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May 11, 1962

Letter Opinion No. 62-55-L

REQUESTED BY: Honorable Jack Buzard, Commissioner  
Arizona Corporation Commission

OPINION BY: The Attorney General

QUESTION: Can a corporation previously formed under Chapter 1, Article 2, Title 10, Arizona Revised Statutes, at a later date amend its Articles of Incorporation to conform with Chapter 1, Article 16, Title 10, Arizona Revised Statutes, and thus become a legally-constituted non-profit corporation?

CONCLUSION: Yes.

19 C.J.S. § 1584 states in part:

"Corporations may and sometimes do, effect their own reorganization, and this without being reincorporated. This may properly be accomplished by an amendment to the Corporate Charter properly approved by the requisite vote of the stockholders."

A.R.S. § 10-321 states:

§ 10-321. Amendment of articles; change in amount of capital stock; notice

Subject to the provisions of the articles of incorporation the capital stock of a corporation may be increased or decreased, and the articles of incorporation, which for the purposes of this section only, shall include any and all certificates filed pursuant to § 10-152.01, may be amended by the affirmative vote of a majority of the issued and outstanding shares of stock of the corporation. Articles of incorporation may be amended to include any provision which might lawfully be inserted in articles of incorporation filed for the first time at the date of such amendment. At least thirty days notice in writing of the proposed increase or decrease or the proposed amendment shall be given the shareholders of the corporation. As amended, Laws 1958, Ch. 22, § 3. (Emphasis supplied)

A.R.S. § 10-322 states:

§ 10-322. Formal requirements for amendment.

Amendments shall be signed and acknowledged by the president and attested by the secretary of the

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corporation, and shall be filed, recorded and published, as required for the original articles of incorporation.

A.R.S. § 10-321, quoted above, grants to a corporation the right to amend its articles of incorporation, and A.R.S. §10-322 sets forth the formal requirements for such amendment. If the articles of incorporation are amended so as to conform with the statutory requirements of a non-profit corporation as set forth in Chapter 1, Article 16, Title 10, Arizona Revised Statutes, and such amendment is properly approved by the requisite vote of the stockholders, we are of the opinion that such corporation thus becomes a legally-constituted non-profit corporation.

Very truly yours,

ROBERT W. PICKRELL  
The Attorney General

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