

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 40 Session of 2013

INTRODUCED BY DENLINGER, ADOLPH, MAHER, PEIFER, DUNBAR, GREINER, CALTAGIRONE, M. K. KELLER, HICKERNELL, AUMENT, SCHLOSSBERG, KORTZ, COHEN, CUTLER, MUNDY, KRIEGER, BAKER, FABRIZIO, F. KELLER, GRELL, FLECK, GROVE, MILLARD, MILLER, C. HARRIS AND GINGRICH, FEBRUARY 5, 2013

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, FEBRUARY 5, 2013

AN ACT

1 Amending the act of May 26, 1947 (P.L.318, No.140), entitled, as
 2 amended, "An act relating to the practice of public
 3 accounting; providing for the examination, education and
 4 experience requirements for certification of certified public
 5 accountants and for the licensing of certified public
 6 accountants, public accountants and firms; requiring
 7 continuing education and peer review; providing for the
 8 organization and ownership of firms and for the procedures
 9 and grounds for discipline and reinstatement of licensees;
 10 prescribing the powers and duties of the State Board of
 11 Accountancy and the Department of State; providing for
 12 ownership of working papers and confidentiality; regulating
 13 the professional responsibility of licensees; defining
 14 unlawful acts and acts not unlawful; providing penalties; and
 15 repealing existing laws," further providing for certificate
 16 requirements, for equivalency practice for individuals and
 17 for equivalency practice for firms and entities.

18 The General Assembly of the Commonwealth of Pennsylvania
 19 hereby enacts as follows:

20 Section 1. Sections 4.2, 5.2 and 5.4 of the act of May 26,
 21 1947 (P.L.318, No.140), known as the CPA Law, reenacted and
 22 amended December 8, 1976 (P.L.1280, No.286) and added July 9,
 23 2008 (P.L.954, No.73), are amended to read:

24 Section 4.2. Requirements for Issuance of Certificate.--(a)

1 The board shall issue a certificate upon application by an
2 individual who has passed the examination and meets the
3 education and experience requirements in this section.

4 (b) Before an individual may take the examination, the board
5 shall be satisfied that the individual:

6 (1) has attained eighteen years of age;

7 (2) is of good moral character; and

8 (3) has graduated with:

9 (i) a baccalaureate or higher degree from a college or
10 university accredited by a nationally recognized accrediting
11 agency recognized by the United States Department of Education,
12 or a college or university approved by the board, and completed
13 a total of one hundred fifty semester credits of post-secondary
14 education, including at least a total of twenty-four semester
15 credits of accounting and auditing, business law, finance or tax
16 subjects of a content satisfactory to the board and an
17 additional twelve semester credits in accounting, auditing and
18 tax subjects of a content satisfactory to the board, not
19 necessarily as part of the individual's undergraduate or
20 graduate work;

21 (ii) a baccalaureate degree from a college or university
22 accredited by a nationally recognized accrediting agency
23 recognized by the United States Department of Education, or a
24 college or university approved by the board, and completed at
25 least a total of twenty-four semester credits, which credits
26 shall be in accounting and auditing, business law, finance or
27 tax subjects of a content satisfactory to the board, not
28 necessarily as a part of his undergraduate work; or

29 (iii) a Master's Degree or other post-graduate degree from a
30 college or university accredited by a nationally recognized

1 accrediting agency recognized by the United States Department of
2 Education, or a college or university approved by the board, and
3 completed at least a total of twenty-four semester credits,
4 which credits shall be in accounting and auditing, business law,
5 finance or tax subjects of a content satisfactory to the board,
6 not necessarily as part of his undergraduate or graduate work.

7 (c) Before an individual who takes the examination under
8 subsection (b) (3) (ii) or (iii) may be issued a certificate, the
9 individual must also satisfy the education requirement in
10 subsection (b) (3) (i).

11 (d) Before an individual may be issued a certificate, the
12 board shall be satisfied that the individual has completed at
13 least one year of experience that:

14 (1) was completed within sixty months preceding the date of
15 application for a certificate;

16 (2) included [not less than four hundred hours of attest
17 activity in any of the following:

18 (i) public accounting;

19 (ii) as an internal auditor, if the internal audit function
20 reports to an independent board or similar body responsible for
21 oversight of the financial reporting process; or

22 (iii) as an auditor with a unit of Federal, State or local
23 government] providing any type of service or advice involving
24 the use of accounting, attest, compilation, management advisory,
25 financial advisory, tax or consulting skills, which were gained
26 through employment in government, industry, academia or public
27 practice;

28 (3) was of a caliber satisfactory to the board; and

29 (4) was [supervised] verified by an individual with a
30 current license to practice public accounting as a certified

1 public accountant or public accountant in this Commonwealth or
2 another state.

3 (e) The following requirements may be complied with instead
4 of the otherwise applicable provisions of subsections (b), (c)
5 and (d):

6 (1) An individual who [takes] took the examination before
7 December 31, 2011, but [does] did not pass at least one part
8 taken before that date, may not be issued a certificate until
9 the individual:

10 (i) has satisfied the education requirement in subsection
11 (c), if applicable; and

12 (ii) has completed at least one year of experience described
13 in subsection (d) (2), (3) and (4) within one hundred twenty
14 months preceding the date of application for a certificate.

15 (2) An individual who [passes] passed at least one part of
16 the examination taken before December 31, 2011, pursuant to
17 subsection (b) (3) (ii), may be issued a certificate before or
18 after December 31, 2011, without satisfying the education
19 requirement in subsection (c), but not until the individual has
20 completed at least two years of experience that satisfies the
21 requirements in subsection [(d) (3)] (d) (2), (3) and (4) [, except
22 that the experience must include at least eight hundred hours of
23 attest activity]. The experience may be completed within one
24 hundred-twenty months preceding the date of application for a
25 certificate.

26 (3) An individual who [passes] passed at least one part of
27 the examination taken before December 31, 2011, pursuant to
28 subsection (b) (3) (iii), may be issued a certificate before or
29 after December 31, 2011, without satisfying the education
30 requirement in subsection (c) and may complete the one year of

1 experience required by subsection (d) within one hundred twenty
2 months preceding the date of application for a certificate.

3 Section 5.2. Practice in this Commonwealth by Individuals
4 under Substantial Equivalency.--(a) A person may practice
5 public accounting in this Commonwealth under substantial
6 equivalency as provided in this section and section 5.4 [if the
7 state the person is licensed in has also adopted into law a
8 provision allowing for practice under substantial equivalency
9 that includes no notice and no fee as provided for in subsection
10 (b) (9)]. Any determination as to whether substantial equivalency
11 exists with respect to a state or individual for purposes of
12 this act shall be consistent with any determination as to
13 substantial equivalency with respect to that state or individual
14 made by the National Association of State Boards of Accountancy
15 National Qualification Appraisal Service.

16 (b) The following apply to practice in this Commonwealth
17 under substantial equivalency:

18 (1) Notwithstanding any other provision of this act, an
19 individual whose principal place of business is not in this
20 Commonwealth and who has a valid certificate or right to
21 practice public accounting from a state that is substantially
22 equivalent shall be presumed to have qualifications
23 substantially equivalent to the Commonwealth's requirements and
24 shall have all the privileges and obligations of a licensee of
25 the Commonwealth without the need to obtain a certificate or
26 license under this act.

27 (2) Notwithstanding any other provision of this act, an
28 individual whose principal place of business is not in this
29 Commonwealth and who has a valid certificate or right to
30 practice public accounting from a state that is not

1 substantially equivalent shall be presumed to have
2 qualifications substantially equivalent to the Commonwealth's
3 requirements and shall have all the privileges and obligations
4 of a licensee of the Commonwealth without the need to obtain a
5 certificate or license if there is substantial equivalency as to
6 the individual. In determining whether substantial equivalency
7 exists as to an individual, the order in which the individual
8 satisfied the experience, education and examination requirements
9 shall be disregarded.

10 (3) The exercise by an individual of the right to practice
11 in this Commonwealth under this section constitutes:

12 (i) sufficient contact with this Commonwealth for the
13 exercise of personal jurisdiction by the board and the courts of
14 this Commonwealth over the individual in any action or
15 proceeding arising out of acts or omissions by the individual;

16 (ii) consent by the individual to the personal and subject
17 matter jurisdiction and disciplinary authority of the board;

18 (iii) an agreement by the individual to comply with the
19 provisions of this act and regulations promulgated by the board;
20 and

21 (iv) consent by the individual to the appointment of the
22 board of accountancy or other regulatory authority of the state
23 in which the principal place of business of the individual is
24 located as the agent upon which process may be served in any
25 action or proceeding by the board against the individual.

26 (4) An individual who exercises the right to practice under
27 this section shall be subject to disciplinary action in this
28 Commonwealth for any act or omission that would subject the
29 holder of a Pennsylvania certificate or license to disciplinary
30 action.

1 (5) An individual who passed the Uniform CPA Examination and
2 holds a valid license to practice public accounting issued by
3 any other state on or before December 31, 2011, may be exempt
4 from the education requirements in section 4.2(b)(3)(i) and (c)
5 of this act for purposes of this section.

6 (6) If the board imposes discipline on an individual
7 exercising the right to practice under this section, the board
8 shall, as soon as practicable, notify the board of accountancy
9 or other regulatory authority in each state where the board has
10 learned during the disciplinary process that the individual has
11 been granted a certificate or license to practice public
12 accounting of the imposition of the discipline. If the order
13 imposing discipline is appealed or stayed, the board shall send
14 a subsequent notice to each regulatory authority advising of the
15 filing of the appeal or entry of the stay. As an alternative to
16 sending the notices to each regulatory authority, the board may
17 send the notices instead to a multistate enforcement information
18 network maintained at the time by AICPA or NASBA. The board may
19 furnish investigative information and the hearing record
20 relating to the disciplinary proceeding to such other regulatory
21 authorities upon request.

22 (7) An individual exercising the right to practice under
23 this section may identify the fact that the individual practices
24 with a partnership, corporation or other association and may use
25 its name even if the partnership, corporation or other
26 association is not a licensee.

27 (8) An individual practicing under this section or a firm or
28 qualified unlicensed entity practicing under section 5.4 may
29 provide professional services in this Commonwealth in the same
30 manner as a licensee, including without limitation, in person or

1 by mail, telephone or electronic means.

2 (9) The board shall not require a filing or payment of a fee
3 by an individual, firm or qualified unlicensed entity in
4 connection with practicing under this section or section 5.4.

5 Section 5.4. Practice by Firms and Unlicensed Entities under
6 Substantial Equivalency.--(a) A firm may practice public
7 accounting in this Commonwealth through an individual who is not
8 a licensee if the individual has the right to practice in this
9 Commonwealth under section 5.2 of this act [and if the state the
10 firm is licensed in has also adopted into law a provision
11 allowing for practice under substantial equivalency that
12 includes no notice and no fee as provided for in section 5.2(b)
13 (9) of this act]. The exercise by a firm of the right to
14 practice through such individuals under this subsection
15 constitutes an agreement by the firm:

16 (1) to be subject to the jurisdiction and disciplinary
17 authority of the board with respect to acts or omissions of the
18 individuals through whom it practices under this subsection;

19 (2) to accept service of process from the board on behalf of
20 the individuals through whom it practices under this subsection;
21 and

22 (3) to cooperate in any investigation by the board involving
23 an individual through which the firm has practiced under this
24 subsection even if the individual is no longer an owner of or
25 employed by the firm.

26 (b) A qualified unlicensed entity may practice public
27 accounting in this Commonwealth through an individual who:

28 (1) has the right to practice in this Commonwealth under
29 section 5.2 of this act; or

30 (2) is a licensee.

1 (c) The exercise by a qualified unlicensed entity of the
2 right to practice in this Commonwealth under subsection (b)
3 constitutes:

4 (1) sufficient contact with this Commonwealth for the
5 exercise of personal jurisdiction by the board and the courts of
6 this Commonwealth over the qualified unlicensed entity in any
7 action or proceeding arising out of acts or omissions by an
8 individual associated with the qualified unlicensed entity in
9 any capacity;

10 (2) consent by the qualified unlicensed entity to the
11 personal and subject matter jurisdiction and disciplinary
12 authority of the board;

13 (3) an agreement by the qualified unlicensed entity to
14 comply with the provisions of this act and regulations
15 promulgated by the board; and

16 (4) consent by the qualified unlicensed entity to the
17 appointment of the board of accountancy or other regulatory
18 authority of the state in which the principal place of business
19 of the qualified unlicensed entity is located as the agent upon
20 which process may be served in any action or proceeding by the
21 board against the qualified unlicensed entity.

22 (d) As used in this section "qualified unlicensed entity"
23 means a partnership, corporation or other association that:

24 (1) is not a licensee;

25 (2) does not have an office in this Commonwealth; and

26 (3) may lawfully practice public accounting in another
27 state.

28 Section 2. This act shall take effect in 60 days.