

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 879

By: Leftwich

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 15.2, as amended by Section 3, Chapter 125, O.S.L. 2004, 15.3, as amended by Section 4, Chapter 125, O.S.L. 2004, 15-8, as last amended by Section 8, Chapter 125, O.S.L. 2004, 15.9, as last amended by Section 9, Chapter 125, O.S.L. 2004, 15.11, as amended by Section 12, Chapter 125, O.S.L. 2004, 15.12A, as last amended by Section 14, Chapter 125, O.S.L. 2004 and 15.30, as amended by Section 29, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Sections 15.2, 15.3, 15.8, 15.9, 15.11, 15.12A and 15.30), which relate to the Oklahoma Accountancy Act; extending Board duration; modifying membership, qualifications and terms of Board; adding reason for disqualification of Board member; providing for amending the application for examination for certificate of certified public accountant under certain circumstances; providing for converting certain credit for license as a public accountant to certain conditional credits; providing certain conversion of conditional credits shall not render certain licenses conditional or limit certain rights and privileges; providing for validity of certain conditional credits; requiring Board to advise certain persons of certain time limits; providing for retention of certain licenses under certain circumstances; modifying procedures for issuance of certain certificates or licenses; stating certain verification shall not be construed to constitute an attest service; modifying provisions for use of certain titles or abbreviations; providing for certain individuals or entities to represent themselves as providing certain services, membership in a professional organization or designate certain professional credentials; clarifying language; deleting certain services required to undergo certain peer reviews; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 15.2, as amended by Section 3, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.2), is amended to read as follows:

Section 15.2 A. There is hereby re-created, to continue until July 1, ~~2004~~ 2010, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Accountancy Board. The Oklahoma Accountancy Board shall have the responsibility for administering and enforcing the Oklahoma Accountancy Act. The Oklahoma Accountancy Board shall be composed of seven (7) members, who shall have professional or practical experience in the use of accounting services and financial matters, so as to be qualified to make judgments about the qualifications and conduct of persons and firms subject to regulation under this act to be appointed by the Governor and confirmed by the Senate. The number of registrant, enrolled agent or ACAT credential holder members shall not be more than ~~six~~ five, not including a firm, ~~who~~ and such members shall serve terms of five (5) years. No member who has served two successive complete terms shall be eligible for reappointment, but an appointment to fill an unexpired term shall not be considered a complete term for this purpose. The public ~~member~~ members shall serve coterminously with the Governor appointing the public member.

B. One member shall be a public accountant licensed and holding a permit pursuant to the provisions of the Oklahoma Accountancy Act. A list of qualified persons shall be compiled and submitted to the Governor by the Oklahoma Society of Public Accountants from time to time as appointment of the public accountant Board member is required to be made. A list of three names shall be submitted for each single appointment from which the Governor may make the appointment. In the event there are no public accountants available for appointment, the Governor may appoint a member qualified pursuant to the provisions of subsection D of this section.

C. ~~Five~~ Three members shall be certified public accountants holding certificates and ~~four~~ two members shall hold permits issued pursuant to the provisions of the Oklahoma Accountancy Act, at least ~~four~~ two members of whom shall have been engaged in the practice of

public accounting as a certified public accountant continuously for not less than five (5) out of the last fifteen (15) years immediately preceding their appointments. A list of qualified persons shall be compiled and submitted to the Governor by the Oklahoma Society of Certified Public Accountants from time to time as appointments of the certified public accountant Board members are required. A list of three names shall be submitted for each single appointment from which the Governor may make the appointment.

D. One member shall be an enrolled agent as defined by the Internal Revenue Service or a holder of a credential issued by the Accreditation Council for Accountancy and Taxation.

E. Two members, each of whom shall be a public member who is not a certified public accountant ~~or~~, licensed public accountant or enrolled agent. The public member shall be appointed by the Governor to a term coterminous with the Governor. The public ~~member~~ members shall serve at the pleasure of the Governor.

F. It is intended that the continuity of the terms as they exist at the time of passage of the amendments to this section be continued. After the effective date of this act, when the term of a certified public accountant member expires, that position shall be filled by the member provided for in subsection D of this section. When the term of the next certified public accountant member expires, that position shall be filled by a public member provided for in subsection E of this section.

~~E.~~ G. Upon the expiration of the term of office, a member shall continue to serve until a qualified successor has been appointed. Confirmation by the Senate is required during the next regular session of the Oklahoma Senate for the member to continue to serve. The beginning date of the terms of the new member provided for in subsection D of this section and the new public member shall be the same as if the positions had been filled with a certified public accountant member. No member shall serve more than two (2) terms.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 15.3, as amended by Section 4, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.3), is amended to read as follows:

Section 15.3 A. Vacancies on the Board due to death, resignation, or removal as defined in subsections C and D of this section occurring during a term shall be filled by the Governor for the unexpired portion of said term in a manner as provided for appointments to the Board. Members filling the remainder of a term of a member who has died, resigned, or been removed shall assume office immediately upon appointment by the Governor and shall serve until confirmation or denial of confirmation by the Senate.

B. A member of the Board shall become disqualified from serving if that member:

1. Is a registrant member whose certificate, license, or permit pursuant to the laws of this state has become void or has been revoked or suspended;

2. ~~Is a registrant member or public member who has~~ Has moved from this state;

3. Has been convicted, pled guilty or nolo contendere to a felony pursuant to the laws of the United States or any jurisdiction;

4. Has become medically incapacitated as determined in writing by a medical doctor upon request by the Board; ~~or~~

5. Has been absent from three meetings, or is absent for more than one-half (1/2) the number of minutes for which a meeting is conducted of three meetings as determined by the Board during any twelve-month period, unless such absence is determined to be unavoidable in the opinion of a majority of the remaining members;

or

6. Has a significant conflict of interest.

C. Removal pursuant to the provisions of this section shall be accomplished by a majority vote of the remaining members. Upon said

vote, a written notification shall be sent to the Governor setting out the dates of absences or other grounds for removal and the fact of the disqualification of the member. Upon receipt of the written notification, the Governor shall appoint another member in the manner provided for appointments to the Board.

D. The Governor may, after a hearing conducted in accordance with the provisions of the Administrative Procedures Act, remove any member of the Board for misconduct regarding responsibilities and duties of the member, incompetence, or neglect of duty. Removal pursuant to the provisions of this subsection shall occur upon the Governor filing a written statement of findings after the hearing as to the reasons and basis for removal of the member with the Secretary of the Board.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 15.8, as last amended by Section 8, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.8), is amended to read as follows:

Section 15.8 A. An applicant for the examination shall file an application for qualification on a form to be approved by the Board. The fee for the qualification application shall be determined by the Board and shall not exceed Three Hundred Dollars (\$300.00). Every applicant for the examination for the certificate of certified public accountant or license of public accountant must be of good moral character, must be a resident of this state immediately prior to making application and, except as otherwise provided in this section, shall meet the education and experience requirements provided in this section.

B. On or after July 1, 1999, every applicant for the license of public accountant shall have graduated from an accredited four-year college or university with a major in accounting or with a nonaccounting major supplemented by what the Oklahoma Accountancy Board determines to be the equivalent of an accounting major of any four-year college or university in this state or any other four-year

college or university recognized by the Board. Such major in accounting or nonaccounting major shall include satisfactory completion of forty-eight (48) semester hours, or the equivalent thereof, in accounting and related subjects. At least thirty (30) semester hours, or the equivalent thereof, of said forty-eight (48) semester hours, shall be in accounting courses, at least one of which shall be in auditing. The remainder of said forty-eight (48) semester hours, or the equivalent thereof, shall be in said related subjects, which shall be in any or all of the subjects of economics, statistics, business law, finance, business management, marketing, business communication, financial information systems or computer science or the equivalent of such subjects as determined by the Board.

C. On or after July 1, 2003, every applicant for examination for the certificate of certified public accountant shall have at least one hundred fifty (150) semester hours, or the equivalent thereof, of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the Board from an accredited four-year college or university in this state or any other accredited four-year college or university recognized by the Board. A minimum of seventy-six (76) semester hours must be earned at the upper-division level of college or above or the equivalent thereof as determined by the Board; this education requirement shall have been completed prior to submitting an application to the Board; the total educational program of the applicant for examination shall include an accounting concentration or its equivalent as determined acceptable by the Board which shall include not less than thirty (30) semester hours, or the equivalent thereof, in accounting courses above principles of accounting or introductory accounting, with at least one course in auditing or assurance; the remaining accounting courses shall be selected from financial accounting, accounting theory, cost/managerial accounting,

federal income tax, governmental, not for profit accounting, accounting information systems, accounting history and other accounting electives; at least nine (9) semester hours shall be from any or all of the subjects of economics, statistics, business law, finance, business management, marketing, business communication, risk management, insurance, management information systems or computer science at the upper-division level of college or above or the equivalent of such subjects as determined by the Board; all the remaining semester hours, if any, shall be elective but shall be at the upper-division level of college or above.

D. On or after July 1, 2005, every applicant for examination for the certificate of certified public accountant who otherwise qualifies for a license of public accountant and who successfully completes the examination as provided in subsection C of Section 15.9 of this title, may amend the application in order to become a licensed public accountant.

1. Upon satisfactory completion of the remainder of the requirements for obtaining a certificate of certified public accountant, all credit for satisfactory completion of the test portion qualifying the applicant for a license as a public accountant upon request by the applicant shall be converted to conditional credits for qualification for a certificate of certified public accountant.

2. Conversion to conditional credits shall not render the license of the public accountant conditional or limit the rights and privileges of the license holder as a public accountant.

3. Such conditional credits shall be valid for three (3) years after the date of the license of public accountant is issued. Annually, the Board shall advise each person with conditional credits pursuant to the provisions of this subsection of the time remaining for conversion of the conditional credits.

In the event the applicant decides not to pursue a certificate of certified public accountant, that person shall retain the license of public accountant, subject to renewal and other requirements specified in the Oklahoma Accountancy Act applicable to all other public accountants holding a license.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 15.9, as last amended by Section 9, Chapter 25, O.S.L. 2004 (59 O.S. Supp. 2004, 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. The Board shall provide to the denied applicant written notification specifying grounds for denial of a certificate or license including failure to meet the good character criterion. 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, auditing and related subjects as the Board determines appropriate with such grades that satisfy the Board that each applicant is competent to practice as a certified public accountant.

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, auditing, and other related subjects not to exceed seventy-five percent (75%) of the CPA Examination subjects with such grades that satisfy the Board that each applicant is competent to practice as a public accountant. The subjects examined shall be covered by the same examination, and 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, and be satisfied through work experience in government, industry, academia or public practice, all of which shall be verified by a certificate or license holder, employer of an applicant or ~~an~~ any other individual approved by the Board with proof of services.

Verification of experience shall not be construed to constitute an attest service. Upon completion of the requirements of Section 15.8 of this title, a qualified applicant for the examination 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. On or after July 1, 2005, every applicant for the certificate of certified public accountant or license of public accountant shall provide evidence of successful completion of an ethics examination prescribed by the Board.

F. The Board may make use of all or any part of the Uniform Certified Public Accountant's Examination and any organization that assists in providing this examination.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 15.11, as amended by Section 12, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.11), is amended to read as follows:

Section 15.11 A. No individual, other than as described in subparagraph d of paragraph 31 of Section 15.1A of this title, shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate or represent that such individual is a certified public accountant, unless such individual has received a certificate as a certified public accountant and holds a valid permit issued pursuant to the provisions of the Oklahoma Accountancy Act. All offices in this state for the practice of public accounting by such individual shall be maintained and registered as required by the Oklahoma Accountancy Act.

B. No entity shall assume or use the title or designation "Certified Public Accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate or represent that such entity is composed of certified public accountants unless such entity is registered as a firm of certified public accountants and holds a valid permit issued pursuant to the provisions of the Oklahoma Accountancy Act. All offices in this state for the practice of public accounting by such entity shall be maintained and registered as required by the Oklahoma Accountancy Act.

C. No individual, other than as described in subparagraph d of paragraph 31 of Section 15.1A of this title, shall assume or use the title or designation "Public Accountant" or the abbreviation "P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate or represent that such individual is a public accountant, unless such individual is licensed as a public accountant, or is a certified public accountant

and holds a valid permit issued pursuant to the provisions of the Oklahoma Accountancy Act. All offices in this state for the practice of public accounting by such individual shall be maintained and registered as required by the Oklahoma Accountancy Act.

D. No entity shall assume or use the title or designation "Public Accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate or represent that such entity is composed of public accountants, unless such entity is registered as a firm of public accountants and holds a valid permit issued pursuant to the provisions of the Oklahoma Accountancy Act. All offices in this state for the practice of public accounting by such entity shall be maintained and registered as required by the Oklahoma Accountancy Act.

E. No individual or entity shall assume or use the title or designation "Certified Accountant", "Chartered Accountant", "Enrolled Accountant", "Licensed Accountant", "Registered Accountant" ~~or any other title or designation which could be confused with "Certified Public Accountant" or "Public Accountant",~~ or any of the abbreviations "CA", "RA", "LA", or "EA", except as ~~it~~ "EA" relates to the term "enrolled agent" as defined by the Internal Revenue Service, ~~"RA", or "LA", or similar abbreviations which could be confused with "CPA" or "PA" and other earned credentials as~~ provided in subsection H of this section; provided, however, that anyone who holds a valid permit and whose offices in this state for the practice of public accounting are maintained and registered as required by the Oklahoma Accountancy Act may hold oneself out to the public as an "Accountant" or "Auditor".

F. No individual or entity not holding a valid permit shall hold oneself or itself out to the public as an ~~"Accountant" or~~ "Auditor" by use of ~~either or both of such words~~ word on any sign, card, letterhead, or in any advertisement or directory, without specifically indicating that such individual or entity does not hold

such a permit. The provisions of this subsection shall not be construed to prohibit any officer, employee, partner or principal of any entity from describing oneself by the position, title or office one holds in such organization; nor shall this subsection prohibit any act of public official or public employee in the performance of the duties as such.

G. Any individual or entity who is registered with the Board but does not hold a valid permit issued pursuant to the Oklahoma Accountancy Act may not issue a report on financial statements of any other person, ~~firm~~ entity, or organization recognized by the State of Oklahoma, or governmental unit. This prohibition does not apply to an officer, partner, or employee of any ~~firm~~ entity or organization affixing a signature to any statement or report in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that is held therein; nor prohibit any act of a public official or employee in the performance of the duties as such.

H. An individual or entity may:

1. Represent to the public that the individual or entity is providing services as an "accountant" by use of such word on any sign, card, letterhead or in any advertisement or directory without specifically indicating that such individual or entity does not hold a permit;

2. Indicate membership in a professional organization by use of words, phrases or initials on letterhead, business cards, electronic media or any other method of communication; or

3. Designate any professional credentials earned from a professional organization of which the individual or entity is a member in good standing, by use of words, phrases or initials on letterhead, business cards, electronic media or any other method of communication.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 15.12A, as last amended by Section 14, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, 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 jurisdiction 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 this title, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges, including responsibilities and obligations, of certificate and license holders of this state without the need to obtain a certificate, license or permit required under Sections 15.9 and 15.13 of this title. However, an individual shall notify the Board of the individual's intent to practice in the state under this provision. Notification shall be waived to a certificate or license holder of another jurisdiction exercising the privilege afforded under this section by that jurisdiction to an Oklahoma certificate or license holder for the equivalent privilege to practice in that jurisdiction.

2. An individual whose principal place of business is not in this state, having a valid certificate or license from any jurisdiction which the Board or its designee has not verified to be substantially equivalent to the CPA and PA certificate or licensure requirements of this title, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges, including responsibilities and obligations, of certificate and license holders of this state without the need to obtain a certificate, license or permit required under Sections 15.9 and 15.13 of this title, if such individual obtains from the Board or its designee verification that such individual's CPA or PA qualifications are substantially equivalent to the CPA or PA

licensure requirements of this title. However, such individuals shall notify the Board of their intent to practice in the state under this provision. Notification shall be waived to a certificate or license holder of another jurisdiction exercising the privilege afforded under this section by that jurisdiction to an Oklahoma certificate or license holder for the equivalent privilege to practice in that jurisdiction.

3. Any certificate or license holder of another jurisdiction exercising the privilege afforded under this section hereby consents, as a condition of the granting of this privilege:

- a. to the personal and subject matter jurisdiction and disciplinary authority of the Board,
- b. to comply with the Oklahoma Accountancy 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 certificate or license holder.

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

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

SECTION 7. AMENDATORY 59 O.S. 2001, Section 15.30, as amended by Section 29, Chapter 125, O.S.L. 2004 (59 O.S. Supp. 2004, Section 15.30), is amended to read as follows:

Section 15.30 A. As a condition for issuance or renewal of permits, the Board may require applicants who perform ~~review or~~ audit services to undergo peer reviews conducted not less than once every three (3) years.

B. Peer reviews shall be conducted in such manner and in accordance with such standards as the Board may specify by rule.

C. The rules may provide for a registrant to comply by providing documented proof of a satisfactory peer review conducted for some other purpose which meets the purposes and standards of the Board peer review program within three (3) years preceding the date the Oklahoma peer review is to be conducted.

D. Failure of any registrant to provide full cooperation with the Board or any individual acting at the direction of the Board in performing a peer review shall after notice and a hearing be subject to the penalties provided in the Oklahoma Accountancy Act.

E. The Board by rule may establish a fee in an amount not to exceed One Hundred Dollars (\$100.00) for each peer review required by the Board under this section.

SECTION 8. This act shall become effective November 1, 2005.

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