

CORPORATIONS: A corporation organized under "The
PROFESSIONAL CORPORATIONS: General and Business Corporation
ARCHITECTS & ENGINEERS: Law of Missouri," Chapter 351, RSMo
1959, may have as a purpose the prac-
tice of architecture and professional engineering. A corporation
organized pursuant to "The Professional Corporation Law of Missouri,"
Chapter 356, RSMo Supp. 1967, may also have as a purpose the prac-
tice of architecture and professional engineering. A corporation
organized pursuant to either of the above mentioned chapters must
have a certificate of authority issued by the State Board of Regis-
tration for Architects and Professional Engineers before it may
solicit, offer and render architectural or professional engineering
services in this state. It is not necessary for the Board to revoke
or cancel the certificate of authority of a corporation organized
pursuant to Chapter 356 if that corporation should elect to continue
doing business under Chapter 351.

OPINION NO. 296

August 21, 1969

Mrs. Olean Barton, Secretary
State Board of Registration for
Architects and Professional Engineers
Post Office Box 184
Jefferson City, Missouri 65101

Dear Mrs. Barton:

This official opinion is issued in response to your request
for an opinion on the following questions:

1. May a corporation organized pursuant to "The
General and Business Corporation Law of Missouri,"
Chapter 351, RSMo 1959, have as a purpose the
practice of architecture or professional engi-
neering in view of "The Professional Corporation
Law of Missouri," Chapter 356, RSMo Supp. 1967.
2. Is the authority of the State Board of Re-
gistration for Architects and Professional
Engineers limited, in the case of corporations
organized pursuant to Chapter 356, to approving
a corporate name and certifying to the Secre-
tary of State that the incorporators are li-
censed by the Board; or, does the Board also
have authority pursuant to Section 327.080,
RSMo 1959, to issue a certificate of authority
to such corporations?

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3. If the Board has authority and does issue a certificate of authority to a corporation organized pursuant to "The Professional Corporation Law of Missouri" and that corporation later decides, pursuant to the provisions of Section 356.170, RSMo Supp. 1967, to amend its Articles of Incorporations and do business as a corporation organized under "The General and Business Corporation Law of Missouri," must the Board revoke or cancel the certificate of authority of the corporation?

In answer to the first question, a corporation organized pursuant to Chapter 351, RSMo 1959, may under Section 351.020, RSMo 1959, have as a purpose the practice of architecture or professional engineering. That section provides (with certain exceptions that are not here pertinent): "Corporations for profit. . . may be organized under this chapter for any lawful purpose or purposes."

Section 327.080(2), RSMo 1959, states in part:

"Any corporation, foreign or domestic, now or hereafter organized and having as a purpose or as one of its purposes the practicing of architecture or professional engineering. . . may obtain a certificate of authority. . . and render architectural or professional engineering services in this state. . ."

It is clear from the above section that the practice of architecture or professional engineering would be a lawful purpose for a corporation organized pursuant to Chapter 351.

"The Professional Corporation Law of Missouri," Chapter 356, RSMo Supp. 1967, would allow architects or professional engineers to form a "Professional Corporation," Section 356.020(1), (2) (b), RSMo Supp. 1967. Chapter 356 has no provision that would restrict a corporation organized pursuant to Chapter 351 from engaging in the practice of architecture or professional engineering. Chapter 356 only deals with "Professional Corporations." A corporation organized pursuant to Chapter 351 would not be a "Professional Corporation." However, there is no statutory provision which would limit the practice of architecture or professional engineering solely to "Professional Corporations."

In response to your second question, the authority of the Board is not limited to approving a corporate name and certifying to the Secretary of State that the incorporators are licensed by the Board

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as required by Section 356.040, RSMo Supp. 1967. The Board may also issue a corporate certificate of authority to a "Professional Corporation."

Under Section 327.080, RSMo 1959, before any corporation may solicit, offer and render architectural or professional engineering services in this state it must obtain a certificate of authority. This would be true of a corporation organized pursuant to Chapter 356 unless that chapter either expressly or impliedly superseded the provisions of Chapter 327 dealing with corporate certificates of authority.

A reading of Chapter 356 reveals no provisions that would expressly supersede those provisions of Chapter 327.

We find that Chapter 356 cannot be construed to repeal the corporate certificate of authority provisions of Chapter 327 by implication. The Missouri Supreme Court has often stated that repeal by implication is not favored. For example, in *State v. Ludwig*, 322 S.W.2d 841 (1959) the Missouri Supreme Court, en banc, quoted with approval, at page 848, the following language from an earlier case:

" . . . 'Repeals by implication are not favored-- in order for a latter statute to operate as a repeal by implication of an earlier one, there must be such manifest and total repugnance that the two cannot stand; where two acts are seemingly repugnant, they must, if possible, be so construed that the latter may not operate as a repeal of the earlier one by implication; if they are not irreconcilably inconsistent, both must stand.' *State ex rel. and to Use of Geo. B. Peck Co. v. Brown*, 340 Mo. 1189, 1193, 105 S.W.2d 909, 911. . . ."

The corporate certificate of authority provisions of Chapter 327 are not repugnant to Chapter 356, nor are these two chapters inconsistent. Provisions found in Chapter 327, provide a means by which the Board is able to regulate corporations rendering architectural or professional and engineering services in the state. Section 327.110, RSMo 1959, lists seventeen grounds that would justify action by the state board to suspend, revoke, refuse to renew or refuse to issue a corporate certificate of authority. If the Board were not permitted to issue certificates of authority to Chapter 356 corporations, the Board would be powerless to act against such corporations if the corporations were to engage in the practices dealt with in Section 327.110, RSMo 1959.

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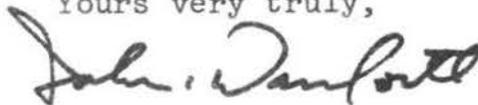
It should be noted whether or not a professional corporation organized to practice architecture or professional engineering has a certificate of authority, does not affect its existence as a duly organized "Professional Corporation." But without such a certificate a corporation may not engage in those activities where the statutes require a certificate.

In response to your third question, Section 356.170, RSMo Supp. 1967, permits a corporation to amend its Articles of Incorporation to prohibit its continuing operation under Chapter 356 and substitute therefor authority to function under Chapter 351. There is no statute that would require the Board to cancel or revoke a certificate of authority issued to a corporation organized pursuant to Chapter 356 if that corporation elected to amend its Articles of Incorporation and do business as a corporation organized under Chapter 351.

CONCLUSION

It is the opinion of this office that a corporation organized under "The General and Business Corporation Law of Missouri," Chapter 351, RSMo 1959, may have as a purpose the practice of architecture and professional engineering. A corporation organized pursuant to "The Professional Corporation Law of Missouri," Chapter 356, RSMo Supp. 1967, may also have as a purpose the practice of architecture and professional engineering. A corporation organized pursuant to either of the above mentioned chapters must have a certificate of authority issued by the State Board of Registration for Architects and Professional Engineers before it may solicit, offer and render architectural or professional engineering services in this state. It is not necessary for the Board to revoke or cancel the certificate of authority of a corporation organized pursuant to Chapter 356 if that corporation should elect to continue doing business under Chapter 351.

Yours very truly,



JOHN C. DANFORTH
Attorney General