

LEGISLATIVE HISTORY OF R.S. 14:19-1 et seq.
(Professional corporations)

No similar bills introduced in previous years.

COPY NO. 1

L. 1962, chapter 233 - S32
Introduced January 9 by Ridolfi.
Not amended during passage.
No statement.

No hearings or reports were located.

The following articles deal with professional corporations:

Corporate
law practice bill before California
Legislature 84 NJLJ 292, May 25, 1961
Resolution on corporate law practice
adopted 84 NJLJ 285, May 25, 1961
Arizona legislature and bar O.K. pro-
fessional corporations
85 NJLJ 391, July 19, 1962
Bar opposition kills California Profes-
sional Corporation Bill
84 NJLJ 412, August 3, 1961
Order broad study of law corporations
(A.B.A.) 85 NJLJ, 353, June 28, 1962
Pennsylvania Bar endorses lawyer's
incorporation Bill
84 NJLJ 414, August 3, 1961
Williams, Lynch & Martin, Esqs (In-
corporated?) (Editorial)
84 NJLJ 512, Sept. 28, 1961

Pesin, Edward. Letter to editor on
above editorial
84 NJLJ 536, Oct. 12, 1961
Professional Corporation Bill introduced
85 NJLJ 31, January 18, 1962
Fourteen states OK professional corps
for tax purposes
85 NJLJ 108, Feb. 22, 1962
ABA Ethics committee approves pro-
fessional corp for lawyers
84 NJLJ 657, Dec. 21, 1961
Corporate practice of law moves
closer (S32) 85 NJLJ 285, May 24, 1962
Pesin, Edward. Letter to editor on
above 85 NJLJ 316, June 7, 1962
H.R. 10 and S.32, the professional
service corporation (Editorial)
85 NJLJ 632, Nov. 29, 1962
Professional service corporations
(Editorial) 86 NJLJ 88, February 14,
1963
No treasury ruling yet on professional
corporations
86 NJLJ, 141, March 14, 1963
Pesin, Edward. Brief in support of
amendment to rules permitting
attorneys at law to incorporate and
practice law in corporate form under
"The Professional Service Corpor-
ation Act" 86 NJLJ 312, Apr. 18, 1963
86 NJLJ 245, May 2, 1963
Pesin, Edward. Statement opposing
proposed Treasury Regulations on
Professional corporations
87 NJLJ 169, Mar. 19, 1964

APPROVED 2-4-63

SENATE, No. 32

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1962

By Senator RIDOLFI

Referred to Committee on Business Affairs

AN ACT authorizing the creation of professional service corporations; providing definitions; providing exceptions; providing the manner and method of creating such corporations; providing for individual liability of officers, employees and agents of such corporations in certain instances; authorizing certain investments of corporate funds; limiting issuance and transfer of capital stock; providing forfeiture of corporate franchise in certain instances; requiring identification as a corporation; providing an effective date.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. It is the legislative intent to provide for the incorporation of an in-
2 dividual or group of individuals to render the same professional service to
3 the public for which such individuals are required by law to be licensed or to
4 obtain other legal authorization.

1 2. This act may be cited as "The Professional Service Corporation
2 Act."

1 3. As used in this act the following words shall have the meaning in-
2 dicated:

3 (1) The term "professional service" shall mean any type of personal
4 service to the public which requires as a condition precedent to the render-
5 ing of such service the obtaining of a license or other legal authorization

6 and which prior to the passage of this act and by reason of law could not
7 be performed by a corporation. By way of example and without limiting
8 the generality thereof, the personal services which come within the provi-
9 sions of this act are the personal services rendered by certified public ac-
10 countants, architects, optometrists, professional engineers, chiropractors,
11 dentists, osteopaths, physicians and surgeons, doctors of medicine, doctors
12 of dentistry, pediatriests, chiropodists, veterinarians and subject to the Rules
13 of the Supreme Court, attorneys at law,

14 (2) the term "professional corporation" means a corporation which is
15 organized under this act for the sole and specific purpose of rendering pro-
16 fessional service and which has as its shareholders only individuals who
17 themselves are duly licensed or otherwise legally authorized within this
18 State to render the same professional service as to the corporation.

1 4. This act shall not apply to any individual or groups of individuals
2 within this State who prior to the passage of this act were permitted to or-
3 ganize a corporation and perform personal services to the public by the
4 means of a corporation, and this act shall not apply to any corporations or-
5 ganized by such individual or group of individuals prior to the passage of
6 this act; provided, however, any such individual or group of individuals or
7 any such corporation may bring themselves and such corporation within the
8 provisions of this act by amending the certificate of incorporation in such
9 a manner so as to be consistent with all the provisions of this act and by
10 affirmatively stating in the amended certificate of incorporation that the
11 shareholders have elected to bring the corporation within the provisions of
12 this act.

1 5. One or more persons, each of whom is duly licensed or otherwise le-
2 gally authorized to render the same professional services within this State,
3 may organize and become a shareholder or shareholders of a professional
4 corporation for pecuniary profit under the provisions of the General Cor-
5 poration Law of New Jersey, (Title 14, Corporations, General, of the Re-

6 vised Statutes of New Jersey), for the sole and specific purpose of rendering
7 the same and specific professional service.

1 6. A professional corporation which has only 1 shareholder need have
2 only 1 director, who shall be such shareholder. Such 1 shareholder shall
3 also serve as the president of the corporation. The other officers of the cor-
4 poration in such a case need not be licensed or otherwise legally authorized
5 to render the same professional service within this State, as such 1 share-
6 holder. A professional corporation which has only 2 shareholders need have
7 only 2 directors who shall be such shareholders. The 2 shareholders shall,
8 between them, fill all the officerships of the professional corporation.

1 7. No corporation organized and incorporated under this act may render
2 professional services except through its officers, employees and agents who
3 are duly licensed or otherwise legally authorized to render such professional
4 services within this State; provided, however, this provision shall not be
5 interpreted to include in the term "employee" as used herein clerks, secre-
6 taries, nurses, administrators, bookkeepers, technicians and other assistants
7 who are not usually and ordinarily considered by law, custom and practice
8 to be rendering professional services to the public for which a license or other
9 legal authorization is required in connection with the profession to be prac-
10 ticed, nor does the term "employee" include any other person who performs
11 all his employment under the direct supervision and control of an officer,
12 agent, or employee who is himself rendering professional service to the
13 public on behalf of the professional corporation; provided that, no person
14 shall, under the guise of employment, practice a profession unless duly li-
15 censed to practice that profession under the laws of this State. Notwith-
16 standing any other or contrary provisions of the laws of this State, a pro-
17 fessional corporation organized under this act may charge for the services
18 of its officers, employees, and agents, may collect such charges, and may
19 compensate those who render such personal service.

1 8. Nothing contained in this act shall be interpreted to abolish, repeal,
2 modify, restrict or limit the law now in effect in this State applicable to

3 the professional relationship and the contract, tort and other legal liabilities
4 between the person furnishing the professional services and the person re-
5 ceiving such professional service and to the standards for professional con-
6 duct; and including the confidential relationship between the person render-
7 ing the professional services and the person receiving such professional
8 service, if any, and all confidential relationships previously enjoyed under
9 the laws of this State or hereafter enacted shall remain inviolate. Any officer,
10 shareholder, agent or employee of a corporation organized under this act
11 shall remain personally and fully liable and accountable for any negligent
12 or wrongful acts or misconduct committed by him, or by any person under
13 his direct supervision and control, while rendering professional service on
14 behalf of the corporation to the person for whom such professional services
15 were being rendered. The corporation shall be liable up to the full value of
16 its property for any negligent or wrongful acts or misconduct committed by
17 any of its officers, shareholders, agents or employees while they are engaged
18 on behalf of the corporation in the rendering of professional services. The
19 assets of a professional corporation shall not be liable to attachment for the
20 individual debts of its shareholders. Notwithstanding the foregoing, the
21 relationship of an individual to a professional corporation organized under
22 this act, with which such individual is or may be associated, whether as share-
23 holder, director, officer, employee or agent, shall in no way modify, extend
24 or diminish the jurisdiction of such individual, of and by whatever State,
25 agency or office which licensed or otherwise legally authorized him for or to
26 render service in a particular field of endeavor.

1 9. No corporation organized under this act shall engage in any business
2 other than the rendering of the professional services for which it was spe-
3 cifically incorporated; provided, however, nothing in this act or in any other
4 provisions of existing law applicable to corporations shall be interpreted to
5 prohibit such corporation from investing its funds in real estate, mortgages,
6 stocks, bonds or any other type of investments, or from owning real or per-

7 sonal property necessary for, or appropriate or desirable in, the fulfillment
8 or rendering of its professional services.

1 10. No corporation organized under the provisions of this act may issue
2 any of its capital stock to anyone other than an individual who is duly
3 licensed or otherwise legally authorized to render the same specific pro-
4 fessional services as those for which the corporation was incorporated. No
5 shareholder of a corporation organized under this act shall enter into a voting
6 trust agreement or proxy or any other type agreement vesting another per-
7 son with the authority to exercise the voting power of any or all of his stock.
8 Subject to the provisions of the corporation's certificate of incorporation,
9 the estate of a shareholder who was a person duly licensed or otherwise
10 legally authorized to render the same professional service as that for which
11 the professional corporation was organized may continue to hold stock pur-
12 suant to the certificate of incorporation for a reasonable period of adminis-
13 tration of the estate, but shall not be authorized to participate in any de-
14 cisions concerning the rendering of professional service.

1 11. If any officer, shareholder, agent or employee of a corporation organ-
2 ized under this act becomes legally disqualified to render such professional
3 services within this State, or is elected to a public office or accepts employ-
4 ment that, pursuant to existing law, places restrictions or limitations upon
5 his continued rendering of such professional services, he shall sever all em-
6 ployment with, and financial interests in, such corporation forthwith. A cor-
7 poration's failure to require compliance with this provision shall constitute
8 a ground for the forfeiture of its charter and its dissolution. When a cor-
9 poration's failure to comply with this provision is brought to the attention
10 of the office of the Secretary of State, the Secretary of State forthwith shall
11 certify that fact to the Attorney General for appropriate action to dissolve
12 the corporation.

1 12. No shareholder of a corporation organized under this act may sell or
2 transfer his shares in such corporation except to the corporation or to an-
3 other individual who is eligible to be a shareholder of such corporation, and

4 such sale or transfer may be made only after the same shall have been ap-
5 proved, at a stockholders' meeting specially called for such purpose, by such
6 proportion, not less than a majority, of the outstanding stock as may be pro-
7 vided in the certificate of incorporation or in the by-laws. At such share-
8 holders' meeting the shares of stock held by the shareholder proposing to
9 sell or transfer his shares may not be voted or counted for any purpose. The
10 certificate of incorporation may provide specifically for additional restraints
11 on the alienation of shares and may require the redemption or purchase of
12 such shares by the corporation at prices and in a manner specifically set
13 forth in such certificate or the certificates may specifically authorize the cor-
14 poration's board of directors or its shareholders to adopt by-laws restrain-
15 ing the alienation of shares and providing for the purchase or redemption
16 by the corporation of its shares; provided, however, such provisions dealing
17 with the purchase or redemption by the corporation of its shares may not be
18 invoked at a time or in a manner that would impair the capital of the cor-
19 poration.

1 13. If the certificates of incorporation or by-laws of a professional cor-
2 poration fail to fix a price at which a professional corporation or its share-
3 holders may purchase the shares of a deceased, retired, expelled, or dis-
4 qualified shareholder, and if the certificates of incorporation or by-laws do
5 not otherwise provide, then the price for such share or shares shall be the
6 book value of such share or shares at the end of the month immediately pre-
7 ceding the death of or disqualification of the shareholder. Book value shall
8 be determined by an independent certified public accountant employed by the
9 professional corporation. The determination by the certified public account-
10 ant of book value shall be conclusive on the professional corporation and its
11 shareholders.

12 (a) A corporation under this act shall have perpetual existence until dis-
13 solved in accordance with other provisions of this act.

14 (b) Whenever all shareholders of a corporation licensed under this act
15 shall cease at any 1 time and for any reason to be licensed, certified or

16 registered in the particular field of endeavor for which such corporation was
17 organized, said corporation shall thereupon be treated as converted into and
18 shall operate henceforth solely as a business corporation under applicable
19 provisions of said Title 14 of the Revised Statutes, exclusive of this act.

20 (c) Within 375 days following the date of death of a shareholder, or
21 within 30 days following his disqualification as hereinbefore provided, to own
22 shares in the corporation, all of the shares of such shareholder shall be trans-
23 ferred to, and acquired by, the corporation or persons qualified to own such
24 shares. If no other provision to accomplish such transfer and acquisition
25 is in effect and carried out within said period, the corporation shall there-
26 after purchase and redeem all of his shares of its stock at the book value
27 thereof, determined as of the end of the month immediately preceding death
28 or disqualification. For this purpose, the book value shall be determined
29 from the books and records of the corporation in accordance with the regu-
30 lar methods of accounting used by it for the purposes of determining its net
31 taxable income for Federal income tax purposes; and no subsequent adjust-
32 ment of such income, whether by the corporation itself, by Federal income
33 tax audit made and agreed to, or by a court decision which has become
34 final, shall alter the redemption price. Nothing contained in this section shall
35 prevent the parties involved from making any other arrangement or pro-
36 vision in the certificate of incorporation, by-laws, or by contract to transfer
37 the shares of a deceased or disqualified shareholder to the corporation or to
38 persons qualified to own the same, whether made before or after the death or
39 disqualification of the shareholder, provided that within the period herein
40 specified all the stock involved shall have been so transferred.

1 14. The corporate name of a corporation organized under this act shall
2 contain the last names of some or all of the shareholders and shall also
3 contain the words "chartered" or "professional association", or the abbre-
4 viation "P. A.". The use of the word "company", "corporation" or incor-
5 porated", or any other word, words, abbreviations, affix or prefix indicating
6 that it is a corporation, in the corporate name of a corporation organized

7 under this act, other than the words "chartered" or "professional associa-
8 tion", or the abbreviation "P. A.", is specifically prohibited. It shall be
9 permissible, however, for the corporation and the shareholders to render
10 professional services and to exercise its authorized powers under a name
11 which is identical to its corporate name except that the words "chartered"
12 or "professional association" or the abbreviation "P. A." is omitted.

1 15. The General Corporation Law of New Jersey (Title 14, Corporations,
2 General, of the Revised Statutes of New Jersey), shall be applicable to a cor-
3 poration organized pursuant to this act except to the extent that any of the
4 provisions of this act are interpreted to be in conflict with the provisions of
5 the General Corporation Law of New Jersey, and in such event the pro-
6 visions and sections of this act shall take precedence with respect to a cor-
7 poration organized pursuant to the provisions of this act. A professional
8 corporation organized under this act may consolidate or merge only with
9 another professional corporation organized under this act, empowered to
10 render the same specific professional service; and a merger or consolidation
11 with any foreign corporation is prohibited. A corporation organized and
12 operating under this act shall furnish a report to the office of the Secretary
13 of State by March 31 of each year showing the names and post office addresses
14 of all its shareholders, directors and officers, which shall certify that, with
15 the exceptions permitted in section 5, all such persons are duly licensed, cer-
16 tified, registered or otherwise legally authorized to render the same pro-
17 fessional or other personal service in this State. This report shall be made
18 on forms prescribed and furnished by the Secretary of State, but shall con-
19 tain no fiscal or other information except that expressly called for by this
20 section. It shall be signed by the president or vice-president and the secre-
21 tary or an assistant secretary of the corporation, and acknowledged before
22 a notary public by the persons signing the report, shall be filed in the office
23 of the Secretary of State, and shall be in lieu of the regular annual report of
24 corporations otherwise required by the General Corporation Law of New
25 Jersey.

1 16. If any provision of this act or the application thereof to any person
2 or circumstances be held invalid, such invalidity shall not affect other pro-
3 visions or applications of this act which can be given effect without the invalid
4 provision or application, and to this end the provisions of this act are de-
5 clared to be severable. All laws and parts of laws in conflict with any of the
6 provisions of this act are hereby repealed, to the extent so in conflict.

1 17. The provisions of this act shall not be construed as repealing, mod-
2 ifying or restricting the applicable provisions of law relating to incorpora-
3 tions, sales of securities or regulating the several professions enumerated in
4 this act except insofar as such laws conflict with the provisions of this act.

1 18. This act shall take effect immediately.