

1 SEC. 15. Section four hundred eighty-nine point fifteen (489.15), unnumbered
2 paragraph one (1), Code 1975, is amended to read as follows:

3 Any person, company, or corporation having secured a franchise as provided in
4 this chapter, shall thereupon be vested with the right of eminent domain to such
5 extent as the commission may approve, prescribe and find to be necessary for
6 public use, not exceeding one hundred feet in width for right of way and not
7 exceeding one hundred sixty acres in any one location, in addition to right of
8 way, for the location of ~~electric power generating plants and~~ electric substations
9 to carry out the purposes of said franchise; provided however, that where two
10 hundred K V lines or higher voltage lines are to be constructed, the person,
11 company, or corporation may apply to the commerce commission for a wider
12 right of way not to exceed two hundred feet, and the commission may for good
13 cause extend the width of such right of way for such lines to the person,
14 company, or corporation applying for the same. The burden of proving the
15 necessity for public use shall be on the person, company or corporation seeking
16 the franchise. A homestead site, cemetery, orchard or schoolhouse location shall
17 not be condemned for the purpose of erecting an ~~electric power generating plant~~
18 ~~or~~ electric substation. If agreement cannot be made with the private owner of
19 lands as to damages caused by the construction of said transmission line, ~~electric~~
20 ~~power generating plants~~ or electric substations, the same proceedings shall be
21 taken as provided for taking private property for works of internal improvement.

1 SEC. 16. Section four hundred ninety A point twenty-seven (490A.27), Code
2 1975, is repealed.

Approved May 20, 1976

CHAPTER 1207

BUSINESS CORPORATIONS

S. F. 524

AN ACT relating to business corporations.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section four hundred ninety-six A point two (496A.2), Code 1975,
2 is amended by adding the following new subsection:

3 NEW SUBSECTION. "Nonadmitted organization" means any corporation, bank,
4 trust company, mutual savings bank, savings and loan association, national
5 banking association or insurance company which is organized under the laws of
6 another state and which is not entitled under this chapter to procure a certificate
7 of authority to transact business in this state.

1 SEC. 2. Section four hundred ninety-six A point twenty-five (496A.25), Code
2 1975, is amended to read as follows:

3 **496A.25 Shareholders' pre-emptive rights.** Except to the extent limited or
4 denied by this section or by the articles of incorporation, shareholders shall have
5 a pre-emptive right to acquire unissued ~~or treasury~~ shares ~~of or~~ securities
6 convertible into such shares or carrying a right to subscribe to or acquire shares.

7 Unless otherwise provided in the articles of incorporation:

8 1. No pre-emptive right shall exist:

9 a. To acquire any shares issued to directors, officers or employees pursuant to
10 approval by the affirmative vote of the holders of a majority of the shares entitled
11 to vote thereon or when authorized by and consistent with a plan approved by
12 such a vote of shareholders.

13 b. To acquire any shares sold otherwise than for cash.

14 c. *To acquire treasury shares of the corporation.*

15 2. Holders of shares of any class that is preferred or limited as to dividends or
16 assets shall not be entitled to any pre-emptive right.

17 3. Holders of shares of common stock shall not be entitled to any pre-emptive
18 right to shares of any class that is preferred or limited as to dividends or assets or
19 to any obligations, unless convertible into shares of common stock or carrying a
20 right to subscribe to or acquire shares of common stock.

21 4. Holders of common stock without voting power shall have no pre-emptive
22 right to shares of common stock with voting power.

23 5. The pre-emptive right shall be only an opportunity to acquire shares or other
24 securities under such terms and conditions as the board of directors may fix for
25 the purpose of providing a fair and reasonable opportunity for the exercise of
26 such right.

1 SEC. 3. Section four hundred ninety-six A point thirty-four (496A.34),
2 unnumbered paragraph one (1), Code 1975, is amended by striking the paragraph
3 and inserting in lieu thereof the following:

4 All corporate powers shall be exercised by or under the authority of, and the
5 business and affairs of a corporation shall be managed under the direction of, a
6 board of directors consisting of one or more members, except as may be
7 otherwise provided in this chapter or in the articles of incorporation. If any such
8 provision is made in the articles of incorporation, the powers and duties conferred
9 or imposed upon the board of directors by this chapter shall be exercised or
10 performed to such extent and by such person or persons as shall be provided in
11 the articles of incorporation. Directors need not be residents of this state or
12 shareholders of the corporation unless the articles of incorporation or bylaws so
13 require. The articles of incorporation or bylaws may prescribe other qualifications
14 for directors. The board of directors shall have authority to fix the compensation
15 of directors unless otherwise provided in the articles of incorporation.

16 A director shall perform the duties of a director, including the duties as a
17 member of any committee of the board upon which such director may serve, in
18 good faith, in a manner such director reasonably believes to be in the best
19 interests of the corporation, and with such care as an ordinarily prudent person in
20 a like position would use under similar circumstances. In performing such duties,
21 a director shall be entitled to rely on such information, opinions, reports or
22 statements, including financial statements and other financial data, in each case
23 prepared or presented by: (1) One or more officers or employees of the
24 corporation whom the director reasonably believes to be reliable and competent
25 in the matters presented; (2) Counsel, public accountants or other persons as to
26 matters which the director reasonably believes to be within such person's
27 professional or expert competence; or, (3) A committee of the board upon which
28 such director does not serve, duly designated in accordance with a provision of
29 the articles of incorporation or the bylaws, as to matters within its designated
30 authority, which committee the director reasonably believes to merit confidence.
31 However, such director shall not be considered to be acting in good faith if such
32 director has knowledge concerning the matter in question that would cause such
33 reliance to be unwarranted. A person who so performs such duties shall not have
34 liability by reason of being or having been a director of the corporation. A
35 director of a corporation who is present at a meeting of its board of directors at
36 which action on any corporate matter is taken shall be presumed to have assented
37 to the action taken, unless the dissent of such director is entered in the minutes of
38 the meeting, such director files a written dissent to such action with the secretary

39 of the meeting before the meeting's adjournment, or such director forwards such
 40 dissent by registered or certified mail to the secretary of the corporation
 41 immediately after the adjournment of the meeting. Such right to dissent shall not
 42 apply to a director who voted in favor of such action.

1 SEC. 4. Section four hundred ninety-six A point thirty-five (496A.35),
 2 unnumbered paragraph one (1), Code 1975, is amended to read as follows:

3 The number of directors shall be fixed by *or in the manner provided in the articles*
 4 *of incorporation* or the bylaws, except as to the number constituting the initial board
 5 of directors, which number shall be fixed by the articles of incorporation. The
 6 number of directors may be increased or decreased from time to time by
 7 amendment to *or in the manner provided in the articles of incorporation* or the
 8 bylaws, but no decrease shall have the effect of shortening the term of any
 9 incumbent director. In the absence of a bylaw ~~fixing~~ *providing for* the number of
 10 directors *and in the absence of a provision adopted in the manner provided in the*
 11 *articles of incorporation or the bylaws*, the number shall be the same as that ~~stated~~
 12 *provided for* in the articles of incorporation. The names and addresses of the
 13 members of the first board of directors shall be stated in the articles of
 14 incorporation. Such persons shall hold office until the first annual meeting of
 15 shareholders, and until their successors shall have been elected and qualify. At the
 16 first annual meeting of shareholders and at each annual meeting thereafter the
 17 shareholders shall elect directors to hold office until the next succeeding annual
 18 meeting, except in case of the classification of directors as permitted by this
 19 chapter. Each director shall hold office for the term for which he is elected and
 20 until his successor shall have been elected and qualifies, unless removed in
 21 accordance with provisions of this chapter.

1 SEC. 5. Section four hundred ninety-six A point thirty-nine (496A.39), Code
 2 1975, is amended to read as follows:

3 **496A.39 Executive and other committees.** If the articles of incorporation or
 4 the bylaws so provide, the board of directors, by resolution adopted by a majority
 5 of the full board of directors, may designate from among its members an
 6 executive committee and one or more other committees each of which, to the
 7 extent provided in such resolution or in the articles of incorporation or the bylaws
 8 of the corporation, shall have and may exercise all the authority of the board of
 9 directors, ~~but except that~~ no such committee shall have the authority of the board
 10 of directors in reference to ~~amending the articles of incorporation, adopting a~~
 11 ~~plan of merger or consolidation, recommending to the shareholders the sale, lease,~~
 12 ~~exchange or other disposition of all or substantially all the property and assets of~~
 13 ~~the corporation otherwise than in the usual and regular course of its business,~~
 14 ~~recommending to the shareholders a voluntary dissolution of the corporation or a~~
 15 ~~revocation thereof, or amending the bylaws of the corporation. The designation of~~
 16 ~~any such committee and the delegation thereto of authority shall not operate to~~
 17 ~~relieve the board of directors, or any member thereof, of any responsibility~~
 18 ~~imposed by law to: (1) declare dividends or distributions; (2) approve or recommend~~
 19 ~~to shareholders actions or proposals required by this chapter to be approved by~~
 20 ~~shareholders; (3) designate candidates for the office of director, for purposes of proxy~~
 21 ~~solicitation or otherwise, or fill vacancies on the board of directors or any committee~~
 22 ~~thereof; (4) amend the bylaws; (5) approve a plan of merger not requiring shareholder~~
 23 ~~approval; (6) reduce surplus; (7) authorize or approve the reacquisition of shares~~
 24 ~~unless pursuant to a general formula or method specified by the board of directors; or,~~
 25 ~~(8) authorize or approve the issuance or sale of, or any contract to issue or sell, shares~~
 26 ~~or designate the terms of a series of a class of shares; however, the board of directors,~~
 27 ~~having acted regarding general authorization for the issuance or sale of shares, or any~~
 28 ~~contract for issuance or sale, and, in the case of a series, the designation of the series,~~
 29 ~~may, pursuant to a general formula or method specified by the board by resolution or~~
 30 ~~by adoption of a stock option or other plan, authorize a committee to fix the terms of~~
 31 ~~any contract for the sale of the shares and to fix the terms upon which such shares~~

32 *may be issued or sold, including, without limitation, the price, the dividend rate,*
 33 *provisions for redemption, sinking fund, conversion, voting or preferential rights, and*
 34 *provisions for other features of a class of shares, or a series of a class of shares, with*
 35 *full power in such committee to adopt any final resolution setting forth all the terms*
 36 *and to authorize the statement of the terms of a series for filing with the secretary of*
 37 *state under this chapter.*

38 *Neither the designation of any such committee, the delegation to it of authority, nor*
 39 *action by such committee pursuant to such authority shall alone constitute compliance*
 40 *by any member of the board of directors, not a member of the committee in question,*
 41 *with such director's responsibility to act in good faith, in a manner such director*
 42 *reasonably believes to be in the best interests of the corporation, and with such care as*
 43 *an ordinarily prudent person in a like position would use under similar circumstances.*

1 SEC. 6. Section four hundred ninety-six A point forty (496A.40), unnumbered
 2 paragraph two (2), Code 1975, is amended to read as follows:

3 Regular meetings of the board of directors *or any committee designated by the*
 4 *board* may be held with or without notice as prescribed in the bylaws. Special
 5 meetings of the board of directors *or any committee designated by the board* shall
 6 be held upon such notice as is prescribed in the bylaws. Attendance of a director
 7 at a meeting shall constitute a waiver of notice of such meeting, except where a
 8 director attends a meeting for the express purpose of objecting to the transaction
 9 of any business because the meeting is not lawfully called or convened. Neither
 10 the business to be transacted at, nor the purpose of, any regular or special
 11 meeting of the board of directors *or any committee designated by the board* need be
 12 specified in the notice or waiver of notice of such meeting unless required by the
 13 bylaws.

1 SEC. 7. Section four hundred ninety-six A point forty-four (496A.44), Code
 2 1975, is amended to read as follows:

3 **496A.44 Liability of directors and officers in certain cases.** In addition to any
 4 other liabilities imposed by law upon directors and officers of a corporation, *a*
 5 *director shall be liable in the following circumstances,* unless the director complies*
 6 *with the standard provided in this chapter for performance of the duties of directors:*

7 1. ~~Directors of a corporation~~ *A director who ~~vote~~ votes for or ~~assent~~ assents to*
 8 *the declaration of any dividend or other distribution of the assets of a corporation*
 9 *to its shareholders ~~in willful or negligent violation of~~ contrary to the provisions of*
 10 *this chapter or ~~of~~ to any restrictions contained in the articles of incorporation,*
 11 *shall be ~~jointly and severally~~ jointly and severally liable to the corporation ~~jointly and severally with all~~*
 12 *other directors so voting or assenting for the amount of such dividend which is paid*
 13 *or the value of such assets which are distributed in excess of the amount of such*
 14 *dividend or distribution which could have been paid or distributed without a*
 15 *violation of the provisions of this chapter or of the restrictions in the articles of*
 16 *incorporation.*

17 2. ~~Directors of a corporation~~ *A director who ~~vote~~ votes for or ~~assent~~ assents to*
 18 *the purchase of ~~its~~ the corporation's own shares ~~in willful or negligent violation of~~*
 19 *contrary to the provisions of this chapter or ~~of~~ to any restrictions contained in the*
 20 *articles of incorporation, shall be ~~jointly and severally~~ jointly and severally liable to the corporation*
 21 *jointly and severally with all other directors so voting or assenting for the amount of*
 22 *consideration paid for such shares which is in excess of the maximum amount*
 23 *which could have been paid therefor without a violation of the provisions of this*
 24 *chapter or of the restrictions in the articles of incorporation.*

25 3. ~~The directors of a corporation~~ *A director who ~~vote~~ votes for or ~~assent~~ assents*
 26 *to any distribution of assets of a corporation to its shareholders during the*
 27 *liquidation of the corporation without the payment and discharge of, or making*
 28 *adequate provision for, all known debts, obligations, and liabilities of the*
 29 *corporation shall be ~~jointly and severally~~ jointly and severally liable to the corporation ~~jointly and~~*
 30 *severally with all other directors so voting or assenting for the value of such assets*
 31 *which are distributed, to the extent that such debts, obligations and liabilities of*

*According to enrolled Act

32 the corporation are not thereafter paid and discharged.

33 A director of a corporation who is present at a meeting of its board of directors
34 at which action on any corporate matter is taken shall be presumed to have
35 assented to the action taken unless his dissent shall be entered in the minutes of
36 the meeting or unless he shall file his written dissent to such action with the
37 person acting as the secretary of the meeting before the adjournment thereof or
38 shall forward such dissent by registered or certified mail to the secretary of the
39 corporation immediately after the adjournment of the meeting. Such right to
40 dissent shall not apply to a director who voted in favor of such action.

41 A director shall not be liable under subsections 1, 2, or 3 of this section if the
42 director relied and acted in good faith upon financial statements of the
43 corporation, represented to the director to be correct by the president or the
44 officer of such corporation having charge of its books of account, or stated in a
45 written report by an independent public or certified public accountant or firm of
46 such accountants fairly to reflect the financial condition of such corporation, nor
47 shall the director be so liable if in good faith in determining the amount available
48 for any such dividend or distribution the director considered the assets to be of
49 their book value. If an officer willfully or negligently submits an incorrect
50 financial statement to a director or directors, and board of directors action,
51 contrary to the provisions of this chapter or of any restrictions in the articles of
52 incorporation, is taken in reliance thereon, the officer shall be liable to the same
53 extent as if the officer were a director voting for or assenting to such action. No
54 director or officer shall be deemed to be negligent within the meaning of this
55 section if the director or officer exercised that diligence, care and skill which an
56 ordinarily prudent person in a like position would exercise use under similar
57 circumstances.

58 Any director against whom a claim shall be asserted under or pursuant to this
59 section for the payment of a dividend or other distribution of assets of a
60 corporation and who shall be held liable thereon, shall be entitled to contribution
61 from the shareholders who accepted or received any such dividend or assets,
62 knowing such dividend or distribution to have been made in violation of the
63 provisions of this chapter or of any restrictions in the articles of incorporation, in
64 proportion to the amounts received by them respectively, and to contribution
65 from any other director found to be similarly liable.

66 Any action seeking to impose liability under this section, other than liability for
67 contribution, shall be commenced only within five years of the action complained
68 of and not thereafter.

1 SEC. 8. Section four hundred ninety-six A point one hundred three
2 (496A.103), Code 1975, is amended to read as follows:

3 **496A.103 Admission of foreign corporation— nonadmitted organization.**

4 1. No foreign corporation shall have the right to transact business in this state
5 until it shall have procured a certificate of authority so to do from the secretary of
6 state. No foreign corporation shall be entitled to procure a certificate of authority
7 under this chapter to transact in this state any business which a corporation
8 organized under this chapter is not permitted to transact. A foreign corporation
9 shall not be denied a certificate of authority by reason of the fact that the laws of
10 the state or country under which such corporation is organized governing its
11 organization and internal affairs differ from the laws of this state, and nothing in
12 this chapter contained shall be construed to authorize this state to regulate the
13 organization or the internal affairs of such corporation.

14 2. Without excluding other activities which may not constitute transacting
15 business in this state, a foreign corporation or nonadmitted organization shall not
16 be considered to be transacting business in this state, for the purposes of this
17 chapter, by reason of carrying on in this state any one or more of the following
18 activities:

19 4 a. Maintaining or defending any action or suit or any administrative or
20 arbitration proceeding, or effecting the settlement thereof or the settlement of
21 claims or disputes.

22 2 b. Holding meetings of its directors or shareholders or carrying on other
23 activities concerning its internal affairs.

24 3 c. Maintaining bank accounts.

25 4 d. Maintaining offices or agencies for the transfer, exchange and registration
26 of its securities, or appointing and maintaining trustees or depositaries with
27 relation to its securities.

28 5 e. Effecting sales through independent contractors.

29 6 f. Soliciting or procuring orders, whether by mail or through employees or
30 agents or otherwise, where such orders require acceptance without this state
31 before becoming binding contracts.

32 7 g. Creating as borrower or lender, or acquiring, indebtedness or mortgages or
33 other security interests in real or personal property.

34 8 h. Securing or collecting debts due it or enforcing any rights in property
35 securing the same.

36 9 i. Transacting any business in interstate commerce.

37 10 j. Conducting an isolated transaction completed within a period of thirty
38 days and not in the course of a number of repeated transactions of like nature.

1 SEC. 9. Section four hundred ninety-six A point one hundred eleven
2 (496A.111), Code 1975, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. If a registered agent of a corporation subject
5 to this section changes its business address to another address within this state,
6 this agent may change the address of the registered office of the agent's
7 corporation by filing a statement for each corporation as required by this section
8 or by filing a single statement covering all corporations named in such statement.
9 However, such statement may be signed by the registered agent alone, must recite
10 that a copy of the statement has been mailed to each corporation, and shall not
11 be subject to the provisions of subsections five (5) and seven (7) of this section.

1 SEC. 10. Section four hundred ninety-six A point one hundred twenty-two
2 (496A.122), Code 1975, is amended to read as follows:

3 **496A.122 Filing of annual report of domestic and foreign corporations.** Such
4 annual report of a domestic or foreign corporation shall be delivered to the
5 secretary of state for filing in his office between the first day of January and the
6 thirty-first day of March of each year, except as otherwise provided in this
7 section. The first annual report of a domestic corporation shall be filed between
8 the first day of January and the thirty-first day of March of the year next
9 succeeding the calendar year in which its corporate existence began, or in which,
10 by voluntary election to adopt the provisions of this chapter, it first became
11 subject to the provisions of this chapter, except that if such existence began in
12 December of any year, or by such adoption it first became subject to the
13 provisions of this chapter in December of any year, its first annual report shall be
14 filed between the first day of January and the thirty-first day of March of the
15 second year succeeding the calendar year in which its corporate existence began,
16 or in which, by such adoption, it first became subject to the provisions of this
17 chapter. The first annual report of a foreign corporation shall be filed between the
18 first day of January and the thirty-first day of March of the year next succeeding
19 the calendar year in which its certificate of authority was issued by the secretary
20 of state except that if such certificate was issued in December of any year, its first
21 annual report shall be filed between the first day of January and the ~~first~~ *thirty-*
22 *first* day of March of the second year succeeding the calendar year in which such
23 certificate was issued by the secretary of state. Such report shall be deemed filed
24 within the required time if deposited in the United States mail with postage
25 prepaid in a sealed envelope, properly addressed and postmarked on or prior to

26 the thirty-first day of March. If the secretary of state finds that such report
 27 conforms to the requirements of this chapter, and that all prior annual reports
 28 required by this chapter to be filed by such corporation or foreign corporation
 29 have been filed and that all annual license fees and penalties, if any, required by
 30 this chapter to have been theretofore paid by such corporation or foreign
 31 corporation have been paid he shall file the same. If he finds that it does not so
 32 conform, he shall promptly return the same to the corporation for any necessary
 33 corrections, in which event the penalties hereinafter prescribed for failure to file
 34 such report within the time hereinabove provided shall not apply, if such report is
 35 corrected to conform to the requirements of this chapter, and is resubmitted to
 36 the secretary of state within thirty days from the date on which it was mailed to
 37 the corporation by the secretary of state, but not later than July ~~1~~ first of the year
 38 in which it is due.

1 SEC. 11. Section four hundred ninety-six A point one hundred forty-two
 2 (496A.142), subsection one (1), Code 1975, is amended to read as follows:

3 1. Except ~~for~~ *as provided in section four hundred ninety-six A point two (496A.2)*
 4 *of the Code, in subsection two (2) of section four hundred ninety-six A point one*
 5 *hundred three (496A.103) of the Code and in this subsection*, this chapter shall not
 6 apply to or affect corporations subject to the provisions of chapters 174, 176, 482,
 7 497, 498, 499, 499A, 504, 506, 508, 510, 512, 514, 515, 518A, 519, 533, 534 of the
 8 Code and state banks organized under chapter 524. Such corporations shall
 9 continue to be governed by all laws of this state heretofore applicable thereto and
 10 as the same may hereafter be amended. This chapter shall not be construed as in
 11 derogation of or as a limitation on the powers to which such corporations may be
 12 entitled.

1 SEC. 12. Section four hundred ninety-six A point one hundred forty-two
 2 (496A.142), subsection twelve (12), Code 1975, is amended by striking the
 3 subsection and inserting in lieu thereof the following:

4 12. Any domestic corporation which elects to adopt the provisions of this
 5 chapter by complying with the provisions of subsection three (3) of this section
 6 may, at the same time:

7 a. Amend or restate its articles of incorporation by complying with the
 8 provisions of this chapter with respect to amending articles of incorporation or
 9 restating articles of incorporation, as the case may be.

10 b. Take action to enter into a merger or consolidation or to dissolve by
 11 complying with the provisions of this chapter with respect to merger,
 12 consolidation or dissolution, as the case may be.

Approved March 12, 1976

CHAPTER 1208

PROFESSIONAL CORPORATION

S. F. 1111

AN ACT relating to who may form a professional corporation.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section four hundred ninety-six C point two (496C.2), subsection
 2 one (1), Code 1975, as amended by Acts of the Sixty-sixth General Assembly,
 3 1975 Session, chapter two hundred thirty-three (233), section one (1), is amended
 4 to read as follows: