

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1018 Session of 2015

INTRODUCED BY BROWNE AND ALLOWAY, SEPTEMBER 29, 2015

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, JUNE 15, 2016

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 definitions,
16 for requirements for issuance of certificate, for
17 certificates issued by domestic reciprocity, for licenses to
18 practice and, for licensing of firms; ~~and providing for~~ <--
19 ~~expungement of disciplinary records~~ AND FOR PEER REVIEW. <--

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The definitions of "attest activity" and "report"
23 in section 2 of the act of May 26, 1947 (P.L.318, No.140), known
24 as the CPA Law, reenacted and amended December 8, 1976
25 (P.L.1280, No.286) and amended July 9, 2008 (P.L.954, No.73),
26 are amended and the section is amended by adding definitions A <--

1 DEFINITION to read:

2 Section 2. Definitions.--The following words and phrases
3 when used in this act shall have the meanings ascribed to them
4 in this section unless the context clearly indicates otherwise:

5 * * *

6 "Attest activity." The provision of any of the following
7 [financial statement] services together with the issuance of a
8 report expressing or disclaiming an opinion or other assurance
9 on the information:

10 (1) an audit or other engagement performed in accordance
11 with Statements on Auditing Standards (SAS);

12 (2) a review or compilation of a financial statement
13 performed in accordance with Statements on Standards for
14 Accounting and Review Services (SSARS);

15 (3) an engagement performed in accordance with Statements on
16 Standards for Attestation Engagements (SSAE);

17 (4) an audit or other engagement performed in accordance
18 with government auditing standards issued by the Comptroller
19 General of the United States; or

20 (5) any other engagement performed in accordance with
21 attestation standards established by an organization granted
22 authority by statute or regulation to establish attestation
23 standards, such as the American Institute of Certified Public
24 Accountants (AICPA) or the Public Company Accounting Oversight
25 Board (PCAOB).

26 * * *

27 ~~"Expunge" or "expungement." Removal of a disciplinary~~
28 ~~record, accomplished by any of the following:~~

<--

29 ~~(1) Permanently sealing the affected record from public~~
30 ~~access.~~

1 ~~(2) Deeming the proceedings to which the affected record~~
2 ~~refers as not having occurred.~~

3 ~~(3) Except with respect to a subsequent application for~~
4 ~~expungement, affording the affected party the right to represent~~
5 ~~that no record exists regarding the subject matter.~~

6 * * *

7 "Forensic accounting services." The application of
8 specialized knowledge and investigative skills possessed by a
9 licensee, qualified nonlicensee or qualified association to
10 collect, analyze and evaluate evidential matter and to interpret
11 and communicate findings in a courtroom, boardroom or other
12 legal or administrative venue.

13 * * *

14 "Report." Any opinion, statement or other form of written
15 communication that states or implies assurance as to the
16 reliability of any [financial information] attested information,
17 compiled financial statements or assessments of the status or
18 performance of any person and that also implies or is
19 accompanied by any statement or implication that the person
20 issuing it has special knowledge or competence in accounting or
21 auditing. Such a statement or implication of special knowledge
22 or competence may arise from use by the issuer of the
23 communication of names or titles indicating that the issuer or
24 any individual employed by or affiliated with it is an
25 accountant or auditor or may arise from the language of the
26 communication itself. The term includes any form of language
27 which disclaims an opinion when the form of language is
28 conventionally understood to imply any positive assurance as to
29 the reliability of the [financial information] attested
30 information or compiled financial statements referred to or

1 special competence on the part of the person issuing the
2 language. The term also includes any other form of language that
3 is conventionally understood to imply assurance or special
4 knowledge or competence.

5 * * *

6 Section 2. Section 4.2 of the act, amended June 19, 2013
7 (P.L.46, No.15), is amended to read:

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

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

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

14 (1) has attained eighteen years of age;

15 (2) is of good moral character; and

16 (3) has graduated with:

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

29 (ii) a baccalaureate degree from a college or university
30 accredited by a nationally recognized accrediting agency

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

7 (iii) a Master's Degree or other post-graduate degree from a
8 college or university accredited by a nationally recognized
9 accrediting agency recognized by the United States Department of
10 Education, or a college or university approved by the board, and
11 completed at least a total of twenty-four semester credits,
12 which credits shall be in accounting and auditing, business law,
13 finance or tax subjects of a content satisfactory to the board,
14 not necessarily as part of his undergraduate or graduate work.

15 (c) Before an individual who takes the examination under
16 subsection (b) (3) (ii) or (iii) may be issued a certificate, the
17 individual must also satisfy the education requirement in
18 subsection (b) (3) (i).

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

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

24 (2) included providing any type of service or advice
25 involving the use of accounting, attest, compilation, management
26 advisory, financial advisory, tax or consulting skills, which
27 were gained through employment in government, industry, academia
28 or public practice;

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

30 (4) was verified by an individual with a current license to

1 practice public accounting as a certified public accountant or
2 public accountant in this Commonwealth or 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 took the examination before December
7 31, 2011, but did not pass at least one part taken before that
8 date, may not be issued a certificate until the individual:

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

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

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

23 (3) An individual who passed at least one part of the
24 examination taken before December 31, 2011, pursuant to
25 subsection (b) (3) (iii), may be issued a certificate before or
26 after December 31, 2011, without satisfying the education
27 requirement in subsection (c) and may complete the one year of
28 experience required by subsection (d) within one hundred twenty
29 months preceding the date of application for a certificate.

30 Section 3. Sections 5, 8.2 ~~and 8.8~~, 8.8 AND 8.9(G) of the <--

1 act, amended July 9, 2008 (P.L.954, No.73), are amended to read:

2 Section 5. Certificates Issued by Domestic Reciprocity.--(a)
3 Without requiring the examination otherwise required under
4 section 4.2 of this act, the board may, in its discretion, issue
5 a certificate of certified public accountant to a holder of a
6 certificate of certified public accountant then in full force
7 and effect issued by any other state following passage of an
8 examination if the applicant shall submit evidence satisfactory
9 to the board that he:

10 (1) possesses the general qualifications specified in
11 section 4.2(b)(1) and (2) of this act, has passed the
12 examination required to practice as a certified public
13 accountant under the laws of the other state, meets the
14 continuing education requirements specified in section 8.2(b) of
15 this act and has the experience required under section [4.2(d)]
16 4.2(d)(2), (3) and (4) of this act [to receive the certificate
17 in this Commonwealth]; or

18 (2) has passed the examination required to practice as a
19 certified public accountant under the laws of the other state
20 and has held a certificate and license to practice public
21 accounting for the immediately preceding five years in another
22 state.

23 (b) An applicant for a certificate under this section shall
24 list in the application all states and foreign jurisdictions in
25 which the applicant has applied for or holds a designation or
26 certificate to practice public accounting.

27 (c) Each holder of a certificate issued under this section
28 shall notify the board in writing within thirty days after its
29 occurrence of any issuance, denial, revocation or suspension of
30 his designation, certificate or license to practice public

1 accounting or the commencement of a disciplinary or enforcement
2 action against him or his firm by any state or foreign
3 jurisdiction.

4 Section 8.2. Licenses to Practice.--(a) Biennial licenses
5 to engage in the practice of public accounting in this
6 Commonwealth shall be issued by the Department of State upon
7 payment of the biennial licensing fee to (i) holders of the
8 certificate of certified public accountant issued by this
9 Commonwealth and public accountants registered in this
10 Commonwealth who have certified to the board that they have
11 complied with the requirements of subsection (b) of this section
12 and (ii) qualified associations licensed under section 8.8 of
13 this act. Licenses to practice shall expire on the last day of
14 December of odd-numbered years or on such other biennial
15 expiration dates as the department may fix. The renewal
16 application of a certified public accountant or public
17 accountant does not need to list the continuing education
18 courses taken by the applicant except as provided by the rules
19 and regulations of the board.

20 (a.1) A certified public accountant or public accountant who
21 is not engaged in the practice of public accounting may request
22 the board, in writing, to place his name on the inactive roll
23 and thus protect his right to obtain a license at such time as
24 he may become engaged in the practice of public accounting.

25 (a.2) Notwithstanding the act of August 21, 1953 (P.L.1273,
26 No.361), known as "The Private Detective Act of 1953," a
27 licensee, qualified nonlicensee or qualified association
28 providing forensic accounting services shall be licensed and
29 regulated solely under this act.

30 (b) Each certified public accountant and public accountant

1 filing an application for a license or a renewal thereof to
2 engage in the practice of public accounting in this Commonwealth
3 must, during the reporting period immediately preceding the
4 current biennial period, complete eighty hours of continuing
5 education, in programs approved by the board. The reporting
6 period for licensees shall be January 1 of even-numbered years
7 to December 31 of odd-numbered years. No carry-over of credits
8 shall be permitted from one biennial license period to another.
9 The continuing education requirement shall not apply to firms
10 but shall apply to all natural persons who apply for a license
11 or a renewal thereof under this section.

12 (c) Failure by a licensed certified public accountant or
13 public accountant applying for renewal of his biennial license
14 to furnish a certification of completion of the required number
15 of hours of acceptable continuing education shall constitute
16 grounds for denial or refusal to renew such license, unless the
17 board, in its discretion, shall determine that the failure to
18 complete the required continuing education was due to reasonable
19 cause, in which case the board shall grant an extension.

20 (d) In issuing rules, regulations and individual orders with
21 respect to requirements of continuing education, the board may
22 rely upon guidelines and pronouncements of recognized
23 educational and professional organizations; may prescribe for
24 content, duration and organization of courses; shall take into
25 account the accessibility of such continuing education as it may
26 require, and any impediments to interstate practice of public
27 accounting which may result from differences in such
28 requirements in other states; and may provide for relaxation or
29 suspension of such requirements in instances of individual
30 hardship such as for reasons of health, military service or

1 other good cause.

2 (e) A certified public accountant or public accountant who
3 is also certified, registered or licensed to practice public
4 accounting in any other state or foreign jurisdiction shall
5 report this information to the board on the biennial renewal
6 application. Any disciplinary action taken in any other state or
7 foreign jurisdiction shall be reported to the board on the
8 biennial renewal application or within thirty days of
9 disposition, whichever is sooner. Multiple certification,
10 registration or licensure shall be noted by the board on the
11 record of the certified public accountant or public accountant,
12 and the other state or foreign jurisdiction shall be notified by
13 the board within thirty days after any disciplinary action is
14 taken against the certified public accountant or public
15 accountant in this Commonwealth.

16 (f) An initial or renewal license shall not be issued after
17 April 30, 2000, to a certified public accountant or public
18 accountant practicing as a sole practitioner unless he complies
19 with the requirements of section 8.9 of this act.

20 Section 8.8. Licensing of Firms.--(a) The following shall
21 apply:

22 (1) A person other than an individual shall not practice
23 public accounting in this Commonwealth unless it:

24 (i) is a qualified association, has been granted a license
25 to practice and satisfies the requirements of this section at
26 all times while it is a licensee[.]; or

27 (ii) meets the requirements of section 5.4 of this act.

28 (2) A new firm shall apply for its initial license within
29 thirty days after its formation; thereafter, the firm's license
30 shall be subject to renewal in accordance with section 8.2 of

1 this act.

2 (3) A new firm must designate a licensee of this
3 Commonwealth, or for a firm which practices pursuant to section
4 5.4 of this act, a licensee of another state who meets the
5 requirements under section 5.2 of this act, who is responsible
6 for the proper registration of the firm and who identifies that
7 individual to the board.

8 (b) The initial and all renewal license applications by a
9 firm shall[: <--

10 †(1) List the name, home address and license number of each <--
11 certified public accountant or public accountant who owns an
12 equity interest directly or indirectly in the firm and who is a
13 licensee.

14 (2) List the name and home address of each qualified
15 nonlicensee who owns an equity interest in the firm if the
16 principal residence or the office out of which the individual
17 principally practices is located in this Commonwealth.† <--

18 (3) Include] INCLUDE a statement that the firm is in <--
19 compliance with subsections (d) and (e).

20 (c) An initial or renewal license shall not be issued to a
21 firm after April 30, 2000, unless the firm complies with the
22 requirements of section 8.9 of this act.

23 (d) A firm shall satisfy all of the following requirements:

24 (1) At least one general partner if the firm is a
25 partnership, one record and beneficial owner of common shares if
26 the firm is a corporation or one owner of a similar equity
27 interest if the firm is any other form of qualified association
28 shall be a certified public accountant or public accountant who
29 is a licensee.

30 (2) Except as provided in subsections (e) and (f), each

1 shareholder, partner, member or other owner of an equity
2 interest in the firm must be the holder of a current license to
3 practice public accounting as a certified public accountant or
4 public accountant under the laws of this Commonwealth or another
5 jurisdiction. This clause shall not:

6 (i) apply in the case of a person who withdraws from a firm
7 for such period as may be reasonable under the circumstances to
8 permit the firm to comply with this requirement; or

9 (ii) prohibit payments by a firm to a former equity owner or
10 his estate in connection with his withdrawal from the firm.

11 (3) [Each individual in charge of an office that performs
12 any attest] Attest activity [or business unit of the firm]
13 rendered in this Commonwealth shall be under the charge of a
14 certified public accountant or public accountant who is a
15 licensee in this Commonwealth or another state.

16 [(4) The principal executive officer of the firm shall be a
17 certified public accountant or public accountant who holds a
18 current license to practice public accounting in this
19 Commonwealth or another state.]

20 (5) An individual who does not hold a current license to
21 practice public accounting as a certified public accountant or
22 public accountant in this Commonwealth or another state or
23 foreign jurisdiction shall not assume ultimate responsibility
24 for any attest activity.

25 (e) Notwithstanding any other provision of law, a qualified
26 nonlicensee may own an equity interest in a firm if all of the
27 following conditions are met:

28 (1) All of the qualified nonlicensees owning equity
29 interests in the firm shall not:

30 (i) own in the aggregate equity interests in the firm

1 entitling them to cast more than forty-nine percent of the votes
2 on any issue or to receive more than forty-nine percent of any
3 dividend or other distribution of profits or assets of the firm;
4 or

5 (ii) constitute more than forty-nine percent in number of
6 the owners of equity interests in the firm.

7 (2) The qualified nonlicensee shall not hold himself out as
8 a certified public accountant or public accountant.

9 (3) The qualified nonlicensee shall be permitted to
10 designate or refer to himself as a principal, owner, officer,
11 member or shareholder of the firm. The qualified nonlicensee may
12 also use such other titles as may be authorized by the
13 regulations of the board.

14 (4) The qualified nonlicensee shall not:

15 (i) have pleaded guilty to, entered a plea of nolo
16 contendere to or been found guilty or been convicted of a felony
17 under the laws of this Commonwealth or any other jurisdiction;
18 or

19 (ii) be in violation of any regulation of the board
20 regarding the character or conduct of a qualified nonlicensee
21 who is the owner of an equity interest in a firm.

22 (5) The participation of the qualified nonlicensee in the
23 business of the firm must be the principal occupation of the
24 individual and shall be in the nature of providing services to
25 the firm or clients of the firm and not solely as an investor or
26 in another commercial or passive capacity.

27 (6) The qualified nonlicensee has graduated with a
28 baccalaureate or higher degree from a college or university
29 approved at the time of graduation by the Department of
30 Education.

1 (7) The qualified nonlicensee shall comply with all
2 applicable provisions of this act and the regulations of the
3 board.

4 (f) An equity interest in a firm may be owned indirectly but
5 only if all of the ultimate, indirect beneficial owners of the
6 equity interest are licensees.

7 (g) In accordance with the procedure referred to in section
8 9 of this act, the board may revoke the license to practice of a
9 firm if at any time it is in violation of any of the provisions
10 of this section.

11 ~~Section 4. The act is amended by adding a section to read: <--~~

12 ~~Section 9.4. Expungement of Disciplinary Records. (a) The~~
13 ~~board may expunge the disciplinary record of a licensee as~~
14 ~~follows:~~

15 ~~(1) The licensee must make a written application to the~~
16 ~~board for expungement no earlier than four years from the final~~
17 ~~disposition of the disciplinary record.~~

18 ~~(2) The disciplinary record must be the only disciplinary~~
19 ~~record that the licensee has with the board under the board's~~
20 ~~jurisdiction.~~

21 ~~(3) The licensee may not be the subject of an active~~
22 ~~investigation related to the accounting profession.~~

23 ~~(4) The licensee may not be in a current disciplinary status~~
24 ~~and any fines or fees assessed must be paid in full.~~

25 ~~(5) The licensee may not have had a disciplinary record~~
26 ~~previously expunged by the board.~~

27 ~~(6) The imposition of discipline must have been for a~~
28 ~~violation involving any of the following:~~

29 ~~(i) Failure to complete continuing education requirements or~~
30 ~~practicing for six months or less on a lapsed license. At least~~

1 ~~four years must have elapsed since the final disposition of the~~
2 ~~disciplinary record at the time of application for expungement.~~

3 ~~(ii) A violation, except a violation which resulted in~~
4 ~~license suspension or revocation, in which at least ten years~~
5 ~~have elapsed since the final disposition of the disciplinary~~
6 ~~record at the time of application for expungement.~~

7 ~~(7) The licensee must pay each cost associated with the~~
8 ~~expungement as established by the board by regulation.~~

9 ~~(b) Nothing in this section shall prohibit the board from~~
10 ~~using a previous discipline for a regulatory purpose or from~~
11 ~~releasing records of a previous discipline upon request from law~~
12 ~~enforcement or other governmental body as permitted by law.~~

13 SECTION 8.9. PEER REVIEW.--* * * <--

14 (G) A FIRM SHALL BE EXEMPT FROM THE REQUIREMENT TO UNDERGO A
15 PEER REVIEW IF [ALL] ANY OF THE FOLLOWING [APPLY] APPLIES:

16 (1) WITHIN THREE YEARS BEFORE THE DATE OF APPLICATION FOR
17 INITIAL OR RENEWAL LICENSURE, THE FIRM HAS UNDERGONE A PEER
18 REVIEW CONDUCTED IN ANOTHER STATE OR FOREIGN JURISDICTION WHICH
19 MEETS THE REQUIREMENTS OF SUBSECTION (C) (1) AND (2). THE FIRM
20 SHALL SUBMIT TO THE BOARD A LETTER FROM THE ORGANIZATION
21 ADMINISTERING THE FIRM'S MOST RECENT PEER REVIEW STATING THE
22 DATE ON WHICH THE PEER REVIEW WAS COMPLETED.

23 (2) THE FIRM SATISFIES [ALL] BOTH OF THE FOLLOWING
24 CONDITIONS:

25 (I) DURING THE PRECEDING TWO YEARS, THE FIRM HAS NOT
26 ACCEPTED OR PERFORMED ANY AUDIT OR REVIEW ENGAGEMENT.

27 (II) WITHIN THE NEXT TWO YEARS, THE FIRM DOES NOT INTEND TO
28 ACCEPT OR PERFORM ANY AUDIT OR REVIEW ENGAGEMENT.

29 (3) FOR REASONS OF PERSONAL HEALTH, MILITARY SERVICE OR
30 OTHER GOOD CAUSE, THE BOARD DETERMINES THAT THE FIRM IS ENTITLED

1 TO AN EXEMPTION FOR A PERIOD OF TIME NOT TO EXCEED TWELVE
2 MONTHS.

3 * * *

4 Section 5 4. This act shall take effect in 60 days.

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