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## Court Loosens Strictures on Laymen's Use of Simple Corporate Legal Forms

Relaxing a longstanding prohibition, a Supreme Court committee says nonlawyers' limited use of simple incorporation documents does not constitute the unauthorized practice of law.

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Relaxing a longstanding prohibition, a Supreme Court committee says nonlawyers' limited use of simple incorporation documents does not constitute the unauthorized practice of law.

Laymen can present customers with prepared, fill-in-the-blank certificates of incorporation, certificates of formation, statements of qualification and certificates of limited partnership and may type, transcribe or translate the customers' information.

They cannot, however, advise customers about what information is needed to complete the certificates, though certified public accountants can provide advice about the "appropriate contents" if they also tell their clients it would be a good idea to have an attorney assist with the drafting process.

The relaxed strictures, laid out in Committee on the Unauthorized Practice of Law *Opinion 47*, released Tuesday, do not extend to more complicated business papers, including corporate charters, bylaws, resolutions and charters.

The committee said its decision reaffirmed but modified *Opinion 2*, dated May 15, 1969, which declared that the preparation or filing of a certificate of incorporation by an accountant constituted the unauthorized practice of law.

"The fact that the certificate of incorporation follows a prepared form available to the public generally will not mitigate the offense of unlawful practice, since the discretion and judgment exercised in determining the proper contents and the consequences thereof fall within the province of an attorney," the committee stated in 1969.

But times have changed, the committee said Tuesday, noting that many accountants use fill-in-the-blank certificate forms, available on the Treasury Department website or from Internet companies, to set up various business entities, including professional corporations, limited liability companies and limited liability partnerships.

It said its loosening of the *Opinion 2* strictures resulted from balancing the need to protect the public against the public interest in allowing accountants and other nonlawyers to draft company documents.

"[S]ome clients require only minimal service for simple or routine matters, such as the formation of numerous bare-bones corporations to hold separate parcels of real estate, and do not seek or want sophisticated legal advice," the opinion said.

The committee also cited an intervening Supreme Court case, *In re Application of New Jersey Society of CPAs*, 102 N.J. 231 (1986), which held the preparation and filing of a state inheritance tax return is the practice of law but a licensed certified public accountant may do the job if the client is told it would be advisable to have an attorney review the return.

The committee quoted language from the case that when professional disciplines overlap, "we must try to avoid arbitrary classifications and focus instead on the public's realistic need for protection and regulation."

