

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 815

By: Rozell

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 15.1A, as amended by Section 2, Chapter 312, O.S.L. 2002, 15.9, as amended by Section 6, Chapter 312, O.S.L. 2002, 15.10, 15.10A, 15.12A, as amended by Section 8, Chapter 312, O.S.L. 2002, and 15.13, as amended by Section 9, Chapter 312, O.S.L. 2002, (59 O.S. Supp. 2002, Sections 15.1A, 15.9, 15.12A, and 15.13), which relate to the Oklahoma Accountancy Act; modifying definitions; defining terms; deleting obsolete language; modifying certain qualifications for certified public accountants; requiring applicant for certain exam to file application on certain form; modifying fees for certain exams; providing for Board to refund certain fees; clarifying certain equivalency requirements; authorizing Board to levy certain administrative fee; stating procedures for renewal of certain expired certificates or licenses; 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 15.1A, as amended by Section 2, Chapter 312, O.S.L. 2002 (59 O.S. Supp. 2002, Section 15.1A), is amended to read as follows:

Section 15.1A As used in the Oklahoma Accountancy Act:

1. "Accountancy" means the profession or practice of accounting;
2. "Applicant" means an individual or entity which has made application to the Board for a certificate, license, or permit and said application has not been approved;
3. "Attest" means providing the following financial statement services:

- a. any audit or other engagement to be performed in accordance with generally accepted auditing standards,
- b. any review of a financial statement to be performed in accordance with the generally accepted accounting and review service standards, and
- c. any examination of prospective financial information to be performed in accordance with generally accepted standards for attestation engagements.

The statements on standards specified in this definition shall be adopted by reference by the Board pursuant to rulemaking;

4. "Audit" can only be performed by an individual or entity who is registered with the Board and holding a valid permit issued pursuant to the Oklahoma Accountancy Act and means a systematic investigation or appraisal of information, procedures, or operations performed in accordance with generally accepted auditing standards in the United States, for the purpose of determining conformity with established criteria and communicating the results to interested parties;

5. "Board" means the Oklahoma Accountancy Board;

6. "Candidate" means an individual who has been qualified and approved by the Board to take an examination for a certificate or license;

7. "Certificate" means the Oklahoma document issued by the Board to a candidate upon successful completion of the certified public accountant examination designating the holder as a certified public accountant pursuant to the laws of Oklahoma. "Certificate" shall also mean the Oklahoma document issued by reciprocity to an individual who has previously been certified in another jurisdiction;

8. "Certified public accountant" means any person who has received a certificate from the Board;

9. "Client" means the individual or entity which retains a registrant to perform professional services;

10. "Compilation" when used with reference to financial statements, means presenting information in the form of financial statements which is the representation of management or owners without undertaking to express any assurance on the statements;

11. "CPA" or "C.P.A." means certified public accountant;

12. "Designated manager" means the individual domiciled in Oklahoma and appointed by the firm partners or shareholders to be responsible for the administration of the office;

13. "Entity" means an organization whether organized for profit or not, corporation, partnership, or governmental agency;

14. "Examination" means the written test administered, supervised, and graded by or at the direction of the Board which is required for a certificate as a certified public accountant or a license as a public accountant;

15. "Executive director" means the chief administrative officer of the Board;

16. "Financial statements" means a written statement and related footnotes purporting to show actual or anticipated financial position, the results of operations, cash flow, or changes in financial position which relate to a specific period of time, on the basis of generally accepted accounting principles. The term "financial statements" also includes specific elements, accounts, or items of such statements, but does not include incidental financial data included in management advisory services, reports to support recommendations to a client nor does it include tax returns and supporting schedules;

17. "Firm" means an entity ~~which~~ that is either a sole proprietorship, partnership, professional limited liability company, professional limited liability partnership, limited liability

partnership or professional corporation including individual partners or shareholders which is engaged in accountancy;

18. "Holding out" means any representation by an individual that he or she holds a certificate or license and a valid permit, or by an entity that it holds a valid permit. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate or license and valid permit in connection with the services or products offered;

19. "Individual" means a human being;

20. "License" means the Oklahoma document issued by the Board to a candidate upon successful completion of the public accountant examination designating the holder as a public accountant pursuant to the laws of Oklahoma. "License" shall also mean the Oklahoma document issued by the Board by reciprocity to a public accountant who has previously been licensed by examination in another jurisdiction;

21. "Management advisory services", "management consulting services", or "management services" (hereinafter collectively referred to as "MAS") means the function of providing advice and/or technical assistance, performed in accordance with standards for MAS engagements and MAS consultations such as those issued by the American Institute of Certified Public Accountants, where the primary purpose is to help the client improve the use of its capabilities and resources to achieve its objectives including but not limited to:

- a. counseling management in analysis, planning, organizing, operating, and controlling functions,
- b. conducting special studies, preparing recommendations, proposing plans and programs, and providing advice and technical assistance in their implementation,

- c. reviewing and suggesting improvement of policies, procedures, systems, methods, and organization relationships, and
- d. introducing new ideas, concepts, and methods to management.

MAS shall not include recommendations and comments prepared as a direct result of observations made while performing an audit, review, or compilation of financial statements or while providing tax services, including tax consultations;

22. "MAS engagement" means that form of MAS in which an analytical approach and process is applied in a study or project. MAS engagement constitutes more than an incidental effort devoted to some combination of activities relating to the determination of client objectives, fact finding, opportunity or problem definition, evaluation of alternatives, formulation of proposed action, communication of results, implementation, and follow-up;

23. "MAS consultation" means that form of MAS based primarily on existing personal knowledge about the client, the circumstances, the technical matters involved, and the mutual intent of the parties. MAS consultation may include but is not limited to advice or information given by a registrant in a short time frame wherein information is received through verbal discussions with the client and is accepted by the registrant as represented. The response of the registrant may be definitive when existing personal knowledge is deemed adequate; otherwise it may be qualified, in which case limitations are stated. A qualified response often reflects cost, time, scope, or other limitations imposed by the specific circumstances of the client;

24. "PA" or "P.A." means public accountant;

25. "Partnership" means a contractual relationship based upon a written, oral, or implied agreement, between two or more individuals who combine their resources and activities in a joint enterprise and

share in varying degrees and by specific agreement in the management and in the profits or losses. A partnership may be general or limited as those terms are defined by the laws of this state;

26. "Permit" means the written authority granted annually by the Board to individuals or firms to practice public accounting in Oklahoma which is issued pursuant to the Oklahoma Accountancy Act;

27. a. "Practice of public accounting" refers to the activities of a registrant in reference to accountancy.

An individual or firm shall be deemed to be engaged in the practice of public accounting if the individual or firm holds itself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting and auditing, taxation and Management Advisory Services and qualified and ready to render professional services therein as a certified public accountant or public accountant, and performs the following:

- (1) maintains an office for the transaction of business as a certified public accountant or public accountant,
- (2) offers to prospective clients to perform or who does perform on behalf of clients professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records or an attestation concerning any other written assertion,
- (3) prepares or certifies for clients reports on audits or investigations of books or records of account, balance sheets, and other financial,

accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for the purpose of obtaining credit, or for filing with a court of law or with any governmental agency, or for any other purpose,

- (4) generally or incidentally to the work described herein, renders professional services to clients in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data,
- (5) keeps books, or prepares trial balances, financial statements, or reports, all as a part of bookkeeping services for clients,
- (6) prepares or signs as the tax preparer, tax returns for clients, consults with clients on tax matters, conducts studies for clients on tax matters and prepares reports for clients on tax matters,
- (7) prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans, or
- (8) provides management advisory services to clients.

b. An individual or firm not holding a certificate, license or permit shall not be deemed to be engaged in the practice of public accounting if the individual or firm does not hold itself out, solicit, or advertise for clients using the certified public accountant or public accountant designation and engages only in the following services:

- (1) keeps books, or prepares trial balances, financial statements, or reports, provided such instruments do not use the terms "audit", "audited", "exam", "examined", "review" or "reviewed" or are not exhibited as having been prepared by a certified public accountant or public accountant. Nonregistrants may use the following disclaimer language in connection with financial statements to not be in violation of this act: "I (we) have not audited, examined, or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.",
 - (2) prepares or signs as the tax preparer, tax returns for clients, consults with clients on tax matters, conducts studies for clients on tax matters and prepares reports for clients on tax matters,
 - (3) prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans, or
 - (4) provides management advisory services to clients.
- c. A person is not holding himself or herself out, soliciting or advertising for clients within the meaning of this section solely by reason of displaying a CPA certificate or a PA license in the office, identifying himself or herself as a CPA or PA on letterhead or business cards, or identifying himself or herself as a CPA or PA. However, the designation of CPA or PA on such letterheads, business cards, public signs, advertisements, publications directed to

clients or potential clients, or financial or tax documents of a client constitutes the practice of public accounting and requires a permit;

28. "Principal place of business" means that physical location identified by an individual to another jurisdiction's accountancy regulatory agency where substantial administrative or management activities are conducted. For purposes of substantial equivalency, the physical location cannot be in the State of Oklahoma;

29. "Professional corporation" means a corporation organized pursuant to the laws of Oklahoma;

~~29.~~ 30. "Professional services" means any services performed or offered to be performed by a permit holder for a client in the course of the practice of public accounting;

~~30.~~ 31. "Public accountant" means any individual who has received a license from the Board;

~~31.~~ 32. "Quality review" means a review performed pursuant to a set of quality review rules established by the Board of one or more aspects of the professional work of an individual or firm holding a valid permit by an individual who holds the same type of permit as the individual or firm being reviewed but who is not affiliated with the individual or firm being reviewed. The term peer review is encompassed in the broader term quality review;

~~32.~~ 33. "Registrant" means a CPA, PA, or firm composed of certified public accountants or public accountants or combination of both currently registered with the Board pursuant to the authority of the Oklahoma Accountancy Act;

~~33.~~ 34. "Report", when used with reference to financial statements, ~~or specified elements, accounts or items of a financial statement,~~ means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, ~~or specified elements, accounts or items of a financial statement,~~ and that also includes or is accompanied by any statement

or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the ~~issuer~~ person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. This definition is not intended to include a report on financial statements prepared by a person not holding a certificate or license. However, such report shall not refer to "audit", "audited", "exam", "examined", "review" or "reviewed", nor use the language "in accordance with standards established by the American Institute of Certified Public Accountants" or successor of said entity, or other professional body or governmental agency approved by the Board. Nonregistrants may use the following disclaimer language in connection with financial statements to not be in violation of this act: "I (we) have not audited, examined, or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

~~34.~~ 35. "Representation" means any oral or written communication including but not limited to the use of title or legends on letterheads, business cards, office doors, advertisements, and listings conveying the fact that an individual or entity holds a certificate, license or permit;

~~35.~~ 36. "Review", when used with reference to financial statements, means a registrant performing inquiry and analytical procedures that provide the registrant with a reasonable basis for

expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or if applicable, with another comprehensive basis of accounting; and

~~36.~~ 37. "Substantial equivalency" is a determination by the Oklahoma Accountancy Board that:

- a. the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination and experience requirements contained in the Oklahoma Accountancy Act and rules of the Board, or
- b. that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this act and rules of the Board.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 15.9, as amended by Section 6, Chapter 312, O.S.L. 2002 (59 O.S. Supp. 2002, Section 15.9), is amended to read as follows:

Section 15.9 A. Upon payment of appropriate fees, the Oklahoma Accountancy Board shall grant a certificate or license to any individual of good character who meets the applicable education, experience and testing requirements provided for in this section and in Sections 15.8 and 15.10 of this title. For purposes of this subsection, good character means an individual who does not have a history of dishonest acts as demonstrated by documented evidence and has not been convicted, pled guilty, or pled nolo contendere to a felony charge. The Board may refuse to grant a certificate or license to an applicant for failure to satisfy the requirement of good character. Written notification specifying any grounds for

denial of a certificate or license based on failure to meet the good character criterion shall be provided to the denied applicant by the Board. Appeal of the action of the Board may be made in accordance with the provisions of the Administrative Procedures Act.

B. The Board shall issue certificates as certified public accountants to those applicants who have met the qualifications required by the provisions of the Oklahoma Accountancy Act and the applicable rules of the Board, and have passed an examination in accounting and related subjects as the Board determines appropriate with such grades as satisfy the Board that they are competent to practice as certified public accountants.

C. The Board shall, upon request, issue licenses as public accountants only to those applicants who shall have qualified and complied with the provisions of this act and the rules of the Board, and shall have passed an examination in accounting, ~~practice and in auditing~~ and other related subjects not to exceed seventy-five percent (75%) of the CPA examination subjects with such grades ~~as that~~ satisfy the Board that ~~they are~~ the applicant is competent to practice as a public accountants accountant. The subjects examined shall be covered by the same examination and ~~grades~~ grading thereon for passing, as those used by the Board to test candidates for the certified public accountant's certificate.

D. An applicant for initial issuance of a certificate or license under this section shall show that the applicant has had one (1) year of experience. Experience shall be defined by the Board by rule and shall include providing a type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills, all of which shall be verified by a certificate or license holder or an individual approved by the Board. Upon completion of the requirements of Section 15.8 of this title, the qualifying applicant may take the certified public accountant or public accountant

examination prior to earning the experience required in this subsection, but shall not be issued a certificate until the experience requirement has been met.

E. The Board may make use of all or any part of the Uniform Certified Public Accountant's Examination and Advisory Grading Service as it deems appropriate to assist it in performing its duties hereunder.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 15.10, is amended to read as follows:

Section 15.10 A. The Board shall hold an examination for applicants to obtain a certificate or license as accountants at least once each year. Additional examinations may be held at such times and places as the Board may deem advisable.

B. Notice of the date, time of day, and place of each examination is to be given by publication in manner and form as prescribed by the Board.

C. Each applicant allowed to sit at the examination shall file a written application ~~in the office of the Board to take the examination, and said application must be received by the Board at least sixty (60) days prior to the day on which the examination is to commence~~ on a form prescribed by the Board.

D. In addition to the requirement of confidentiality of test results, the Board shall take such action as necessary to assure the confidentiality of the tests prior to their being administered to candidates.

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~~ the direct and indirect costs incurred by the Board in administering the reexamination. ~~Any applicant sitting for reexamination in the subject of accounting practice shall pay a fee not to exceed One Hundred Fifty Dollars (\$150.00).~~

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 or for such other good causes as determined by the Board on a case-by-case basis, the full amount of the fee shall be refunded.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 15.12A, as amended by Section 8, Chapter 312, O.S.L. 2002 (59 O.S. Supp. 2002, Section 15.12A), is amended to read as follows:

Section 15.12A A. 1. An individual whose principal place of business is not in this state, having a valid certificate or license from any state which the Oklahoma Accountancy Board or its designee has verified to be substantially equivalent to the Certified Public Accountant and Public Accountant licensure requirements of Title 59 of the Oklahoma Statutes, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate and license holders and licensees of this state without the need to obtain a certificate, or license ~~or permit~~ required under Sections 15.9, and 15.13 ~~and 15.14A~~ of Title 59 of the Oklahoma Statutes. However, an individual shall

notify the Board of their intent to practice in the state under this provision.

2. An individual whose principal place of business is not in this state, having a valid certificate or license from any state which the Board or its designee has not verified to be substantially equivalent to the CPA and PA licensure requirements of Title 59 of the Oklahoma Statutes, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate and license holders and licensees of this state without the need to obtain a certificate, license or permit required under Sections 15.9~~7~~ and 15.13 ~~and 15.14A~~ of Title 59 of the Oklahoma Statutes if such individual obtains from the Board or its designee verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of Title 59 of the Oklahoma Statutes. However, such individuals shall notify the Board of their intent to practice in the state under this provision.

3. Any licensee of another state exercising the privilege afforded under this section hereby consents, as a condition of the grant of this privilege:

- a. to the personal and subject matter jurisdiction and disciplinary authority of the Board,
- b. to comply with this act and the Board's rules, and
- c. to the appointment of the state board which issued the individual's license as the individual's agent upon whom process may be served in any action or proceeding by the Board against the licensee.

4. The Oklahoma Accountancy Board shall charge a fee to a certificate or license holder or licensee of another state exercising the privilege afforded under this section in an amount equal to the ~~fee~~ fees charged by that state to an Oklahoma ~~licensee~~

certificate or license holder for the equivalent privilege to practice in that state.

B. A ~~licensee~~ registrant of this state offering or rendering services or using the licensee's CPA or PA title in another state shall be subject to disciplinary action in this state for an act committed in another state which would subject the licensee to discipline in that state. The Board shall be required to investigate any complaint made by the board of accountancy of another state.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 15.13, as amended by Section 9, Chapter 312, O.S.L. 2002 (59 O.S. Supp. 2002, Section 15.13), is amended to read as follows:

Section 15.13 A. The Oklahoma Accountancy 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 who is seeking a permit to practice under this section 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 on 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 fee in the amount equal to the registration fee and permit fee, if applicable, plus an administrative fee, the total of which shall not exceed Three Hundred Dollars (\$300.00) shall be paid by an applicant seeking a certificate or license pursuant to the provisions of this section. The total amount shall be established by the Board.

SECTION 7. This act shall become effective July 1, 2003.

SECTION 8. 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.

49-1-682

JCR

6/12/2015 7:58:42 PM