its  
44 professional services.

45 (cf: P.L.1995, c.375, s.5)

1       4. Section 15 of P.L.1969, c.232 (C.14A:17-15) is amended to  
2 read as follows:

3       15. Applicable law; consolidation, merger; report, contents. The  
4 **【Business Corporation Act of New Jersey】** “New Jersey Business  
5 Corporation Act,” N.J.S.14A:1-1 et seq., shall be applicable to a  
6 professional corporation and to a foreign professional **【legal】**  
7 corporation except to the extent that any of the provisions of **【this**  
8 **act】** P.L.1969, c.232 (C.14A:17-1 et seq.) are interpreted to be in  
9 conflict with the provisions of the **【Business Corporation Act of**  
10 **New Jersey】** “New Jersey Business Corporation Act,” N.J.S.14A:1-  
11 1 et seq. , and in such event the provisions and sections of **【this act】**  
12 P.L.1969, c.232 (C.14A:17-1 et seq.) shall take precedence with  
13 respect to a professional corporation and a foreign professional  
14 **【legal】** corporation. **【Except for a domestic professional legal**  
15 **corporation, a】** A professional corporation organized under **【this**  
16 **act】** P.L.1969, c.232 (C.14A:17-1 et seq.) may consolidate or merge  
17 only with another professional **【corporation】** entity organized under  
18 **【this act】** P.L.1969, c.232 (C.14A:17-1 et seq.) or the laws of this  
19 State or an act or the laws of another state of the United States  
20 authorizing licensed professionals to operate in entity form, and  
21 empowered to render the same professional service. **【A merger or**  
22 **consolidation with any foreign corporation is prohibited.】** A  
23 domestic professional legal corporation may consolidate or merge  
24 either with another domestic professional legal corporation or with  
25 a foreign professional legal corporation provided that the  
26 registration requirements of **【this act】** P.L.1969, c.232 (C.14A:17-1  
27 et seq.) and the Rules of the Supreme Court are complied with. A  
28 professional corporation shall annually furnish a report to the  
29 **【office of the Secretary of State】** Department of the Treasury on a  
30 date designated by the **【Secretary of State】** State Treasurer showing  
31 the names and post-office addresses of all its shareholders, directors  
32 and officers, which shall certify that, with the exception permitted  
33 in section **【6】** 5 of P.L.     , c.     (C.     ) (pending before the  
34 Legislature as this bill) , all such persons are duly licensed or  
35 otherwise legally authorized to render the same professional service  
36 in this State or a foreign state. A foreign professional **【legal】**  
37 corporation shall annually furnish a report to the **【office of the**  
38 **Secretary of State】** Department of the Treasury on a date designated  
39 by the **【Secretary of State】** State Treasurer showing the names and  
40 post-office addresses of all its shareholders, directors and officers,  
41 and shall certify that the foreign professional **【legal】** corporation is  
42 authorized to render legal services of the type provided by  
43 **【attorneys-at-law in】** the laws of its state of incorporation and  
44 further certify that the shareholders and employees providing such  
45 services in this State are **【attorneys-at-law】** licensed in New Jersey  
46 and eligible to practice in this State. This report shall be made on

1 forms prescribed and furnished by the **【Secretary of State】**  
2 Department of the Treasury, but shall contain no information except  
3 that expressly called for by this section. It shall be signed by the  
4 president or vice-president and the secretary or an assistant  
5 secretary of the corporation, and acknowledged by the persons  
6 signing the report before a notary public or other officer duly  
7 authorized to administer oaths, shall be filed in the **【office of the**  
8 **Secretary of State】** Department of the Treasury , and shall be in lieu  
9 of the regular annual report of corporations otherwise required by  
10 the **【Business Corporation Act of New Jersey】** “New Jersey  
11 Business Corporation Act,” N.J.S.14A:1-1 et seq .  
12 (cf: P.L.1995, c.375, s.7)

13

14 5. (New section) a. The board of directors of a professional  
15 corporation shall consist of one or more members. Subject to any  
16 provisions contained in the certificate of incorporation, the by-laws  
17 shall specify the number of directors, or that the number of directors  
18 shall not be less than a stated minimum nor more than a stated  
19 maximum, with the actual number to be determined in the manner  
20 prescribed in the by-laws, except as to the number constituting the  
21 first board.

22 b. All of the directors of a professional corporation shall be  
23 licensed in the profession for which the professional corporation is  
24 formed.

25 c. The president of a professional corporation shall be licensed  
26 or otherwise legally authorized in the profession for which the  
27 professional corporation is formed. Other officers need not be so  
28 licensed or otherwise legally authorized, but their duties shall be  
29 limited to the administrative and business activities of the  
30 professional corporation and they shall have no authority to direct,  
31 administer, or participate directly, or indirectly, in any decisions  
32 concerning the rendering of professional service by the  
33 corporation's shareholders or its employees.

34

35 6. (New section) a. A professional corporation may issue its  
36 shares only to the following:

37 (1) an individual licensed by the State of New Jersey or  
38 otherwise legally authorized to render the same professional service  
39 as that for which the corporation was incorporated;

40 (2) an individual licensed by another state of the United States  
41 or otherwise legally authorized to render the same professional  
42 service as that for which the professional corporation was  
43 incorporated; or

44 (3) an entity owned solely by individuals licensed or otherwise  
45 legally authorized as provided in paragraphs (1) and (2) of this  
46 subsection.

47 b. At least one shareholder of a professional corporation shall  
48 be either:

1 (1) an individual licensed by the State of New Jersey or  
2 otherwise legally authorized to render the same professional service  
3 as that for which the corporation was incorporated; or

4 (2) an entity described in paragraph (3) of subsection a. of this  
5 section, provided that at least one of such entity's shareholders or  
6 members is an individual licensed or otherwise legally authorized  
7 by the State of New Jersey to render the professional service.

8 c. A physician licensed by the State of New Jersey may hold  
9 shares in a professional corporation practicing medicine as a  
10 nominee for a hospital for the purpose of directing the professional  
11 corporation's professional services, with the hospital enjoying or  
12 suffering the professional corporation's profits and losses.

13 d. No shareholder of a professional corporation shall enter into  
14 a voting trust agreement or proxy or any other type of agreement  
15 vesting another person, not a shareholder of the corporation, with  
16 the authority to exercise the voting power of any or all of the  
17 shareholder's shares. Subject to the provisions of the corporation's  
18 certificate of incorporation, the estate of a deceased shareholder  
19 may continue to hold the shares of such shareholder for a  
20 reasonable period of administration of the estate, but shall not be  
21 authorized to participate in any decisions concerning the rendering  
22 of professional services.

23  
24 7. (New section) If one or more professionals who desire to  
25 practice in corporate form mistakenly form a corporation under the  
26 "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq., at a  
27 time when the corporation was eligible to be formed under  
28 P.L.1969, c.232 (C.14A:17-1 et seq.), the certificate of  
29 incorporation of that corporation may be corrected to provide that  
30 the corporation is a professional corporation formed under  
31 P.L.1969, c.232 (C.14A:17-1 et seq.). The correction shall relate  
32 back to the filing of the certificate of incorporation.

33  
34 8. The following sections are repealed:  
35 Section 6 of P.L.1969, c.232 (C.14A:17-6); and  
36 Section 10 of P.L.1969, c.232 (C.14A:17-10).

37  
38 9. This act shall take effect on the 120th day following  
39 enactment.

40  
41

42 STATEMENT

43  
44 This bill amends, supplements and repeals various sections of  
45 "The Professional Service Corporation Act" (PSCA), P.L.1969,  
46 c.232 (C.14A:17-1 et seq.), in order to expand the ability of foreign  
47 professionals and professional corporations to do business in New

1 Jersey, and to make the PSCA consistent with the “New Jersey  
2 Business Corporation Act,” N.J.S.14A:1-1 et seq.

3 Current law requires each shareholder of a professional  
4 corporation to be licensed within this State to provide the type of  
5 professional services for which the corporation was incorporated.  
6 This bill eliminates that requirement, enabling professionals who  
7 are licensed or otherwise legally authorized to provide services in  
8 other states to be shareholders of a New Jersey professional  
9 corporation, provided that at least one shareholder is licensed by the  
10 State of New Jersey.

11 In addition, the bill allows foreign professional corporations to  
12 do business in this State through shareholders or employees who are  
13 licensed in New Jersey. Current law only extends this privilege to  
14 foreign professional legal corporations. This bill also expands the  
15 ability of a domestic professional corporation to merge with a  
16 foreign professional corporation, or a domestic or foreign limited  
17 liability company, authorized to provide the same professional  
18 services.

19 This bill repeals and replaces sections 6 and 10 of the PSCA in  
20 order to make the PSCA consistent with the “New Jersey Business  
21 Corporation Act.” When the PSCA was enacted, a business  
22 corporation was required by the “New Jersey Business Corporation  
23 Act” to have three directors, but the law was later amended to  
24 require only a single director. This bill will similarly reduce the  
25 number of required directors to one, and requires that all of the  
26 directors and the president be licensed or otherwise legally  
27 authorized professionals. Other officers need not be professionals  
28 so long as they do not direct or engage in the professional practice.

29 The bill also broadens the categories of authorized shareholders  
30 of a professional corporation to include individuals licensed or  
31 otherwise legally authorized by states other than New Jersey and  
32 entities, such as professional corporations or limited liability  
33 companies, owned solely by individuals authorized to practice the  
34 profession, so long as at least one individual shareholder or one  
35 individual owner of a permitted entity shareholder is licensed or  
36 otherwise authorized by the State of New Jersey. The term “another  
37 state of the United States” rather than a “foreign state” is used to  
38 limit ownership to professionals licensed in other states of the  
39 United States, as distinguished from foreign countries.

40 Finally, as hospitals have increasingly looked to acquire  
41 physician practices, the bill provides that a licensed physician  
42 acting as a hospital’s nominee may direct the professional medical  
43 practice, however the financial benefits and burdens shall be  
44 enjoyed or suffered by the hospital.