

1 IN THE HOUSE

BY STEVENS

2 HOUSE BILL NO. 373

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the formation of professional  
7 corporations; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. The general purpose of this Act is to make available to pro-  
10 fessional persons the benefits of the corporate form for the business as-  
11 pects of their practice while preserving the established professional  
12 aspects of the personal relationship between the professional person and  
13 those whom he serves.

14 \* Sec. 2. AS 10 is amended by adding a new chapter to read:

15 CHAPTER 45. ALASKA PROFESSIONAL CORPORATION ACT.

16 Sec. 10.45.010. INCORPORATION. (a) One or more persons each of  
17 whom is licensed to render a professional service in this state may in-  
18 corporate a professional corporation by filing articles of incorporation  
19 with the Department of Commerce. The articles shall meet the require-  
20 ments of the Alaska Business Corporation Act (AS 10.05) and, in addition,  
21 shall include

22 (1) the name of the profession to be practiced by the  
23 corporation;

24 (2) the names and addresses of all original shareholders,  
25 directors, and officers;

26 (3) the address where the professional corporation will have  
27 its office.

28 (b) A certificate from the regulatory board of the profession  
29 involved certifying that each of the incorporators, directors, and

1 shareholders is licensed to practice the profession shall be filed with  
2 the articles of incorporation.

3 Sec. 10.45.020. RENDERING PROFESSIONAL SERVICE AND CHARGING FEES.  
4 A professional corporation may render one type of professional service  
5 only. It may charge fees for the services of its directors, officers,  
6 employees or agents, collect the fees, and compensate those who render  
7 the services.

8 Sec. 10.45.030. WHO MAY RENDER PROFESSIONAL SERVICE. No pro-  
9 fessional corporation incorporated under this chapter may render pro-  
10 fessional services except through the persons who are licensed within  
11 the state to render the same type of professional services as the  
12 corporation and who are its shareholders, directors, officers, em-  
13 ployees, or agents.

14 Sec. 10.45.040. PROHIBITION AGAINST ENGAGING IN BUSINESS. A  
15 professional corporation may not engage in business; however, it may own  
16 real and personal property necessary for or appropriate in rendering its  
17 own professional services and may invest its funds in all types of in-  
18 vestments.

19 Sec. 10.45.050. ISSUANCE OF SHARES. A professional corporation  
20 may issue shares of its capital stock to persons licensed by a regu-  
21 latory board of the state to render the professional service specified  
22 in the articles of incorporation. It may not issue shares to any other  
23 person.

24 Sec. 10.45.060. QUALIFICATION OF DIRECTOR OR OFFICER. No person  
25 may be a director or officer of a professional corporation who is not a  
26 shareholder of that corporation. No person may be a shareholder,  
27 director or officer of more than one professional corporation at one  
28 time.

29 Sec. 10.45.070. MANAGEMENT BY DIRECTORS PERMITTED. A professional

1 corporation which has only one or two shareholders may manage its  
2 affairs by only directors, who shall be the shareholders. The one or  
3 two shareholders may fill all the general offices of the corporation.

4 Sec. 10.45.080. TRANSFER OF SHARES. A shareholder of a pro-  
5 fessional corporation may sell or transfer his shares to a licensed  
6 person of the same profession; provided that the sale was approved by a  
7 vote of the majority of all shareholders at a special meeting called  
8 for the purpose. At the special meeting the shares of the shareholder  
9 proposing to sell or transfer his shares may not be voted or counted for  
10 any purpose unless he is the sole shareholder. The articles of in-  
11 corporation may provide specifically for additional restraints on the  
12 alienation of shares and may require the purchase, redemption, or re-  
13 tirement of shares by the corporation at a price and in a manner set  
14 out in the articles. The articles may authorize the corporation's  
15 board of directors or its shareholders to adopt bylaws restraining the  
16 alienation of shares and providing for their purchase, redemption, or  
17 retirement by the corporation.

18 Sec. 10.45.090. VOTING BY PROXY. A proxy may be given to a  
19 licensed shareholder of the same corporation to vote the shares of the  
20 professional corporation. No other person may be given a proxy.

21 Sec. 10.45.100. VOTING TRUST PROHIBITED. No voting trust may be  
22 formed to vote the shares of a professional corporation.

23 Sec. 10.45.110. HOLDING STOCK, MERGING OR CONSOLIDATING WITH  
24 ANOTHER PROFESSIONAL CORPORATION. No professional corporation may hold  
25 stock in another professional corporation, nor merge or consolidate with  
26 a foreign professional corporation.

27 Sec. 10.45.120. CORPORATE NAME. The corporate name of a pro-  
28 fessional corporation shall contain the last name of one or more of its  
29 shareholders, unless the regulations of a particular regulating board

1 or the ethics of a profession permit the use of a corporate name which  
2 does not include the surname of any present or former shareholder. The  
3 corporate name may be ended by the word "Corporation", or "Incorporated"  
4 or by the abbreviation "Corp." or "Inc.", or by the words, "a profession-  
5 al corporation". It is permissible for the corporation to render pro-  
6 fessional services and to exercise its authorized powers under the  
7 corporate name without the word "Corporation" or "Incorporated" or their  
8 abbreviations, or the words, "a professional corporation" included in  
9 the name.

10 Sec. 10.45.130. CHANGE OR ALTERATION OF CORPORATE NAME. When a  
11 person whose name is part of a corporate name ceases to be a shareholder,  
12 the corporation shall alter its name to reflect this change; however, a  
13 professional corporation may retain the name of a retired or deceased  
14 shareholder in its corporate name if the regulations of a particular  
15 regulating board or the ethics of a profession permit it.

16 Sec. 10.45.140. PROFESSIONAL RELATIONSHIP AND LIABILITIES. This  
17 chapter does not affect the present law applicable to the professional  
18 relationship and liabilities between the person furnishing the pro-  
19 fessional services and the person receiving the services, and it does not  
20 affect the standards of professional conduct maintained by a particular  
21 profession. A shareholder, director, officer, employee, or agent of a  
22 professional corporation remains personally liable for negligent or  
23 wrongful acts or misconduct committed by him, or by a person under his  
24 direct supervision and control while rendering professional services on  
25 behalf of the corporation to the person receiving the services. The  
26 liability arising out of the professional services rendered by the share-  
27 holder, director, officer, employee or agent on behalf of the professional  
28 corporation is joint and several among the shareholders of the same  
29 corporation.

1           Sec. 10.45.150. CORPORATE LIABILITY WHILE RENDERING PROFESSIONAL  
2 SERVICES. A professional corporation is jointly and severally liable  
3 with its shareholders, directors, officers, employees, or agents for  
4 the negligent or wrongful acts committed by them while they are engaged  
5 on behalf of the corporation in rendering professional services.

6           Sec. 10.45.160. CORPORATE LIABILITY WHILE RENDERING NONPROFESSION-  
7 AL SERVICES. A professional corporation is liable to the same extent as  
8 a business corporation for the negligent or wrongful acts of its em-  
9 ployees within the scope of their employment. For the purposes of this  
10 section "employees" means persons employed by the professional corpora-  
11 tion in any unlicensed position, or a licensed person performing any  
12 duties for the corporation except professional services.

13           Sec. 10.45.170. PERSONAL LIABILITY OF SHAREHOLDERS. Shareholders  
14 are personally liable with the professional corporation for its debts  
15 and other corporate obligations.

16           Sec. 10.45.180. AUTHORITY AND DUTY OF REGULATORY BOARDS NOT  
17 LIMITED. This chapter does not restrict or limit the authority and  
18 duty of the regulatory boards for the licensing of persons rendering  
19 professional services or for the practice of the profession which is  
20 within the jurisdiction of the boards.

21           Sec. 10.45.190. PROFESSIONAL ACTS LIMITED. No professional  
22 corporation may do any act which is prohibited to a person licensed to  
23 practice a profession which the professional corporation renders.

24           Sec. 10.45.200. LEGAL DISQUALIFICATION OF CORPORATE PERSONNEL. If  
25 a shareholder, director, officer, employee, or agent of a professional  
26 corporation is legally disqualified to render professional service in  
27 this state, or is elected or appointed to a public office which under  
28 law restricts or limits his rendering professional services, he shall  
29 sever all employment and financial interest in the professional

1 corporation immediately. The failure of the directors or officers to  
2 require compliance with this section is sufficient ground for the for-  
3 feiture of the corporate franchise.

4 Sec. 10.45.210. DISPOSAL OF SHARES OF LEGALLY DISQUALIFIED SHARE-  
5 HOLDER. A professional corporation may provide in its articles of in-  
6 corporation that the shares of a legally disqualified shareholder may  
7 be sold only to other shareholders or licensed persons of the same pro-  
8 fession, or it may provide for the purchase, redemption, or retirement  
9 of the shares by the corporation out of capital as well as surplus funds  
10 and without regard to the impairment of its capital. If there is no  
11 provision for the disposal of the shares and the legally disqualified  
12 shareholder has not disposed of his shares as required under sec. 200 of  
13 this chapter, the corporation shall purchase, redeem, or retire the  
14 shares out of capital as well as surplus funds without regard to the  
15 impairment of its capital within 30 days after the disqualification  
16 occurs.

17 Sec. 10.45.220. DISPOSAL OF SHARES OF DECEASED SHAREHOLDER. A  
18 professional corporation may provide for the disposal of the shares of  
19 a deceased shareholder in its articles of incorporation or bylaws, or  
20 its shareholders may provide for their disposal by private agreement.  
21 If there is no provision or private agreement, the shares shall first  
22 be offered for sale to the remaining shareholders by the personal repre-  
23 sentative of the deceased shareholder's estate at a price not to exceed  
24 their book value, and, if not sold, then offered and sold to any  
25 licensed person of the same profession as the corporation without obtain-  
26 ing the approval of the remaining shareholders. In the event that the  
27 shares are not disposed of within six months from the date of the death  
28 of the shareholder, the corporation shall call a special meeting of its  
29 shareholders and shall decide by a majority vote of the remaining

1 shareholders whether or not the corporation purchases, redeems, or re-  
2 tires the shares at book value or lesser price if agreed, or files for  
3 a dissolution of the corporation. At the special meeting the shares of  
4 the deceased shareholder may not be voted on or counted for any purpose,  
5 unless the deceased shareholder was the sole shareholder.

6 Sec. 10.45.230. DETERMINATION OF VALUE OF SHARES. If the articles  
7 of incorporation or bylaws of a professional corporation do not provide  
8 a price or method of determining a price at which the corporation may  
9 purchase, redeem, or retire the shares, or that its shareholders may  
10 purchase the shares of a deceased shareholder or a shareholder no long-  
11 er qualified to own shares in the corporation, then the price for the  
12 shares shall be the book value as of the end of the month preceding the  
13 death or disqualification of the shareholder. Book value shall be de-  
14 termined from the books and records of the corporation in accordance  
15 with the regular method of accounting used by the corporation.

16 Sec. 10.45.240. APPLICABILITY OF ALASKA BUSINESS CORPORATION ACT.  
17 The Alaska Business Corporation Act is applicable to professional cor-  
18 porations and they enjoy the powers and privileges and are subject to  
19 the duties, restrictions, and liabilities of other corporations, except  
20 when inconsistent with this chapter. This chapter takes precedence in  
21 the event of a conflict with provisions of the Alaska Business Corpora-  
22 tion Act or other laws.

23 Sec. 10.45.250. DEFINITIONS. In this chapter

24 (1) "professional service" means a type of highly skilled,  
25 technical, and specialized personal service rendered to the public by  
26 persons licensed by the state;

27 (2) "professional person" means a person licensed to render  
28 a professional service;

29 (3) "employee" means a licensed person employed by a

1 professional corporation to render the type of professional service for  
2 which the corporation was organized;

3 (4) "professional corporation" means a corporation organized  
4 under this chapter to render a professional service;

5 (5) "regulatory board" means an agency of the state having  
6 jurisdiction to grant a license to render professional service.

7 Sec. 10.45.260. SHORT TITLE. This Act may be cited as the  
8 Professional Corporation Act.

9 \* Sec. 3. This Act takes effect on the day after its passage and approval  
10 or on the day it becomes law without approval.

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