

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2005

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PUBLIC ACCOUNTANCY

Introduced By: Senators McCaffrey, Walaska, Alves, and Ruggerio

Date Introduced: February 03, 2005

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-3.1-3, 5-3.1-5, 5-3.1-7, 5-3.1-9, 5-3.1-14 and 5-3.1-16 of the
2 General Laws in Chapter 5-3.1 entitled "Public Accountancy" are hereby amended to read as
3 follows:

4 **5-3.1-3. Definitions.** -- As used in this chapter, unless the context requires otherwise, the
5 following terms are construed as follows:

6 (1) "Attest" means providing the following financial statement services:

7 (i) Any audit or other engagement to be performed in accordance with the Statements on
8 Auditing Standards (SAS) as adopted by the American Institute of Certified Public Accountants
9 or any other regulatory agencies recognized by the State Board of Accountancy;

10 (ii) Any review of a financial statement to be performed in accordance with the
11 Statement on Standards for Accounting and Review Services (SSARS) as adopted by the
12 American Institute of Certified Public Accountants;

13 (iii) Any examination of prospective financial information to be performed in accordance
14 with the Statements on Standards for Attestation Engagements (SSAE) as adopted by the
15 American Institute of Certified Public Accountants;

16 (iv) Any services considered attest by the American Institute of Certified Public
17 Accountants;

18 (v) Any services that will provide assurance on financial information and will be
19 performed in accordance with appropriate professional standards;

1 (vi) The statements on standards specified in this definition shall be adopted by reference
2 by the board pursuant to rulemaking and shall be those standards developed by the American
3 Institute of Certified Public Accountants.

4 (2) "Authority" means ~~an~~ authority to practice as a public accountant in this state granted
5 by the public accountants advisory commission under former section 5-3-6, (P.L. 1962, chapter
6 228, Section 1, as amended by P.L. 1970, chapter 272, Section 1).

7 (3) "Board" means the board of accountancy, a public authority created by section 5-3.1-
8 4.

9 (4) "Certificate" means a certificate as a certified public accountant issued under this
10 chapter or corresponding provisions of prior law, or a corresponding certificate as a certified
11 public accountant issued after examination under the law of any other state or jurisdiction.

12 (5) "Certified public accountant" or "CPA" means a person holding a certificate issued
13 under this chapter or corresponding provisions of prior law or under the accountancy act or
14 similar law of any other state.

15 (6) "Compilation" means providing a service to be performed in accordance with the
16 Statement on Standards for Accounting and Review Services (SSARS) as adopted by the
17 American Institute of Certified Public Accountants that is presenting in the form of financial
18 statements, information that is the representation of management without undertaking to express
19 any assurance on the statements.

20 (7) "Contingent fee" means a fee established for the performance of a service pursuant to
21 an arrangement in which no fee will be charged unless a specific finding or result is attained, or in
22 which the amount of the fee is otherwise dependant upon the finding or result of such service.
23 Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax
24 matters, if determined based on the results of judicial proceedings or the findings of governmental
25 agencies.

26 ~~(7)~~ (8) "Entity" includes a general partnership, limited liability company, limited liability
27 partnership, a corporation, a sole proprietor, a trust and joint venture.

28 ~~(8)~~ (9) "Good moral character" for purposes of this section, means lack of a history of
29 dishonest or felonious acts.

30 ~~(9)~~ (10) "Licensee" means the holder of a certificate, authority or permit issued under
31 this chapter or under the prior laws of this state.

32 ~~(10)~~ (11) "Majority" refers to a sixty-seven percent (67%) ownership in terms of
33 financial interests and voting rights with respect to an entity created prior to [the effective date of
34 this act].

1 ~~(11)~~ (12) "Peer review" means a study, appraisal, or review of one or more aspects of the
2 professional work of a practice unit engaged in the practice of public accountancy in this state, by
3 a licensee or licensees who are not affiliated with the practice unit being reviewed.

4 ~~(12)~~ (13) "Permit" means a permit to practice public accountancy issued under section 5-
5 3.1-7, 5-3.1-8, or 5-3.1-9, or under corresponding provisions of prior law, or under corresponding
6 provisions of the law of any other state.

7 ~~(13)~~ (14) "Practice of (or practicing) public accounting or accountancy" means the
8 performance of or the offering to perform, in an independent posture, for a client or potential
9 client, one or more kinds of services involving the use of accounting or auditing skills, in
10 connection with the issuance of reports on financial statements and other professional accounting
11 services.

12 ~~(14)~~ (15) "Practice unit" means a sole proprietorship, corporation, partnership or other
13 entity engaged in the practice of public accounting in this state. For the purpose of this chapter,
14 the office of the Auditor General is considered a practice unit.

15 ~~(15)~~ (16) "Principal residence" means the state in which a person has the right to register
16 to vote for, or the right to vote in, general elections and in which he or she qualifies to file a
17 resident state income tax return.

18 ~~(16)~~ (17) "Public accountant" or "PA" means a person holding an authority as a public
19 accountant issued under the prior laws of this state.

20 ~~(17)~~ (18) "Report" means an opinion, report, or other form of language that states or
21 implies assurance as to the reliability of financial statements and that also includes or is
22 accompanied by a statement or implication that the person or practice unit issuing the financial
23 statements has special knowledge or competence in accounting or auditing. A statement or
24 implication of special knowledge or competence may arise from use by the issuer of the report of
25 names or titles indicating that the issuer is an accountant or auditor, or from the language of the
26 report itself. The term "report" includes any form of language which disclaims an opinion when
27 that language is conventionally understood to imply any positive assurance as to the reliability of
28 the financial statements referred to and/or any special competence on the part of the person or
29 practice unit issuing that language; and it also includes any other form of language that is
30 conventionally understood to imply that assurance and/or special knowledge or competence.

31 ~~(18)~~ (19) "State" means the states of the United States, the District of Columbia, Puerto
32 Rico, Guam, and the U.S. Virgin Islands. The term "this state" means the state of Rhode Island.

33 ~~(19)~~ (20) "Substantial equivalency" means a determination by the board of accountancy
34 that the education, examination and experience requirements contained in the statutes and

1 administrative rules of another state are comparable to or exceed the education, examination and
2 experience requirements included in this chapter.

3 **5-3.1-5. Certified public accountants.** -- (a) Upon application for a certificate and
4 payment of the required fee, the board shall issue a certificate to any person who:

5 (1) Is of good moral character;

6 (2) Has a principal residence in Rhode Island as defined in section 5-3.1-3 or a primary
7 place of employment in Rhode Island;

8 (3) [As amended by P.L. 2001, ch. 249, section 1.]Has received a baccalaureate degree
9 from a college or university acceptable to the board, the total educational program of which
10 includes an accounting concentration or its equivalent and courses in any related subjects that the
11 board determines to be appropriate; provided, the education requirement for a certificate, shall be
12 at least one hundred fifty (150) semester hours of college education, including a baccalaureate or
13 higher degree conferred by a college or university acceptable to the board, the total educational
14 program of which includes an accounting concentration or equivalent as determined by board rule
15 to be appropriate; provided, that a candidate who has not met the one hundred fifty (150) hour
16 education requirement may sit for an examination if the candidate has, at the time of the
17 examination, completed not less than one hundred twenty (120) semester hours of education,
18 provided that such candidate who successfully passes the examination will not be eligible to
19 receive a certificate until the applicant completes the one hundred fifty (150) hour education
20 requirement and the experience requirement;

21 ~~(3)~~ (4) [As amended by P.L. 2001, ch. 336, section 1.]Before applying for the
22 examinations prescribed in subsection (a)~~(4)~~ (5), has received a baccalaureate degree from a
23 college or university acceptable to the board, the total educational program of which includes an
24 accounting concentration or its equivalent and courses in any related subjects that the board
25 determines to be appropriate; provided, that after December 31, 1999, the education requirement
26 for a certificate, which must be met before an applicant is eligible to apply for the examinations
27 prescribed in subsection (a)~~(4)~~ (5), is at least one hundred fifty (150) semester hours of college
28 education, including a baccalaureate or higher degree conferred by a college or university
29 acceptable to the board, the total educational program of which includes an accounting
30 concentration or equivalent as determined by board rule to be appropriate; provided, further that
31 those candidates who have met all requirements for the examination prior to July 1, 1999, under
32 the one-hundred twenty (120) semester hours of college education rule, are eligible to apply for
33 the first examination scheduled to be administered after December 31, 1999, notwithstanding the
34 fact that the candidates may not have completed one hundred fifty (150) semester hours of

1 college education;

2 ~~(4)~~ (5) Has passed written examinations in accounting and auditing and any related
3 subjects that the board deems appropriate and specifies by rule;

4 ~~(5)~~ (6) [As amended by P.L. 2001, ch. 249, section 1.]Have one year public accounting
5 experience or equivalent government experience and who has satisfactorily completed any
6 number of semester hours in accounting, auditing, and other business courses that are prescribed
7 by board rules and regulations; and

8 ~~(5) [As amended by P.L. 2001, ch. 336, section 1.]Has one year of experience in
9 providing any type of service or advice involving the use of accounting, attest, management
10 advisory, financial advisory, tax or consulting skills all of which was verified and supervised by a
11 licensee, meeting requirements prescribed by the board by rule. This experience would be
12 acceptable if it was gained through employment in government, industry, academia or public
13 practice. After December 31, 1999, the person must also have completed one hundred fifty (150)
14 hours or received a master's or doctorate degree in accounting, business administration, or other
15 related curriculum from a college or university recognized by the board; and have satisfactorily
16 completed any number of semester hours in accounting, auditing, and other business courses that
17 are prescribed by board rules and regulations; and~~

18 ~~(6)~~ (7) If an out of state individual:

19 (i) Has passed all parts of the uniform certified public accountant examination in another
20 jurisdiction, but has not received a certificate or similar certification in that jurisdiction;

21 (ii) Has established a principal residence in Rhode Island or a primary place of
22 employment in Rhode Island preparatory to seeking a certificate from this state;

23 (iii) Has complied with the longer of:

24 (A) The experience requirement in the jurisdiction in which the uniform examination
25 was taken; or

26 (B) The Rhode Island experience requirement;

27 (iv) Has complied with the educational requirements under subdivision (3) of this
28 subsection; and

29 (v) Has satisfactorily complied with any other requirements that the board by rule or
30 regulation reasonably determines to be appropriate.

31 (b) The board, in its discretion, may accept the educational credits of any person who is a
32 candidate for a certificate if it is satisfied, by appropriate means of evaluation, that the credits are
33 an acceptable substitute for the credit requirements of subdivision (a)(3) or (a) (4) of this section.

34 The board, in its discretion, may waive the residency or primary place of employment

1 requirements relating to the issuance of a certificate as stated in subdivisions (a)(2) and/or (a)~~(6)~~
2 (7) of this section.

3 (c) The examinations described in subdivision (a)~~(4)~~ (5) of this section are held by the
4 board and shall take place as often as the board determines to be desirable, but in any event not
5 less frequently than once each year. The board shall prescribe by rule the procedures to be
6 followed in applying for and conducting the examinations and the methods to be used in grading
7 the examinations and determining a passing grade. The board may make this use of any or all
8 parts of the uniform certified public accountant examination and advisory grading service
9 provided by the American Institute of Certified Public Accountants, and may contract with third
10 parties to perform any administrative services with respect to the examinations that the board
11 deems appropriate to assist it in performing its duties under this section.

12 (d) The board may, by rule or regulation, provide for the granting of credit to a candidate
13 for the satisfactory completion by the candidate of a written examination in any one or more of
14 the subjects referred to in subdivision (a)~~(4)~~ (5) of this section which is given by the licensing
15 authority in any other state. Any rules and regulations shall include the requirement that any
16 examination approved as a basis for the granting of credit is, in the judgment of the board at the
17 time of the granting of the credit, at least as thorough as the most recent examination given by the
18 board in the subject or subjects tested. The board may also, by rule or regulation, prescribe terms
19 and conditions under which a candidate who passes the examination in one or more of the
20 subjects referred to in subdivision (a)~~(4)~~ (5) of this section may be reexamined in the remaining
21 subjects, with credit given for the subjects previously passed. It also may provide by rule or
22 regulation for a reasonable waiting period for a candidate's reexamination in a subject previously
23 failed. Subject to the preceding and to any other rules and regulations that the board may adopt
24 governing reexaminations, a candidate is entitled to any number of reexaminations. Except as the
25 board may provide by a rule or regulation in order to prevent what it determines to be undue
26 hardship to candidates, a candidate granted credit for satisfactory examination in any one or more
27 of the subjects referred to in subdivision (a)~~(4)~~ (5) of this section shall have met the educational
28 requirement of subdivision (a)(3) or (a) (4) ~~(5)~~ of this section in effect on the date of the
29 examination by which the candidate successfully completes the examination under subdivision
30 (a)~~(4)~~ (5) of this section.

31 (e) The board shall charge each candidate for a certificate a fee for the initial
32 examination under subsection (a) of this section, for reexamination under subsection (d) of this
33 section for each subject in which the candidate is reexamined, and for evaluation of a candidate's
34 educational qualifications under subsection (b) of this section. The applicable fee shall be paid by

1 the candidate at the time of application for the examination, reexamination, or evaluation. Fees
2 for examination, reexamination, and evaluation of educational qualifications shall be determined
3 by the board and prescribed in the rules and regulations issued by the board. The liability of the
4 board to a candidate taking an examination or reexamination is limited to the amount of the fee
5 received for the examination.

6 (f) Persons who on July 1, 1995, hold a certificate issued under the laws of this state
7 prior to that date are not required to obtain an additional certificate under this chapter, but are
8 subject to all the provisions of this chapter; the certificate previously issued is, for all purposes,
9 considered a certificate issued under this chapter and subject to the provisions of this chapter.
10 Reinstatement power is vested in the board as to those certificates suspended or revoked prior to
11 July 1, 1995, and the holder of those certificates may have them reissued upon application for
12 reissuance in accordance with section 5-3.1-15. Persons holding certificates on July 1, 1995, who
13 are estopped from obtaining a permit under government employment restrictions may apply for a
14 permit under section 5-3.1-7 within one year following termination of that employment, and upon
15 obtaining the permit may engage in the practice of public accounting in this state as a certified
16 public accountant subject to the provisions of this chapter.

17 (g) (1) The board shall, upon application for a certificate and payment of a fee to be
18 determined by the board and promulgated by rule or regulation, issue a certificate to a holder of a
19 certificate issued by another state, provided that:

20 (i) The applicant meets all current requirements in this state at the time application is
21 made; and

22 (ii) At the time of the issuance of the applicant's certificate in the other state, the
23 applicant met all requirements then applicable in this state unless reciprocity is allowed under the
24 substantial equivalency standard in section 5-3.1-7.

25 (2) If the holder of a certificate issued by another state meets all current requirements in
26 this state except the educational or experience requirements of this state as prescribed in this
27 section, or passed the examination under different credit provisions then applicable in this state,
28 the board shall issue a certificate to the applicant upon application for the certificate and upon
29 payment of the required fee, provided that:

30 (i) The applicant has five (5) years of experience in the practice of public accountancy
31 within the ten (10) years immediately prior to the application; or

32 (ii) The applicant has five (5) years of experience in the practice of public accountancy
33 over a longer or earlier period and has completed fifteen (15) current semester hours of
34 accounting, auditing, and any other related subject that the board specifies by rule, at an

1 accredited institution, and has one year of current experience in the practice of public
2 accountancy.

3 (h) An applicant for issuance of a certificate under this section shall list in the application
4 all other states in which the applicant has applied for or holds a certificate. Each applicant for or
5 holder of a certificate issued under this section shall, within thirty (30) days of the occurrence of
6 that event, notify the board, in writing, of the issuance, denial, revocation, or suspension of a
7 certificate by any other state, or of the commencement of a disciplinary or enforcement action
8 against the applicant or holder by any other state.

9 (i) The board may refuse to grant a certificate on the grounds of failure to satisfy the
10 good moral character requirement ~~only if there is a substantial connection between the lack of~~
11 ~~good moral character of the applicant and the professional responsibilities of a licensee and~~ if the
12 finding by the board of lack of good moral character is supported by clear and convincing
13 evidence. When an applicant is found to be unqualified for a certificate because of lack of good
14 moral character, the board shall furnish the applicant a statement containing the findings of the
15 board, a complete record of the evidence upon which the determination was based, and a notice of
16 the applicant's right of appeal.

17 **5-3.1-7. Permits for public accountants and certified public accountants.** -- (a)
18 Annual permits to engage in the practice of public accounting in this state shall be issued by the
19 board, upon application for the permit and payment of the required fee, to certified public
20 accountants qualified under section 5-3.1-5 or eligible under the substantial equivalency standard
21 set out in subsection (g) of this section, and to public accountants qualified under section 5-3.1-6.
22 All of those permits expire on the last day of June of each year unless the permit is renewed in
23 accordance with subsection (c) of this section. Permits may be renewed for a period of one year.

24 (b) A certified public accountant who holds a permit issued by another state and who
25 desires to practice in this state shall apply for a permit in this state if that person does not qualify
26 for reciprocity under the substantial equivalency standard set out in subsection (g) of this section.
27 Upon the date of filing the completed application with the board, the applicant is deemed
28 qualified to practice and may practice public accounting in this state pending board review of the
29 application; provided, that the applicant meets all other applicable requirements under this
30 chapter. Submission of the application constitutes the appointment of the secretary of state as an
31 agent for the applicant for service of process in any action or proceeding arising out of any
32 transaction or operation connected with or incidental to the practice of public accounting in this
33 state by the applicant.

34 (c) Applications for renewal of a permit under this section shall be submitted to the

1 board by February 15 of each year and shall be accompanied by evidence that the applicant has
2 satisfied the continuing professional education requirements promulgated by board regulation.
3 That evidence shall be in a form that the board requires. Failure to furnish that evidence
4 constitutes grounds for refusal to renew the permit unless the board in its discretion determines
5 that the failure was due to reasonable cause or excusable neglect.

6 (d) Applications for renewal of a permit under this section shall also identify any
7 practice unit with which the applicant is affiliated. In the event the practice unit fails to comply
8 with section 5-3.1-9 or 5-3.1-10, the board may refuse to renew the applicant's individual permit
9 if the board determines that the applicant was personally and substantially responsible for the
10 failure of the practice unit to meet the requirements of sections 5-3.1-9 and 5-3.1-10.

11 (e) All applicants for a permit under this section shall list in the application all other
12 states in which the applicant has applied for or holds a permit to practice. Each applicant for or
13 holder of a permit issued under this section or any individual who has entered the state under the
14 provisions of substantial equivalency shall, within thirty (30) days of the occurrence of the event,
15 notify the board in writing:

16 (1) Of the issuance, denial, revocation, or suspension of any certificate, license, degree,
17 or permit by any other state; or

18 (2) Of the commencement of any disciplinary or enforcement action against the
19 applicant, holder or individual by any other state.

20 (f) Fees for the issuance and renewal of permits under this section shall be established
21 from time to time by the board. The required fee shall be paid by the applicant at the time the
22 application is filed with the board.

23 (g) (1) Substantial equivalency. - An individual whose principal place of business or
24 principal residence is not in this state having a valid certificate or license as a certified public
25 accountant from any state whose licensure requirements are determined to be substantially
26 equivalent with the conditions of this section shall have all the privileges of certificate holders
27 and licensees of this state without the need to obtain a certificate or permit from this state under
28 this section as long as the conditions of this section are met. The individual shall notify the board,
29 in writing, of his or her intent to enter the state under this provision. The individual must have one
30 year or more of experience and state so on the written notice to the board. This experience shall
31 include providing any type of service ~~or advice~~ involving the use of financial accounting, attest,
32 compilation reporting, or related ~~management advisory, financial advisory, tax or consulting~~
33 skills all of which was verified and supervised by a licensee, meeting requirements prescribed by
34 the board by rule. This experience is acceptable if it was gained through employment in

1 government, ~~industry, academia~~ or public practice. If this individual is responsible for supervising
2 attest services and signs or authorizes another licensee to sign the accountant's report on the
3 financial statements on behalf of the firm, this individual shall meet the experience requirements
4 set out in the professional standards for such services. If this individual is responsible for signing
5 or authorizing another licensee to sign the accountant's report on the financial statements on
6 behalf of the firm, this individual shall meet the experience requirements set out in the
7 professional standards for such services. The board may use the NASBA National Qualification
8 Appraisal Service to determine which other states have substantial equivalence with this chapter.

9 (2) Any licensee of another state exercising the privilege afforded under this section
10 hereby consents, as a condition of the granting of this privilege:

11 (i) To the personal and subject matter jurisdiction of the board;

12 (ii) To comply with this chapter and the board's rules;

13 (iii) To the appointment of the board which issued their license as their agent upon
14 whom process may be served in any action or proceeding by this board against the licensee;

15 (iv) To be subject to disciplinary action in this state for an act committed in this state.

16 (3) A licensee of this state offering or rendering services or using their CPA title in
17 another state shall be subject to disciplinary action in this state for an act committed in another
18 state for which the licensee would be subject to discipline for an act committed in the other state.

19 **5-3.1-9. Permits for practice units.** -- (a) An annual permit to engage in the practice of
20 public accounting in this state as a practice unit shall be issued by the board, upon application
21 therefore and payment of the required fee, to an entity that demonstrates its qualifications in
22 accordance with this chapter or to certified public accounting firms originally licensed in another
23 state that establish an office in this state. A practice unit must hold a permit issued under this
24 section in order to provide attest and compilation services as defined or to use the title "CPAs" or
25 "CPA firm." An applicant entity for initial issuance or renewal of a permit to practice under this
26 section shall be required to register each office of the firm within this state with the board and to
27 show that all attest and compilation services as defined in this chapter rendered in this state are
28 under the charge of a person holding a valid certificate issued under this chapter, or the
29 corresponding provision of prior law or some other state.

30 (b) An entity shall satisfy the following requirements:

31 (1) For general partnerships, joint ventures, limited liability partnerships and limited
32 liability companies:

33 (i) The principal purpose and business of the partnership must be to furnish public
34 accounting services to the public not inconsistent with this chapter and the rules and regulations

1 of the board;

2 (ii) ~~A majority of the~~ With respect to an entity created on or after [the effective date of
3 this act], the ownership of the entity, in terms of financial interests and voting rights of all
4 partners, shareholders or members, must belongs belong to holders of a certificate who shall hold
5 a certificate and a permit from some state, and such partners, shareholders or members, whose
6 principal place of business is in this state and who perform professional services in this state, hold
7 a valid permit issued under this chapter or are public accountants registered under section 5-3.1-7.
8 ~~Although firms may include non-licensee owners, the firm and its ownership and all parties must~~
9 ~~comply with rules promulgated by the board.~~ For firms of public accountants, ~~a majority~~ all of the
10 ownership of the firm, in terms of financial interests and voting rights, must belong to holders of
11 permits under section 5-3.1-7, and provided, further, that any such entity as defined by this
12 subsection may not include non-licensee owners. ~~provided that:~~ upon passage of this act.

13 ~~(A) The entity designates a licensee of this state, who is responsible for the proper~~
14 ~~registration of the firm and identifies that individual to the board;~~

15 ~~(B) All non-licensee owners are active individual participants in the entity;~~

16 ~~(C) The entity complies with such other requirements as the board may impose by rule;~~

17 ~~(D) Any individual licensee who is responsible for supervising attest and compilation~~
18 ~~services and signs or authorizes another licensee to sign the accountant's report on the financial~~
19 ~~statements on behalf of the firm, shall meet the experience requirements as set out in professional~~
20 ~~standards for such services;~~

21 ~~(E) Any individual licensee who signs or authorizes another licensee to sign the~~
22 ~~accountants' report on the financial statements on behalf of the firm shall meet the experience~~
23 ~~requirement as set out in professional standards for such services.~~

24 ~~(iii) At least one partner, shareholder or member must be a certified public accountant or~~
25 ~~a public accountant holding a certificate or authority under this chapter and a permit to practice in~~
26 ~~this state under section 5-3.1-7;~~

27 (iii) All partners, shareholders or members must be a certified public accountant or a
28 public accountant holding a certificate or authority under this chapter and a permit to practice in
29 some state or jurisdiction under section 5-3.1-7.

30 (iv) The address of every office of the entity located in this state must be listed in the
31 application for the permit.

32 (2) For a sole proprietorship:

33 (i) The principal purpose and business of the sole proprietorship must be to furnish
34 public accounting services to the public not inconsistent with this chapter and the rules and

1 regulations of the board;

2 (ii) The sole proprietor must be a certified public accountant or a public accountant
3 holding a certificate or authority under this chapter and a permit to practice in this state under
4 section 5-3.1-7;

5 (iii) The address of every office of the sole proprietorship located in this state must be
6 listed in the application for the permit.

7 (iv) Any individual licensee who is responsible for supervising attest and compilation
8 services and signs or authorizes another licensee to sign the accountant's report on the financial
9 statements on behalf of the sole proprietor shall meet the experience requirements as set out in
10 professional standards for such services; and

11 (v) Any individual licensee who signs or authorizes another licensee to sign the
12 accountants' report on the financial statements on behalf of the firm shall meet the experience
13 requirement as set out in professional standards for such services.

14 (c) Application for a permit under this section must be made upon the affidavit of the
15 partner, shareholder, member or sole proprietor who holds a permit to practice in this state under
16 section 5-3.1-7 as a certified public accountant or a public accountant. All applications for a
17 permit under this section must include, in addition to any other information required by this
18 chapter or by rule or regulation of the board to be stated in the application, a list of all other states
19 in which the entity has applied for or holds a permit. Upon receipt of the application, the board
20 shall determine whether the entity is eligible for a permit. In the event the board determines the
21 entity is ineligible for a permit under this section, that determination shall be stated in writing and
22 delivered to the applicant at the address that is stated in the application.

23 (d) All applicants for or holders of a permit under this section shall notify the board in
24 writing within thirty (30) days of the occurrence of the event:

25 (1) Of any change in the identities of the partners, officers, directors, or shareholders
26 who are personally engaged in this state in the practice of public accounting;

27 (2) Of any change in the number or location of offices within this state required to be
28 listed in the application pursuant to this section;

29 (3) Of any change in the identities of the persons supervising the offices; and

30 (4) Of any issuance, denial, revocation, or suspension of a permit by any other state or
31 jurisdiction. The board may prescribe fees, which are to be paid by the applicants or holders upon
32 the notification.

33 (5) ~~Of a reduction below a majority of the ownership in the entity in terms of financial~~
34 ~~interests and voting rights.~~

1 (e) All permits issued by the board under this section shall expire on the last day of June
2 of each year unless the permit is renewed in accordance with the provisions of this section.
3 Permits may be renewed for a period of one year, and shall expire on the last day of June in the
4 year following the year in which they are renewed unless they are again renewed by their holders.
5 All applications for renewal of permits under this section shall be submitted to the board by
6 February 15 of each year. All applicants for permit renewal shall satisfy the quality review
7 requirements prescribed in section 5-3.1-10.

8 (f) Fees to be paid upon application for initial issuance or renewal of a permit under this
9 section shall be established from time to time by the board. Fees shall be paid at the time the
10 application is filed with the board.

11 (g) An annual permit to engage in the practice of public accounting in this state shall be
12 issued by the board, upon application for it and payment of the required fee, to the office of the
13 auditor general provided the office is in compliance with section 5-3.1-10.

14 (h) An entity which falls out of compliance with the provisions of this section due to
15 changes in firm ownership or personnel, after receiving or renewing a permit, shall take
16 corrective action to bring the firm into compliance as quickly as possible. The board may grant a
17 reasonable period of time for a firm to take such corrective action. Failure to bring the firm into
18 compliance within a reasonable period as defined by the board will result in the suspension or
19 revocation of the permit.

20 **5-3.1-14. Initiation of proceedings -- Hearings before board -- Appeals -- Notice to**
21 **other states.** -- (a) The board may initiate proceedings under this chapter against a licensee either
22 on its own motion, on the complaint of any person, upon the finding of probable cause by a
23 probable cause committee appointed by the board pursuant to section 5-3.1-4, or upon receiving
24 notification from another state board of accountancy [or other jurisdictions](#) of its decision to:

25 (1) Revoke, suspend, or refuse to renew the practice privileges granted in that state to the
26 licensee, or

27 (2) Censure in writing, limit the scope of practice, impose an administrative fine upon, or
28 place on probation the licensee.

29 (b) A written notice stating the nature of the charge or charges against the licensee and
30 the time and place of the hearing before the board on the charges shall be served on the licensee
31 not less than twenty (20) days prior to the date of the hearing either personally or by mailing a
32 copy of the notice by certified mail, return receipt requested, to the address of the licensee last
33 known to the board.

34 (c) If, after being served with the notice of hearing as provided for in this section, the

1 licensee fails to appear at the hearing and to defend against the stated charges, the board may
2 proceed to hear evidence against the licensee and may enter an order that is justified by the
3 evidence. That order is final unless the licensee petitions for a review of it as provided in this
4 chapter; provided, that within thirty (30) days from the date of any order, upon a showing of good
5 cause for failing to appear and defend, the board may reopen the proceedings and may permit the
6 licensee to submit evidence in his, her, or its behalf.

7 (d) (1) At any hearing under this section, the licensee may:

8 (i) Appear in person or be represented by counsel;

9 (ii) Produce evidence and witnesses on his, her, or its behalf;

10 (iii) Cross examine witnesses; and

11 (iv) Examine any evidence that is produced.

12 (2) A partnership may be represented before the board by counsel or by any partner. A
13 corporation may be represented before the board by counsel or by any shareholder or member of
14 the corporation. A sole proprietorship may be represented before the board by counsel or by the
15 sole proprietor. The licensee is entitled, on written application to the board, to the issuance of
16 subpoenas to compel the attendance of witnesses on the licensee's behalf.

17 (e) The board or any member of the board may issue subpoenas to compel the attendance
18 of witnesses and the production of documents, and may administer oaths, take testimony, hear
19 proofs, and receive exhibits in evidence in connection with or upon a hearing under this chapter.
20 In case of disobedience to a subpoena, the board may petition the superior court to require the
21 attendance and testimony of witnesses and the production of documentary evidence.

22 (f) The board shall not be bound by strict rules of procedure or by the laws of evidence
23 in the conduct of its proceedings, but any determination of the board shall be based upon
24 sufficient legal evidence to sustain the determination.

25 (g) A stenographic record of all hearings under this section shall be kept and a transcript
26 filed with the board.

27 (h) At all hearings, the attorney general of this state, or any other legal counsel that is
28 employed, shall appear and represent the board.

29 (i) The decision of the board shall be made by vote in accordance with rules and
30 regulations established under section 5-3.1-4.

31 (j) Any appeal from the decision of the board, by a person or persons adversely affected
32 by the decision, shall be governed by section 42-35-15.

33 (k) On rendering a decision to: (1) revoke or suspend a certificate issued under the laws
34 of this state, (2) revoke or suspend an authority as a public accountant issued under the prior laws

1 of this state, (3) revoke, suspend, or refuse to renew a permit issued under the laws of this state,
2 or (4) censure in writing, limit the scope of practice of, impose an administrative fine upon, or
3 place on probation a licensee, the board shall examine its records to determine whether the
4 licensee holds a certificate or a permit to practice in any other state [or other jurisdiction](#). If the
5 board determines that the licensee in fact holds a certificate or permit, the board shall
6 immediately notify the board of accountancy of the other state [or jurisdiction](#) by mail of its
7 decision under this section, and shall include in the notice an indication as to whether or not the
8 licensee has appealed that decision.

9 (l) The board may, in its discretion, order any licensee against whom proceedings have
10 been initiated under section 5-3.1-12 or 5-3.1-13 to reimburse the board for any fees, expenses,
11 and costs incurred by the board in connection with those proceedings, including attorneys' fees.
12 Those fees shall be paid within thirty (30) days from the date they are assessed and may be
13 reviewed in accordance with section 42-35-15.

14 [\(m\) The board will issue regulations for practice units to be in compliance with the](#)
15 [changes affecting practice units promulgated by this law.](#)

16 **5-3.1-16. Acts declared unlawful.** -- ~~(a) Except as permitted by the board pursuant to~~
17 ~~section 5-3.1-18(b), no person shall hold himself or herself out to the public as a certified public~~
18 ~~accountant or assume or use the designation "certified public accountant" or "CPA" or any other~~
19 ~~title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the~~
20 ~~person is a certified public accountant or CPA, unless that person has been issued a permit to~~
21 ~~practice under section 5-3.1-7.~~

22 ~~(b) No entity shall provide attest or compilation services or assume or use the~~
23 ~~designation "certified public accountants" or "CPAs" or any other title, designation, words,~~
24 ~~letters, abbreviation, sign, card, or device tending to indicate that the practice unit is composed of~~
25 ~~certified public accountants or CPAs, unless:~~

26 ~~(1) The practice unit holds a permit to practice under section 5-3.1-9;~~

27 ~~(2) Ownership of the firm is in accord with this chapter and rules promulgated by the~~
28 ~~board.~~

29 ~~(c) No person shall hold himself or herself out to the public as a public accountant, or~~
30 ~~assume or use the designation "public accountant" or "PA" or any other title, designation, words,~~
31 ~~letters, abbreviation, sign, card, or device tending to indicate that the person is a public~~
32 ~~accountant or PA, unless that person holds an authority as a public accountant and a permit to~~
33 ~~practice in this state issued under section 5-3.1-7. This subsection does not apply to those persons~~
34 ~~qualified under subsection (a) of this section to hold themselves out to the public as certified~~

1 ~~public accountants and to use the designation "certified public accountant" or "CPA".~~

2 ~~(d) No entity shall provide attest or compilation services or assume or use the~~
3 ~~designation "public accountants" or "PAs" or any other title, designation, words, letters,~~
4 ~~abbreviation, sign, card, or device tending to indicate that the practice unit is composed of public~~
5 ~~accountants or PAs, unless the practice unit holds a permit to practice under section 5-3.1-9.~~

6 ~~(e) No person or entity not holding a valid permit shall assume or use the title or~~
7 ~~designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed~~
8 ~~accountant", "registered accountant", "accredited accountant", or any other title or designation~~
9 ~~likely to be confused with "certified public accountant" or "public accountant", any of the~~
10 ~~abbreviations "CA", "RA", "LA", "AA", or similar abbreviation likely to be confused with "CPA"~~
11 ~~or "PA"; provided, that anyone who holds a permit to practice under section 5-3.1-7 may hold~~
12 ~~himself or herself out to the public as an "accountant" or "auditor". The title "Enrolled Agent" or~~
13 ~~the abbreviation "EA" may only be used by those individuals so designated by the Internal~~
14 ~~Revenue Service. In addition, the board may at its discretion allow titles or abbreviations to be~~
15 ~~used which do not mislead the public and for which appropriate certification or accreditation by a~~
16 ~~national organization can be demonstrated.~~

17 ~~(f) No person or entity shall prepare or attempt to prepare, or sign, affix, or associate the~~
18 ~~person's or entity's name or any trade name used by him, her, or it in the person's or entity's~~
19 ~~business or profession or practice unit to any attest or compilation reports unless the individual~~
20 ~~holds a permit to practice under section 5-3.1-7 or 5-3.1-8, and unless the practice unit holds a~~
21 ~~permit to practice under section 5-3.1-9.~~

22 ~~(g) No person or entity not holding a permit to practice under this chapter shall hold~~
23 ~~himself, herself, or itself out to the public as an "accountant" or "auditor", whether or not the term~~
24 ~~is accompanied by any other description or designation, on any sign, card, or letterhead, or in any~~
25 ~~advertisement or directory.~~

26 ~~(h) No person holding a permit shall assume or use a professional or firm name or~~
27 ~~designation that is misleading about the legal form of the firm, or the persons who are partners,~~
28 ~~officers, members, managers or shareholders of the firm, or about any other matter; provided,~~
29 ~~however, that names of one or more former partners, members, managers or shareholders may be~~
30 ~~included in the name of a firm or its successor.~~

31 ~~(i) No person or entity shall hold himself, herself, or itself out to the public as being~~
32 ~~qualified for the practice of public accounting unless the person or entity holds a permit to~~
33 ~~practice under this chapter.~~

34 ~~(j) The provisions of subsections (a), (c), and (e) of this section do not prohibit any~~

1 ~~accountant licensed by a foreign country who holds an annual limited permit to engage in the~~
2 ~~practice of public accounting under section 5-3.1-8 from using the accounting designation by~~
3 ~~which he or she is known in his or her own country, translated into the English language,~~
4 ~~followed by the name of the country from which his or her certificate, license, or degree was~~
5 ~~issued, as required by section 5-3.1-8.~~

6 ~~-(k) Any person or practice unit that is found to have violated any provision of this~~
7 ~~section by a court of competent jurisdiction is liable to the board for reasonable attorneys' fees in~~
8 ~~connection with the proceeding in which the finding was made.~~

9 ~~-(l) (1) A licensee, practice unit, or affiliated entity shall not directly or indirectly for a~~
10 ~~commission, recommend or refer to a client any product or service, or for a commission,~~
11 ~~recommend or refer any product or service to be supplied by a client, or receive a commission,~~
12 ~~when the licensee, practice unit, or affiliated entity also performs for that client any attest or~~
13 ~~compilation services or reports. This prohibition applies during the period in which the licensee~~
14 ~~or practice unit or affiliated entity is engaged to perform any services listed above and the period~~
15 ~~covered by any historical financial statements involved in such listed services.~~

16 ~~-(2) A licensee, practice unit, or affiliated entity who is not prohibited by this section~~
17 ~~from performing services for or receiving a commission, and who is paid or expects to be paid a~~
18 ~~commission, shall disclose that fact to any person or entity to whom the licensee, practice unit, or~~
19 ~~affiliated entity recommends or refers a product or service to which the commission relates. The~~
20 ~~disclosure must be made in writing contemporaneously with or prior to the referral or~~
21 ~~recommendation.~~

22 ~~-(3) Any licensee, practice unit, or affiliated entity who accepts a referral fee for~~
23 ~~recommending or referring any service of a licensee to any person or entity or who pays a referral~~
24 ~~fee to obtain a client shall disclose the acceptance or payment to the client. The disclosure must~~
25 ~~be made, in writing, contemporaneously with or prior to the referral or recommendation.~~

26 ~~-(4) For purposes of this section, an "affiliated entity" is defined as an entity in which the~~
27 ~~licensee, and/or any member and/or employee of the practice unit, has more than an aggregate~~
28 ~~twenty percent (20%) direct or indirect financial interest.~~

29 ~~-(5) A licensee or practice unit in public practice who is not prohibited by this section~~
30 ~~from performing service for or receiving a commission shall comply with all applicable federal~~
31 ~~and state securities laws, rules promulgated thereunder, and registration requirements.~~

32 ~~-(m) (1) A licensee, practice unit, or affiliated entity shall not: perform for a contingent~~
33 ~~fee any professional services for, or receive such a fee from, a client for whom the licensee or~~
34 ~~practice unit performs any attest or compilation services or reports; or prepare an original or~~

1 ~~amended tax return or claim for a tax refund for a contingent fee for any client.~~

2 ~~-(2) Except as stated in the next sentence, a "contingent fee" is a fee established for the~~
3 ~~performance of any service pursuant to an arrangement in which no fee will be charged unless a~~
4 ~~specified finding or result is attained, or in which the amount of the fee is otherwise dependent~~
5 ~~upon the finding or result of such service. Solely for purposes of this section, fees are not~~
6 ~~regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if~~
7 ~~determined based on the results of judicial proceedings or the findings of governmental agencies.~~
8 ~~A licensee's fees may vary depending, for example, on the complexity of services rendered.~~

9 ~~-(3) For purposes of this section, an "affiliated entity" is defined as any entity in which~~
10 ~~the licensee, or any member or employee of the practice unit, has more than an aggregate twenty~~
11 ~~percent (20%) direct or indirect financial interest.~~

12 ~~-(4) Any licensee who receives a contingent fee pursuant to this section shall comply with~~
13 ~~all applicable federal and state securities laws, rules promulgated thereunder, and registration~~
14 ~~requirements.~~

15 (a) Except as permitted by the board pursuant to subsection 5-3.1-18(b), no person shall
16 hold himself or herself out to the public as a certified public accountant or assume or use the
17 designation "certified public accountant" or "CPA" or any other title, designation, words, letters,
18 abbreviation, sign, card or device tending to indicate that the person is a certified public
19 accountant or CPA unless that person has been issued a permit to practice under section 5-3.1-7.

20 (b) No practice unit shall hold itself out to the public as being engaged in the practice of
21 public accounting or assume or use the designation "certified public accountants" or "CPAs" or
22 any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate
23 that the practice unit is composed of certified public accountants or CPAs unless:

24 (1) The practice unit holds a permit to practice under section 5-3.1-9;

25 (2) Every partner, shareholder, officer, director, and every manager of every office of the
26 practice unit is the holder of a certificate from some state or jurisdiction;

27 (3) Every partner, shareholder, officer, and director personally engaged in the business of
28 the practice unit within this state holds a permit issued under section 5-3.1-7.

29 (c) Except as subsequently provided no person shall hold himself or herself out to the
30 public as a public accountant, or assume or use the designation "public accountant" or "PA" or
31 any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate
32 that the person is a public accountant or PA, unless that person holds an authority as a public
33 accountant and a permit to practice in this state issued under section 5-3.1-7. This subsection
34 does not apply to those persons qualified under subsection (a) to hold themselves out to the public

1 as certified public accountants and to use the designation "certified public accountant" or "CPA".

2 (d) No practice unit shall hold itself out to the public as being engaged in the practice of
3 public accounting or assume or use the designation "public accountants" or "PAs" or any other
4 title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the
5 practice unit is composed of public accountants or PAs, unless the practice unit holds a permit to
6 practice under section 5-3.1-9.

7 (e) No person, or practice unit shall hold himself, herself, or itself out to the public as, or
8 assume or use alone, or in connection with his, her, or its name, or any other name the title or
9 designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed
10 accountant," "registered accountant," "accredited accountant," or any other title or designation
11 likely to be confused with "certified public accountant," or "public accountant," and shall not
12 assume "CA," "RA," "LA," "AA," or similar abbreviation likely to be confused with "CPA" or
13 "PA"; provided, that anyone who holds a permit to practice under section 53.1-7 may hold
14 himself or herself out to the public as an "accountant" or "auditor." The title "Enrolled Agent" or
15 the abbreviation "EA" may only be used by those individuals so designated by the Internal
16 Revenue Service. In addition, the board may at its discretion allow titles or abbreviations to be
17 used which do not mislead the public and for which appropriate certification or accreditation by a
18 national organization can be demonstrated.

19 (f) No person shall prepare or attempt to prepare, or sign, affix, or associate his or her
20 name or any trade name used by him or her in his or her business or profession or practice unit to
21 any of the following enumerated reports or any report in any manner having the appearance or
22 import of any of the following enumerated reports unless he or she holds a permit to practice
23 under section 5-3.1-7 or 5-3.1-8, and unless his or her practice unit holds a permit to practice
24 under section 5-3.1-9:

25 (1) A report expressing or disclaiming an opinion on a financial statement based on an
26 audit or examination of that statement;

27 (2) A report expressing limited assurance on a financial statement based on a review of
28 that statement; and

29 (3) A report on a financial statement based on a compilation of that statement.

30 (g) No person or practice unit not holding a permit to practice under this chapter shall
31 hold himself, herself, or itself out to the public as an "accountant" or "auditor," whether or not the
32 term is accompanied by any other description or designation, on any sign, card, or letterhead, or
33 in any advertisement or directory.

34 (h) No person shall assume or use the designation "certified public accountant" or "CPA"

1 or "public accountant," or "PA" in conjunction with names of other persons so as to indicate or
2 imply that there is a practice unit comprised of those persons which is engaged in the practice of
3 public accounting, or in conjunction with the designation "and Company" or "and Co." or a
4 similar designation, if, in this case, there is in fact no bona fide partnership, corporation, or sole
5 proprietorship holding a permit under section 53.1-9 or use a professional or firm name or
6 designation that is misleading about the legal form of the firm, or the persons who are partners,
7 officers, shareholders, or members of the firm, or about any other matter; provided, however, that
8 names of one or more former partners, officers or members may be included in the name of the
9 firm or its successors.

10 (i) No person or practice unit shall hold himself, herself, or itself out to the public as
11 being qualified for the practice of public accounting unless the person or practice unit holds a
12 permit to practice under this chapter.

13 (j) The provisions of subsections (a), (c), and (e) do not prohibit any accountant licensed
14 by a foreign country who holds an annual limited permit to engage in the practice of public
15 accounting under section 5-3.1-8.

16 (k) No licensee or practice unit, in connection with the practice of public accounting, may
17 accept any payment or other consideration, including a commission, for the recommendation, sale
18 or referral of products or services of others to a client, or for the recommendation, sale or referral
19 of products or services supplied by a client.

20 (l) An affiliated entity of a licensee or practice unit shall not directly or indirectly for a
21 commission recommend, refer or sell any product or service to be supplied by a client when the
22 licensee or practice unit performs any attest or compilation services or reports for that client. This
23 prohibition applies during the period in which the licensee or practice unit or affiliated entity is
24 engaged to perform any services listed above and the period covered by any historical financial
25 statements involved in such listed services.

26 (m) A licensee, practice unit or affiliated entity shall not: perform for a contingent fee any
27 professional services for, or receive such a fee from a client for whom the licensee or practice unit
28 performs any attest or compilation services or reports; or prepare an original or amended tax
29 return or claim for a tax refund for a contingent fee for any client.

30 (1) The prohibitions of this section apply during the period in which the licensee is
31 engaged to perform any of the services listed above and the period covered by any historical
32 financial statements involved in any such listed services.

33 (2) Except as stated in the next sentence, a "contingent fee" is a fee established for the
34 performance of any service pursuant to an arrangement in which no fee will be charged unless a

1 specified finding or result is attained, or in which the amount of the fee is otherwise dependent
2 upon the finding or result of such service. Fees are not regarded as being contingent if fixed by
3 courts or other public authorities, or, in tax matters, if determined based on the results of judicial
4 proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for
5 example, on the complexity of services rendered.

6 (3) For purposes of this section, an "affiliated entity" is defined as any entity in which the
7 licensee, or any member or employee of the practice unit, has more than an aggregate ten percent
8 (10%) direct or indirect financial interest.

9 (4) Any licensee who receives a contingent fee pursuant to this section shall comply with
10 all applicable federal and state securities laws, rules promulgated thereunder, and registration
11 requirements.

12 (n) Any person or practice unit that is found to have violated any provision of this section
13 by a court of competent jurisdiction is liable to the board for reasonable attorneys' fees in
14 connection with the proceeding in which the finding was made.

15 SECTION 2. This act shall take effect upon passage.

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LC01164/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- PUBLIC ACCOUNTANCY

- 1 This act would make changes in the law regulating public accountants.
- 2 This act would take effect upon passage.

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LC01164/ SUB A
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