

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2275

By: Webb

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 15.4, 15.6A, 15.7, 15.10A, 15.12, 15.13, 15.14, 15.14A, 15.15, 15.15A, 15.24 and 15.35, which relate to the Oklahoma Accountancy Act; modifying the duties of the secretary of the Board; modifying type of information required to be held confidential; clarifying language relating to expenses incurred by the Board; modifying determination of certain fees paid by certain applicants; requiring the Board to determine such fees; modifying refund of certain fees; authorizing certain out-of-state firms to practice; modifying certain reciprocity requirements; modifying certain registration fee and permit fee; eliminating obsolete language; modifying time of printing a register; clarifying language relating to permits; modifying registering of certain firms in this state; providing a fee for certain delinquent filings; clarifying language relating to certain penalties; modifying requirements relating to continuing professional education; requiring compliance periods be established by rule; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 15.4, is amended to read as follows:

Section 15.4 A. The Board shall elect from its membership a chairman, a vice-chairman and a secretary. The officers of the Board shall be elected each May, to take office on July 1 following the election, and shall hold office for a term of one (1) year.

B. The chairman shall preside at all meetings of the Board, call special meetings of the Board as are necessary, sign all certificates and licenses and perform such other duties as the Board shall direct.

C. The vice-chairman shall exercise the powers of and perform the duties of the chairman in the absence or disability of the chairman, and perform such other duties as the Board shall direct.

D. The secretary shall preside at any meeting ~~or hearing~~ in the absence of the chairman and vice-chairman, validate minutes of all of the meetings of the Board, in the manner prescribed in the rules of the Board, supervise the maintenance of the records of the Board, including the register of individuals and firms authorized to practice public accounting in this state, ~~receipts and expenditures of the Board,~~ and a record of all examination grades. The secretary shall perform such other duties as the Board shall direct.

E. At any regular or special meeting at which none of the officers are in attendance, the members of the Board in attendance shall elect a member to preside at that meeting.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 15.6A, is amended to read as follows:

Section 15.6A A. The Board, its employees, independent contractors, appointed committee members or other agents shall keep confidential all information obtained during an investigation into allegations of violations of the Oklahoma Accountancy Act, including any review or investigation made to determine whether to allow an applicant to take an examination, or whether the Board shall grant a certificate, license, or permit. All information obtained in the course of conducting a quality review, including quality review reports provided to the Board by a registrant, ~~unadministered examination papers~~ examinations and test scores shall also be held confidential by the Board, its employees and independent contractors.

B. To ensure the confidentiality of such information for the protection of the affected individual or entity, the information obtained shall not be deemed to be a "record" as that term is defined in the Oklahoma Open Records Act.

C. Rules adopted to implement the provisions of this subsection shall assure the privacy of the information obtained. Such rules shall include but not be limited to:

1. Assuring availability of the information for inspection by the individual or entity affected or their designated representatives during the normal business hours of the Board;

2. A method for obtaining a written release for the affected individual or entity to allow inspection of their confidential records to the public at large; and

3. A method for making available to the public all final written orders of the Board concerning an individual or entity.

D. Information obtained by the Board or any of its agents as set out in subsection A of this section shall be considered competent evidence in a court of competent jurisdiction only in matters directly related to actions of the Board and the affected individual or entity as a result of the Board obtaining the information. Such information shall not be admissible as evidence in any other type of civil or criminal action.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 15.7, is amended to read as follows:

Section 15.7 All fees and other monies except the fines as provided in Section 15.24 of this title received by the Board pursuant to the provisions of the Oklahoma Accountancy Act shall be expended solely for effectuating the purposes of the Oklahoma Accountancy Act and shall be deposited in the Accountancy Fund in the State Treasury. After the close of each fiscal year the Board shall file with the Governor a report of all fees charged, collected and received and all disbursements during the previous fiscal year. The Board shall pay into the General Revenue Fund of the state ten percent (10%) of all annual registration fees so charged, collected and received, and no other portion shall ever revert to the General Revenue Fund or any other fund of the state.

All salaries, fees, and other expenses incurred by the Board in the performance of the duties imposed by the provisions of the Oklahoma Accountancy Act shall be paid from the ~~said~~ Accountancy Fund and none of said expenses shall be a charge against the general funds of this state.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 15.10A, is amended to read as follows:

Section 15.10A A. Each applicant who wants to sit for an examination shall pay a fee, to be determined by the Board, not to exceed ~~Three Hundred Dollars (\$300.00) for the initial~~ the direct and indirect costs incurred by the Board in administering the examination.

B. Each applicant who has failed one or more parts of the initial examination and who wants to sit for reexamination in those failed parts shall pay a fee to be determined by the Board not to exceed ~~Seventy-five Dollars (\$75.00) for each failed subject in which the applicant is reexamined. Any applicant sitting for reexamination in the subject of accounting practice shall pay a fee not to exceed One Hundred Fifty Dollars (\$150.00)~~ the direct and indirect costs incurred by the Board in administering the reexamination.

C. The applicable fee shall be paid by the applicant at the time the application for examination or reexamination is filed. ~~The examination or reexamination fee shall not be refunded unless the Board determines that the applicant is, upon the initial review of the application, unqualified to sit for the examination or reexamination. Upon the determination that an applicant is not qualified to sit for examination or reexamination, the full amount of the fee shall be refunded~~ application fee shall be refunded if it is determined that the applicant is not qualified to sit for the examination or reexamination or if the Board determines that a refund of such fee is justified to the satisfaction of the Board.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 15.12, is amended to read as follows:

Section 15.12 A. An individual who is not a certified public accountant or public accountant may serve as an employee of a firm composed of certified public accountants or public accountants holding a valid permit provided that such employee or assistant shall not issue any accounting or financial statements over his name.

B. An individual or firm who has been authorized to practice public accounting as a certified public accountant or public accountant pursuant to the laws of the District of Columbia or any other state or territory of the United States or foreign country shall be allowed to engage in the practice of public accounting in this state without a permit or registering on a temporary basis. Such temporary practice must be a continuance of an engagement for a client located outside this state, which extends into this state through common ownership, existence of a subsidiary, assets, or other operations located within this state.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 15.13, is amended to read as follows:

Section 15.13 A. The Board may issue a certificate or license to an applicant who has been authorized to practice public accounting as a certified public accountant or public accountant pursuant to the laws of the District of Columbia or any other state or territory of the United States if the applicant passed a test administered for the purpose of authorizing an individual to practice as a certified public accountant or public accountant with grades which were equivalent to passing a test for the same purpose in this state as of the date the applicant originally passed the examination, and said applicant:

1. Meets the requirements for issuance of a certificate or license in this state on the date of making application; or

2. Met, on the date the certificate or license was issued by the other state, District of Columbia or territory, the requirements in effect on that date for issuance of a certificate or license in this state.

B. In the event an applicant does not meet the requirements of subsection A of this section, but has passed a test administered for the purpose of authorizing an individual to practice as a certified public accountant or public accountant with grades which were equivalent to passing a test for the same purpose in this state on the date the applicant passed the examination, the Board may issue a certificate or license to an applicant if such applicant has four (4) years of experience practicing public accounting as a certified public accountant or public accountant pursuant to the laws of the District of Columbia or any other state or territory of the United States. Such experience must have occurred within the ten (10) years immediately preceding the application. Experience acceptable to satisfy the requirements of this subsection shall be determined by standards established by the Board.

C. ~~An applicant eligible to be issued a certificate or license by the Board pursuant to the provisions of subsection A or B of this section must also provide satisfactory documentation to the Board that such individual has met the continuing professional education requirements required by this state during the calendar year preceding the date of the application~~ who is seeking a permit to practice under this provision must also provide satisfactory documentation to the Board that such applicant has met the continuing professional education requirements as provided in Section 15.35 of this title in effect as of the date of the application.

D. The Board may issue a certificate or license by reciprocity to the extent required by treaties entered into by the government of the United States.

E. ~~A~~ An application fee in the an amount equal to the fee required to sit for the initial CPA or PA examination to be determined by the Board not to exceed Two Hundred Dollars (\$200.00), registration fee, and permit fee, if applicable, shall be paid by an applicant seeking a certificate or license pursuant to the provisions of this section.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 15.14, is amended to read as follows:

Section 15.14 A. In addition to obtaining a certificate or license, certified public accountants and public accountants shall register with the Board and pay a registration fee.

~~B. On or before July 31, 1992, every individual holding a valid certificate or license issued by the Oklahoma Accountancy Board shall register with the Board.~~

~~C.~~ On June 30, 1993, all valid certificates and licenses ending in an odd number shall expire. On June 30, 1994, all valid certificates and licenses ending in an even number shall expire. All such registrations shall expire on the last day of June and may be renewed for a period of two (2) years. The Board shall implement rules for the scheduling of expiration and renewal of certificates and licenses, including the prorating of fees.

~~D.~~ C. After the initial registration, renewal of registrations shall be accomplished by registrants in good standing upon filing of the registration and upon payment of the registration fee not later than June 30. Interim registration shall be at full rates.

~~E.~~ D. Not less than thirty (30) calendar days before the expiration of a valid certificate or license, written notice of the expiration date shall be mailed to the individual holding the valid certificate or license at the last-known address of such individual according to the official records of the Board.

~~F.~~ E. A certificate or license shall be renewed by payment prior to the expiration date of a renewal fee set by the Board which

shall not exceed Two Hundred Dollars (\$200.00) for each two-year period.

1. To renew a certificate or license after expiration on June 30, but before the following June 30, the CPA or PA shall pay a fee set by the Board which shall not exceed Three Hundred Dollars (\$300.00).

2. To renew a certificate or license after expiration of a year or more, the CPA or PA shall pay a fee set by the Board which shall not exceed Six Hundred Dollars (\$600.00).

~~G.~~ F. The Board shall establish rules whereby the registration fee for certified public accountants and public accountants may, upon written application to the Board, be reduced or waived by the Board for registrants who have retired upon reaching retirement age, or who have attained the age of sixty-five (65) years, or who have become disabled to a degree precluding the continuance of their practice for six (6) months or more prior to the due date of any renewal fee. The Board shall use its discretion in determining conditions required for retirement or disability.

~~H.~~ G. All changes of professional status, employment or mailing address shall be reported to the Board within thirty (30) calendar days of such changes becoming effective.

~~I. An annual~~ H. A register may be printed and published for public distribution at the direction of the Board which shall contain the names arranged alphabetically of all individuals and firms holding valid certificates, licenses, permits, the names of the members of the Board, and such other matters as may be deemed proper by the Board. Copies of such register shall be mailed to each certificate and license holder and to such other persons as the Board deems proper.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 15.14A, is amended to read as follows:

Section 15.14A A. Before any individual may practice public accounting or hold himself out as being engaged in the practice of public accounting as a certified public accountant or public accountant in this state, such person shall obtain a permit from the Board. Any individual, corporation or partnership or any other entity who provides any of the services defined hereinabove as the "practice of public accounting" without being a license and permit holder, or a certificate and permit holder, shall be assessed a fine not to exceed Ten Thousand Dollars (\$10,000.00) for each separate offense.

B. The Board shall promulgate rules establishing the qualifications for obtaining a permit to practice public accounting in this state. Such rules shall include but not be limited to provisions that:

1. Any individual seeking a permit must have a valid certificate or license on the date the permit is applied for;

2. Any individual or entity seeking a permit must be registered pursuant to the provisions of the Oklahoma Accountancy Act;

3. Any individual seeking a permit must meet continuing professional education requirements as set forth by this act and rules promulgated by the Board; and

4. There shall be no examination for obtaining a permit.

C. All such individuals shall, upon application and compliance with the rules establishing qualifications for obtaining a permit and payment of the fees, be granted an annual permit to practice public accounting in this state. All permits issued shall expire on June 30 of each year and may be renewed from year to year. The Board may issue interim permits upon payment of the same fees required for annual permits.

D. Failure to apply for and obtain a permit shall disqualify an individual from practicing public accounting in this state until such time as a valid permit has been obtained.

E. The Board shall charge a fee for each individual permit not to exceed One Hundred Dollars (\$100.00).

SECTION 9. AMENDATORY 59 O.S. 2001, Section 15.15, is amended to read as follows:

Section 15.15 A. The Board, upon application, shall register any firm seeking to provide professional services to the public in this state. All firms, except sole proprietorships, shall pay an annual registration fee not to exceed One Hundred Dollars (\$100.00).

B. All such registrations shall expire on the last day of August of each year and may be renewed annually for a period of one (1) year by registrants in good standing upon filing the registration and upon payment of the annual fee not later than August 31 of each year.

C. A delinquent fee in the amount double the registration fee will be assessed to any firm renewing after its registration expiration date.

D. Interim registrations shall be at full rates.

SECTION 10. AMENDATORY 59 O.S. 2001, Section 15.15A, is amended to read as follows:

Section 15.15A A. The Board, upon application, shall issue a permit to practice public accounting to each office of any firm seeking to provide professional services to the public in this state. Renewals of firm permits shall be applied for during the month of August of each year.

B. Applicants for initial firm permits shall provide the Board with the following information:

1. A list of all states in which the firm has applied for or been issued a permit or its equivalent within the five (5) years immediately preceding the date of application;

2. Relevant details as to a denial, revocation, or suspension of a permit or its equivalent of the firm, or any partner or shareholder of the firm other than in this state;

3. Documentary proof that the firm has complied with the requirements of the Oklahoma Office of the Secretary of State applicable to such entities; and

4. Such other information as the Board deems appropriate for demonstrating that the qualifications of the firm are sufficient for the practice of public accounting in this state.

C. The following changes in a firm affecting the offices in this state shall be reported to the Board within thirty (30) calendar days from the date of occurrence:

1. Changes in the partners or shareholders of the firm;
2. Changes in the structure of the firm;
3. Change of the designated manager of the firm;
4. Changes in the number or location of offices of the firm;

and

5. Denial, revocation, or suspension of certificates, licenses, permits, or their equivalent to the firm or its partners, shareholders, or employees other than in this state.

D. The Board shall be notified in the event the firm is dissolved. Such notification shall be made within thirty (30) calendar days of the dissolution. The Board shall adopt rules for notice and rules appointing the responsible party to receive such notice for the various types of firms authorized to receive permits. Such notice of dissolution shall contain but not be limited to the following information:

1. A list of all partners and shareholders at the time of dissolution;
2. The location of each office of the firm at the time of dissolution;
3. The date the dissolution became effective;
4. The new employment status of each partner or shareholder;

and

5. The new mailing address of each partner or shareholder.

E. The Board shall set a fee of not more than Fifty Dollars (\$50.00) for each initial or renewal firm permit except for sole proprietorships. ~~In the event~~ If a firm has more than one office, ~~a location serving Oklahoma clients,~~ each office location serving Oklahoma clients shall pay an annual permit fee of not more than Fifty Dollars (\$50.00) shall be paid for each additional office such location. A delinquent fee in the amount double the permit fee will be assessed to any firm renewing after its permit expiration date.

F. Each office of a firm seeking a permit to practice accounting as a CPA firm shall be issued a permit by the Board upon application and payment of appropriate fees. A firm applying for a permit shall provide documentary proof to the Board that:

1. Each partner or shareholder is engaged in the practice of public accounting in the United States and holds a certificate as a certified public accountant in one or more states, or territories, or the District of Columbia of the United States; and

2. Each designated manager is a holder of a valid certificate and permit to practice as a certified public accountant in this state.

G. Each office of a firm seeking a permit to practice accounting as a PA firm shall be issued a permit by the Board upon application and payment of appropriate fees. A firm applying for a permit shall provide documentary proof to the Board that:

1. Each partner or shareholder is engaged in the practice of public accounting in the State of Oklahoma as public accountants; and

2. Each designated manager has received a license and permit to practice as a public accountant or certificate and permit to practice as a certified public accountant pursuant to the laws of this state.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 15.24, is amended to read as follows:

Section 15.24 A. In the event an individual, certified public accountant, public accountant, firm or entity, after proper notice and hearing, is found to have violated one or more provisions of the Oklahoma Accountancy Act, the Board may impose one or more of the following penalties on the offending individual, firm or entity:

1. Revoke any certificate, license, or permit issued pursuant to the provisions of the Oklahoma Accountancy Act;

2. Suspend any certificate, license, or permit for not more than five (5) years, subject to such terms, conditions, or limitations as deemed appropriate by the Board;

3. Reprimand a registrant;

4. Place a registrant on probation for a specified period of time, which may be shortened or lengthened as the Board deems appropriate;

5. Limit the scope of practice of a registrant;

6. Deny renewal of a permit;

7. Require a special quality review of the registrant, subject to such procedures as the Board deems appropriate;

8. Require successful completion of continuing professional educational programs deemed appropriate;

9. Assess a fine not to exceed Ten Thousand Dollars (\$10,000.00) for each separate offense; and

10. Require the registrant, whether an individual or entity, to pay all costs incurred by the Board as a result of hearings conducted regarding accountancy actions of the registrant or individual including, but not limited to, investigation costs, hearing officer costs, renting of special facilities costs, and court reporter costs.

B. Upon application in writing, the Board may reinstate a certificate, license, or permit which has been revoked, or may modify, upon good cause as to why said individual or entity should

be reinstated, the suspension of any certificate, license, or permit.

C. Before reinstating or terminating the suspension of a certificate, license, or permit, or as a condition to such reinstatement or termination, the Board may require the applicant to show successful completion of specified continuing professional education courses.

D. Before reinstating or terminating the suspension of a certificate, license, or permit, or as a condition to such reinstatement or termination, the Board may make the reinstatement of a certificate, license, or permit conditional and subject to satisfactory completion of a quality review conducted in such fashion as the Board may specify.

E. The provisions of this section shall not be construed to preclude the Board from entering into any agreement to resolve a complaint prior to a formal hearing or before the Board enters a final order.

F. All monies, excluding costs, collected from civil penalties authorized in this section, such penalties being enforceable in the district courts of this state, shall be deposited with the State Treasurer to be paid into the General Revenue Fund of the state.

SECTION 12. AMENDATORY 59 O.S. 2001, Section 15.35, is amended to read as follows:

Section 15.35 A. In order to assure continuing professional competence of individuals in accountancy, and as a condition for issuance or renewal of a permit to practice, certificate and license holders shall furnish evidence of participation in continuing professional education.

B. Certificate and license holders shall complete at least ~~one hundred twenty (120) hours of continuing professional education within a three-year period with completion of not less than twenty-four (24) hours of continuing professional education in any year~~

forty (40) hours of continuing professional education per compliance period to obtain a permit to practice public accounting. Continuing professional education compliance periods shall be established by rule.

C. The Board shall adopt rules and regulations regarding such continuing professional education. Such rules shall include but not be limited to:

1. Requiring reporting of continuing professional education to coincide with the annual permit renewal date;

2. Provisions for exempting retired and disabled individuals and individuals not engaged in the practice of public accounting as defined by the Board in the rules for the requirement of continuing professional education; and

3. Adopt standards for determining approved continuing professional education courses.

SECTION 13. This act shall become effective July 1, 2002.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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