

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 679
Judiciary I Committee Substitute Adopted 5/14/91

Short Title: Geologists/Occup. Therapists in Prof. Corp. Act.

(Public)

Sponsors:

Referred to:

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO INCLUDE GEOLOGISTS AND OCCUPATIONAL THERAPISTS
WITHIN THE DEFINITION OF PROFESSIONAL SERVICE IN THE
PROFESSIONAL CORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-2(6) reads as rewritten:

"(6) The term 'professional service' means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83, 'Architects'; Chapter 84, 'Attorneys-at-Law'; Chapter 93, 'Public Accountants'; and Article 1, 'Practice of Medicine,' Article 2, 'Dentistry,' Article 6, 'Optometry,' Article 7, 'Osteopathy,' Article 8, 'Chiropractic,' Article 9A, 'Nurse ~~Nursing Practice Act,~~' with regard to registered nurses, Article 11, '~~Veterinaries,~~' '~~Veterinarians,~~' Article 12A, 'Podiatrists,' Article 18A, 'Practicing Psychologists,' and Article 18D, 'Occupational Therapy,' of Chapter 90; ~~Article 18A, 'Practicing Psychologist,' of Chapter 90;~~ Chapter 89C, 'Engineering and Land Surveying'; Chapter 89A, 'Landscape Architects'; Chapter 89E, 'Geologists'; and Chapter 89B, 'Foresters.'"

Sec. 2. G.S. 55B-4 reads as rewritten:

"§ 55B-4. Formation of corporation.

1 A professional corporation under this Chapter may be formed pursuant to the
2 provisions of Chapter 55, the North Carolina Business Corporation Act, with the
3 following limitations:

- 4 (1) At least one incorporator shall be a 'licensee' as hereinabove defined in
5 G.S. 55B-2(2).
- 6 (2) All of the shares of stock of the corporation shall be owned and held
7 by a licensee, or licensees, as hereinabove defined in G.S. 55B-2(2).
8 Provided, that as to professional corporations rendering services as
9 defined in Chapters 83A, ~~89A and 89C~~, 89A, 89C, and 89E, limited
10 ownership of shares by non-licensees shall be permitted as set forth in
11 G.S. 55B-6.
- 12 (3) At least one director and one officer shall be a 'licensee' as
13 hereinabove defined in G.S. 55B-2(2).
- 14 (4) The articles of incorporation, in addition to the requirements of
15 Chapter 55, shall designate the personal services to be rendered by the
16 professional corporation and shall be accompanied by a certification
17 by the appropriate licensing board that the ownership of the shares of
18 stock is in compliance with the requirements of G.S. 55B-4(2) and
19 G.S. 55B-6."

20 Sec. 3. G.S. 55B-6 reads as rewritten:

21 "**§ 55B-6. Capital stock.**

22 (a) Except as provided in subsection (b), a professional corporation may issue
23 shares of its capital stock only to a licensee as defined in G.S. 55B-2, and a shareholder
24 may voluntarily transfer such shares of stock issued to him only to another such
25 licensee. No share or shares of any stock of such corporation shall be transferred upon
26 the books of the corporation unless the corporation has received a certification of the
27 appropriate licensing board that the transferee of such shares is a licensee. Provided, it
28 shall be lawful in the case of professional corporations rendering services as defined in
29 Chapters 83A, ~~89A and 89C~~, 89A, 89C, and 89E, for non-licensed employees of such
30 corporation to own not more than one-third of the total issued and outstanding shares of
31 such corporation. Upon the transfer of any shares of such corporation to a non-licensed
32 employee of such corporation, the corporation shall inform the appropriate licensing
33 board of the name and address of the transferee and the number of shares issued to such
34 nonprofessional transferee. Any share of stock of such corporation issued or transferred
35 in violation of this section shall be null and void. No shareholder of a professional
36 corporation shall enter into a voting trust agreement or any other type of agreement
37 vesting in another person the authority to exercise the voting power of any or all of his
38 stock.

39 (b) A professional corporation formed pursuant to this Chapter may issue one
40 hundred percent (100%) of its capital stock to another professional corporation in order
41 for that corporation (the distributing corporation) to distribute the stock of the controlled
42 corporation to one or more shareholders of the distributing corporation in accordance
43 with section 355 of the Internal Revenue Code of 1986. The distributing corporation
44 shall distribute the stock of the controlled corporation within 30 days after the stock was

1 issued to the distributing corporation. A share of stock of the controlled corporation
2 that has not been transferred to a licensee more than 30 days after it was issued to the
3 distributing corporation is void."

4 Sec. 4. G.S. 55B-14 reads as rewritten:

5 **"§ 55B-14. Types of professional services.**

6 A professional corporation shall render only one specific type professional service,
7 and such services as may be ancillary thereto, and shall not engage in any other business
8 or profession; provided, however, such corporation may own real and personal property
9 necessary or appropriate for rendering the type of professional services it was organized
10 to render and it may invest in real estate, mortgages, stocks, bonds, and any other type
11 of investments; provided further, that in the case of architectural, landscape
12 architectural, engineering or land surveying and geological services, as defined in
13 Chapters 83A, 89A, ~~and 89C-89C~~, and 89E respectively, one corporation may be
14 authorized to provide such of these services where such corporation, and at least one
15 corporate officer who is a stockholder thereof, is duly licensed by the licensing board of
16 each such profession; and provided further, that a professional corporation may be
17 formed by a licensed psychologist and a physician practicing psychiatry to render
18 psychotherapeutic and related services."

19 Sec. 5. G.S. 89E-7(a) reads as rewritten:

20 "(a) This Chapter does not prohibit one or more geologists from practicing
21 through the business organization of a sole proprietorship; partnership; corporation or
22 professional association. In a ~~partnership or corporation or professional association,~~
23 partnership, the primary activity of which consists of geological services, at least one
24 partner ~~or officer~~ shall be a licensed geologist as defined in this Chapter. A corporation
25 or professional association providing geological services shall comply with the
26 provisions of Chapter 55B of the General Statutes."

27 Sec. 6. This act becomes effective September 1, 1991.