

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 54 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H1/24/05

A Bill

HOUSE BILL 1113

5 By: Representative Harris
6 By: Senator Womack
7

For An Act To Be Entitled

10 AN ACT TO AMEND THE PUBLIC ACCOUNTANCY ACT OF
11 1975; AND FOR OTHER PURPOSES.
12

Subtitle

14 AN ACT TO AMEND THE PUBLIC ACCOUNTANCY
15 ACT OF 1975.
16

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 17-12-103 is amended to read as follows:
21 17-12-103. Definitions.

22 (a) As used in this chapter, words used in the masculine will apply to
23 the feminine where applicable, and wherever the context dictates, the plural
24 will be read as the singular and the singular as the plural. In addition,
25 unless the context otherwise requires:

26 (1) "AICPA" means the American Institute of Certified Public
27 Accountants, or its successor;

28 (2) "Attest" means providing the following financial statement
29 services:

30 (A) Any audit or other engagement to be performed in
31 accordance with the "Statements on Auditing Standards";

32 (B) Any review of a financial statement to be performed in
33 accordance with the "Statements on Standards for Accounting and Review
34 Services"; and

35 (C) Any examination of prospective financial information



1 to be performed in accordance with the "Statements on Standards for
2 Attestation Engagements";

3 (3) "Beneficial owner" means an individual who is the grantor
4 and sole trustee of a revocable trust wherein the individual reserves the
5 unrestricted right to revoke the trust;

6 (4) "Board" means the Arkansas State Board of Public Accountancy
7 created by § 17-12-201;

8 (5) "Certificate" means a certificate as "certified public
9 accountant" issued under § 17-12-301 or a corresponding certificate as
10 "certified public accountant" issued after examination under the laws of any
11 other state;

12 (6) "Conviction" means all instances in a criminal case in which
13 a defendant has been found guilty or pleads guilty or nolo contendere
14 regardless of whether:

15 (A) Sentencing or imposition of sentencing has been
16 deferred or suspended; or

17 (B) The adjudication of guilt or sentence is withheld by
18 the court;

19 ~~(6)~~(7) "Firm" means a partnership, corporation, limited
20 liability company, or other entity required to be registered with the board
21 under the provisions of § 17-12-401 et seq.;

22 ~~(7)~~(8) "License" means a certificate issued under § 17-12-301 or
23 a registration under § 17-12-312 or § 17-12-401 et seq. or, in each case, a
24 certificate or permit issued or a registration under corresponding provisions
25 of prior law;

26 ~~(8)~~(9) "Licensee" means the holder of a license as defined in
27 this section;

28 ~~(9)~~(10) "Member" means either:

29 (A) The person in whose name membership interests are
30 registered in the records of a limited liability company; or

31 (B) The beneficial owner of membership interests of a
32 revocable living trust where the membership interests are registered in the
33 records of the limited liability company in the name of the revocable living
34 trust;

35 ~~(10)~~(11) "NASBA" means the National Association of State Boards
36 of Accountancy, or its successor;

1 ~~(11)~~(12) "Practice of public accounting" means the performance
2 of attest services as defined in this section, or the performance of
3 professional services while using the title or designation certified public
4 accountant, public accountant, CPA, PA, accountant, or auditor;

5 ~~(12)~~(13) "Professional services" means services arising out of
6 or related to the specialized knowledge or skills performed by certified
7 public accountants or public accountants;

8 ~~(13)~~(14) "Shareholder" means either:

9 (A) The person in whose name shares are registered in the
10 records of a corporation; or

11 (B) The beneficial owner of shares of a revocable living
12 trust where the shares are registered in the records of the corporation in
13 the name of the revocable living trust; and

14 ~~(14)~~(15) "State" means any state, territory, or insular
15 possession of the United States or the District of Columbia.

16 (b) The statements on standards specified in subdivision (a)(2) of
17 this section shall be adopted by reference by the board pursuant to
18 rulemaking and shall be those developed for general application by recognized
19 national accountancy organizations such as the American Institute of
20 Certified Public Accountants.

21
22 SECTION 2. Arkansas Code § 17-12-104 is amended to read as follows:
23 17-12-104. Penalty.

24 (a)(1) Any person who violates any provision of § 17-12-106 shall be
25 guilty of a misdemeanor and, upon conviction, shall be subject to a fine of
26 not more than five hundred dollars (\$500) or to imprisonment for not more
27 than one (1) year, or to both fine and imprisonment for each violation.

28 (2) Each violation of § 17-12-106 shall constitute a separate
29 offense.

30 (b) Whenever the Arkansas State Board of Public Accountancy has reason
31 to believe that any person is ~~liable~~ subject to punishment under this
32 section, it may certify the facts to the Attorney General or other
33 appropriate enforcement officer, who, in his or her discretion, may cause
34 appropriate proceedings to be brought.

35
36 SECTION 3. Arkansas Code § 17-12-106 is amended to read as follows:

1 17-12-106. Unlawful acts.

2 (a)(1) No person shall assume or use the title or designation
3 "certified public accountant" or the abbreviation "CPA" or any other title,
4 designation, words, letters, abbreviation, sign, card, or device tending to
5 indicate that he or she is a certified public accountant, unless he or she
6 ~~has received a certificate~~ holds a current license as a certified public
7 accountant under § 17-12-301 et seq. and all of his or her offices in this
8 state for the practice of public accounting are currently maintained and
9 registered as required under § 17-12-403.

10 (2) However, a foreign accountant who has received a certificate
11 under the provisions of § 17-12-308(c) may use the title under which he or
12 she is generally known in his or her country, followed by the name of the
13 country from which he or she received his or her certificate, license, or
14 degree.

15 (b) No firm shall assume or use the title or designation "certified
16 public accountant" or the abbreviation "CPA" or any other title, designation,
17 words, letters, abbreviation, sign, card, or device tending to indicate that
18 the firm is composed of certified public accountants unless the firm is
19 currently registered under § 17-12-401 and all offices of the firm in this
20 state for the practice of public accounting are currently maintained and
21 registered as required under § 17-12-403.

22 (c) No person shall assume or use the title or designation "public
23 accountant" or any other title, designation, words, letters, abbreviation,
24 sign, card, or device tending to indicate that he or she is a public
25 accountant, unless:

26 (1)(A) ~~he~~ He or she is currently licensed as a public
27 accountant; and

28 (B) ~~all~~ All of the person's offices in this state for the
29 practice of public accounting are currently maintained and registered as
30 required under § 17-12-403, or

31 (2)(A) ~~unless the~~ The person ~~has received a certificate~~
32 holds a current license as a certified public accountant under § 17-12-301 et
33 seq. and

34 (B) ~~all~~ All of the person's offices in this state for the
35 practice of public accounting are currently maintained and registered as
36 required under § 17-12-403.

1 (d) No firm shall assume or use the title or designation "public
2 accountant" or any other title, designation, words, letters, abbreviation,
3 sign, card, or device tending to indicate that the firm is composed of public
4 accountants unless the firm is currently registered under § 17-12-401 or §
5 17-12-402 and all offices of the firm in this state for the practice of
6 public accounting are currently maintained and registered as required under §
7 17-12-403.

8 (e)(1) No person or firm shall assume or use the title or designation
9 "certified accountant", "chartered accountant", "enrolled accountant",
10 "licensed accountant", "registered accountant", "accredited accountant",
11 "accounting practitioner", or any other title or designation likely to be
12 confused with "certified public accountant" or "public accountant", or any of
13 the abbreviations, "CA", "LA", "RA", "AA", "AP", or similar abbreviations
14 likely to be confused with "CPA" or "PA".

15 (2) ~~However, anyone~~ Anyone currently licensed under this chapter
16 and whose offices in this state for the practice of public accounting are
17 currently maintained and registered as required under § 17-12-403 may hold
18 himself or herself out to the public as an "accountant" or "auditor".

19 (3) A foreign accountant who receives a certificate under § 17-
20 12-308(c) and all of whose offices in this state for the practice of public
21 accounting are currently maintained and registered as required under § 17-12-
22 403 may use the title under which he or she is generally known in his or her
23 country, followed by the name of the country from which he or she received
24 his or her certificate, license, or degree.

25 (f) ~~No~~ A person who is not a current licensee may not offer to render
26 or render any attest service, as defined in § 17-12-103. This restriction
27 does not prohibit any act of a public official or public employee in the
28 performance of that person's duties as such or prohibit the performance by
29 any person of other services involving the use of accounting skills,
30 including the preparation of tax returns, management advisory services, and
31 the preparation of financial statements without the issuance of reports in
32 violation of this chapter.

33 (g) Unless he or she is a current licensee and all of his or her
34 offices in this state for the practice of public accounting are currently
35 maintained and registered under § 17-12-403, no person shall sign or affix
36 his or her name or any trade or assumed name used by him or her in his or her

1 profession or business with any wording indicating that he or she is an
2 accountant or auditor, or with any wording indicating that he or she has
3 expert knowledge in accounting or auditing, to any opinion or certificate
4 attesting in any way to the reliability of any representation or estimate in
5 regard to any person or organization embracing:

6 (1) Financial information; or

7 (2) Facts respecting compliance with conditions established by
8 law or contract, including, but not limited to, statutes, ordinances,
9 regulations, grants, loans, and appropriations.

10 (h) Unless the firm is currently registered as required by § 17-12-401
11 et seq. and all of its offices in this state for the practice of public
12 accounting are currently maintained and registered as required under § 17-12-
13 403, no person shall sign or affix a firm name with any wording indicating
14 that it is a partnership, corporation, or limited liability company composed
15 of accountants or auditors or persons having expert knowledge in accounting
16 or auditing to any opinion or certificate attesting in any way to the
17 reliability of any representation or estimate in regard to any person or
18 organization embracing:

19 (1) Financial information; or

20 (2) Facts respecting compliance with conditions established by
21 law or contract, including, but not limited to, statutes, ordinances,
22 regulations, grants, loans, and appropriations.

23 (i)(1) No person not currently licensed pursuant to § 17-12-301 et
24 seq., and no firm not currently licensed pursuant to § 17-12-401 et seq.,
25 shall hold himself or herself or itself out to the public as an "accountant"
26 or "auditor" by use of either or both of such words on any sign, card,
27 electronic transmission, or letterhead, or in any advertisement or directory,
28 without indicating thereon or therein that the person or firm does not hold
29 such a license.

30 (2) This subsection shall not prohibit any officer, employee,
31 partner, or principal of any organization from describing himself or herself
32 by the position, title, or office he or she holds in such an organization,
33 nor shall this subsection prohibit any act of a public official or public
34 employee in the performance of his or her duties as such.

35 (j) No person shall assume or use the title or designation "certified
36 public accountant" or "public accountant" in conjunction with names

1 indicating or implying that there is a partnership, corporation, or limited
2 liability company if there is, in fact, no bona fide partnership,
3 corporation, or limited liability company currently registered under § 17-12-
4 401 or § 17-12-402. A sole proprietor, corporation, or partnership lawfully
5 using the title or designation in conjunction with such names or designations
6 on July 9, 1975, may continue to do so if he or she or it otherwise complies
7 with the provisions of this chapter.

8 (k)(1)(A) A licensee shall not for a commission recommend or refer to
9 a client any product or service, or for a commission recommend or refer any
10 product or service to be supplied by a client, or receive a commission, when
11 the licensee or the licensee's firm also performs for that client:

12 (i) An audit or review of a financial statement;

13 (ii) A compilation of a financial statement when the
14 licensee expects, or reasonably might expect, that a third party will use the
15 financial statement and the licensee's compilation report does not disclose a
16 lack of independence; or

17 (iii) An examination of prospective financial
18 information.

19 (B) This prohibition applies during the period in which
20 the licensee is engaged to perform any of the services listed in subdivision
21 (k)(1)(A) of this section and the period covered by any historical financial
22 statements involved in such listed services.

23 (2) A licensee who is not prohibited by this section from
24 performing services for or receiving a commission and who is paid or expects
25 to be paid a commission shall disclose that fact to any person or entity to
26 whom the licensee recommends or refers a product for service to which the
27 commission relates.

28 (3) Any licensee who accepts a referral fee for recommending or
29 referring any service of a licensee to any person or entity or who pays a
30 referral fee to obtain a client shall disclose such acceptance or payment to
31 the client.

32 (1)(1) A licensee shall not:

33 (A) Perform for a contingent fee any professional services
34 for or receive such a fee from a client for whom the licensee or the
35 licensee's firm performs:

36 (i) An audit or review of a financial statement;

1 (ii) A compilation of a financial statement when the
2 licensee expects, or reasonably might expect, that a third party will use the
3 financial statement and the licensee's compilation report does not disclose a
4 lack of independence; or

5 (iii) An examination of prospective financial
6 information; or

7 (B) Prepare an original or amended tax return or claim for
8 a tax refund for a contingent fee for any client.

9 (2) The prohibition in subdivision (1)(1) of this section
10 applies during the period in which the licensee is engaged to perform any of
11 the services listed in subdivision (1)(1) of this section and the period
12 covered by any historical financial statements involved in any such listed
13 services.

14 (3)(A) Except as stated in subdivision (1)(3)(B) of this
15 section, a contingent fee is a fee established for the performance of any
16 service pursuant to an arrangement in which no fee will be charged unless a
17 specified finding or result is attained, or in which the amount of the fee is
18 otherwise dependent upon the finding or result of ~~such a~~ the service.

19 (B) Solely for purposes of this section, fees are not
20 regarded as being contingent if fixed by courts or other public authorities
21 or, in tax matters, if determined based on the results of judicial
22 proceedings or the findings of governmental agencies.

23 (C) A licensee's fees may vary depending, for example, on
24 the complexity of services rendered.

25
26 SECTION 4. Arkansas Code § 17-12-109 is amended to read as follows:

27 17-12-109. ~~Ownership of accountants'~~ Accountants' working papers.

28 (a) All statements, records, schedules, working papers, and memoranda
29 made by a certified public accountant or public accountant incident to or in
30 the course of professional service to clients by the accountant, except
31 reports submitted by a certified public accountant or public accountant to a
32 client, shall be and remain the property of the accountant in the absence of
33 an express agreement between the accountant and the client to the contrary.

34 (b) No statement, record, schedule, working paper, or memorandum shall
35 be sold, transferred, or bequeathed without the consent of the client or his
36 or her personal representative or assignee to anyone other than one (1) or

1 more surviving partners or new partners of the accountant or to his or her
2 corporation or limited liability company.

3 (c) Each licensee shall retain working papers for a period of time
4 specified by the Arkansas State Board of Public Accountancy.

5
6 SECTION 5. Arkansas Code § 17-12-203 is amended to read as follows:
7 17-12-203. Duties and powers.

8 (a) The Arkansas State Board of Public Accountancy may adopt, and
9 amend from time to time, regulations for the orderly conduct of its affairs
10 and for the administration of this chapter.

11 (b) The board shall ~~have printed and published for public distribution~~
12 a biennial prepare periodically and make available in a media or medium
13 deemed appropriate by the board a register which shall contain the names,
14 arranged alphabetically by classifications, of all practitioners currently
15 licensed to practice under this chapter, the names of the members of the
16 board, and any other matters as may be deemed proper by the board. ~~Copies of~~
17 ~~the registers shall be mailed to each licensee.~~ The board may employ
18 personnel and arrange for assistance as it may require for the performance of
19 its duties.

20 (c)(1) The board may promulgate and amend rules of professional
21 conduct appropriate to establish and maintain a high standard of integrity
22 and dignity in the profession of public accountancy.

23 (2) At least three (3) months prior to the promulgation of ~~any~~
24 ~~such a~~ rule or amendment to its rules of professional conduct, the board
25 shall mail copies of the proposed rule or amendment to each licensee with a
26 notice advising him or her of the proposed effective date of the rule or
27 amendment and requesting that he or she submit his or her comments thereon at
28 least fifteen (15) days prior to its effective date.

29 (3) ~~Such comments~~ Comments shall be advisory only.

30 (4) Failure to mail the rule, amendment, or notice to all
31 licensees shall not affect the validity of the rule or amendment.

32 (d) The board may issue any further regulations, including, but not
33 limited to, rules of professional conduct pertaining to licensees practicing
34 public accounting which it deems consistent with or required by the public
35 welfare. Among other things, the board may prescribe regulations for
36 licensees:

- 1 (1) Governing their style, name, and title;
- 2 (2) Governing their affiliation with any other organization; and
- 3 (3) Establishing reasonable standards with respect to
- 4 professional liability insurance, and capital requirements.

5
 6 SECTION 6. Arkansas Code § 17-12-301 is amended to read as follows:
 7 17-12-301. Requirements generally.

8 (a) A certificate as a certified public accountant shall be granted by
 9 the Arkansas State Board of Public Accountancy to any person of good moral
 10 character:

- 11 (1) Who has met the education and experience requirements set
- 12 forth in this chapter and by the board; and
- 13 (2) Who has passed an examination in accounting and auditing and
- 14 such related subjects as the board shall determine to be appropriate.

15 (b)(1)(A) "Good moral character" for purposes of this section means
 16 lack of a history of:

- 17 (i) ~~dishonest~~ Dishonest or felonious acts; or
- 18 (ii) ~~conduct~~ Conduct involving fraud or moral
- 19 turpitude.

20 (B) The board may refuse to grant a certificate on the
 21 ground of failure to satisfy this requirement only if there is a substantial
 22 connection between the lack of good moral character of the applicant and the
 23 professional responsibilities of a licensee, and if the finding by the board
 24 of lack of good moral character is supported by clear and convincing
 25 evidence.

26 (2) When an applicant is found to be unqualified for a
 27 certificate because of a lack of good moral character, the board shall
 28 furnish the applicant a statement containing the findings of the board, a
 29 complete record of the evidence upon which the determination was based, and a
 30 notice of the applicant's right of appeal.

31 (c) Any person who has received from the board a certificate as a
 32 certified public accountant which is currently in full force and effect shall
 33 be styled and known as a "certified public accountant" and may also use the
 34 abbreviation "CPA". The board shall maintain a list of certified public
 35 accountants. Any certified public accountant may also be known as a public
 36 accountant.

1
2 SECTION 7. Arkansas Code § 17-12-303 is amended to read as follows:

3 ~~17-12-303. Examination—Eligibility.~~

4 ~~(a) An applicant who has met the education requirement, or who expects~~
5 ~~to meet it during the school term, either quarter or semester, at the~~
6 ~~institution in which the applicant is enrolled and which includes the sitting~~
7 ~~date of the examination, or with respect to whom it does not apply or has~~
8 ~~been waived, shall be eligible to take the examination required by § 17-12-~~
9 ~~301(a)(2) if the applicant is of good moral character.~~

10 ~~(b) In the case of any applicant admitted to the examination on the~~
11 ~~expectation that he or she will complete his or her education requirement~~
12 ~~within the applicant's school term, either quarter or semester, including the~~
13 ~~sitting date of the examination, no certificate shall be issued nor shall~~
14 ~~credit for the examination or any part of it be given, unless the requirement~~
15 ~~is in fact completed within that time or within such time as the Arkansas~~
16 ~~State Board of Public Accountancy in its discretion may determine upon~~
17 ~~application.~~

18
19 17-12-303 Criminal background check.

20 (a) The Arkansas State Board of Public Accountancy may require each
21 applicant for a new or reinstated license as a certified public accountant,
22 including reciprocity applicants, or public accountant to apply for or
23 authorize the board to obtain state and national criminal background checks
24 to be conducted by the Identification Bureau of the Department of Arkansas
25 State Police and Federal Bureau of Investigation.

26 (b) The criminal background checks shall conform to the applicable
27 federal standards and shall include the taking of fingerprints.

28 (c) The applicant shall authorize the release of the criminal
29 background checks to the board and shall be responsible for the payment of
30 any fee associated with the criminal background check.

31 (d) Upon completion of the criminal background check, the
32 Identification Bureau of the Department of Arkansas State Police shall
33 forward to the board all information obtained concerning the commission by
34 the applicant of any offense listed in subsection (e) of this section.

35 (e) Notwithstanding the provisions of § 17-12-301, a person convicted
36 of a felony or crime involving moral turpitude or dishonesty in any state or

1 federal court may not receive or hold a license as a certified public
2 accountant or public accountant.

3 (f)(1) The provisions of subsection (e) of this section may be waived
4 by the board upon the request of:

5 (A) An affected applicant for licensure or registration;
6 or

7 (B) The person holding a license or registration subject
8 to revocation.

9 (2) Circumstances for which a waiver may be granted shall
10 include, but not be limited to:

11 (A) The age at which the crime was committed;

12 (B) The circumstances surrounding the crime;

13 (C) The length of time since the crime;

14 (D) Subsequent work history;

15 (E) Employment references;

16 (F) Character references;

17 (G) A conviction or record that has been expunged; and

18 (H) Other evidence demonstrating that the applicant does
19 not pose a threat to the public health, safety, or welfare.

20 (g)(1) Any information received by the board from the Identification
21 Bureau of the Department of Arkansas State Police under this section is not
22 available for examination except by:

23 (A) The affected applicant or the applicant's authorized
24 representative; or

25 (B) The person whose license or registration is subject to
26 revocation or his or her authorized representative.

27 (2) No record, file, or document shall be removed from the
28 custody of the Department of Arkansas State Police.

29 (3) Only information pertaining to the person making the request
30 may be made available to the affected applicant or the person whose license
31 or registration is subject to revocation.

32 (4) Rights of privilege and confidentiality established in this
33 section shall not extend to any document created for purposes other than the
34 criminal background check.

35 (h) The board shall adopt rules and regulations to implement the
36 provisions of this section.

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SECTION 8. Arkansas Code § 17-12-304 is amended to read as follows:
17-12-304. Examination - Times - Resource assistance.

(a) The examination required by § 17-12-301(a)(2) shall be held by the Arkansas State Board of Public Accountancy and shall take place as often as the board shall determine to be desirable. However, the examination required by § 17-12-301(a)(2) shall be held not less frequently than once each year.

(b) The board may make use of all or any part of the ~~Uniform-Certified~~ Public Accountant's Examination and Advisory Grading Services as it deems appropriate to assist it in performing its duties hereunder.

SECTION 9. Arkansas Code § 17-12-307 is amended to read as follows:
17-12-307. ~~Out-of-state examination~~ Credit for examination

administered by licensing authority in another jurisdiction.

The Arkansas State Board of Public Accountancy may by regulation provide for granting a credit to an applicant for his or ~~hersatisfactory~~ her satisfactory completion of an examination in any one (1) or more of the subjects specified in § 17-12-301(a)(2) given by the licensing authority in any other state. The regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any credit shall be, in the judgment of the board, at least as thorough as the most recent examination given by the board at the time of the granting of the credit.

SECTION 10. Arkansas Code § 17-12-309 is amended to read as follows:
17-12-309. Experience.

(a) An applicant for initial issuance of a certificate under this subchapter shall show that the applicant has had one (1) year of experience.

(b) ~~This~~ The experience shall include providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills all of which were verified by a licensee, meeting requirements prescribed by the Arkansas State Board of Public Accountancy by rule.

(c) ~~This~~ The experience will be acceptable if it was gained through employment in government, industry, academia, or public practice.

1 SECTION 11. Arkansas Code Title 17, Chapter 12, Subchapter 3 is
2 amended to add an additional section to read as follows:

3 17-12-313. Time for Initial License.

4 An applicant shall obtain an initial license within three (3) years of
5 successful completion of the examination under this subchapter or shall be
6 considered as having a void license under § 17-12-504(h).

7
8 SECTION 12. Arkansas Code § 17-12-401, concerning professional
9 partnerships, corporations, and limited liability companies of certified
10 public accountants, is amended to add an additional subsection to read as
11 follows:

12 (i)(1)(A) Any partnership, corporation, or limited liability company
13 licensed to practice public accountancy by another state, which is in good
14 standing and is determined to be in substantial compliance with the
15 AICPA/NASBA Uniform Accountancy Act but does not have at least one (1)
16 general partner, shareholder, or member who is a certified public accountant
17 of this state in good standing, may apply for registration under this section
18 contemporaneously with an application by a general partner, shareholder, or
19 member to be licensed as a certified public accountant in this state.

20 (B) The application for registration of the firm shall be
21 upon the affidavit of the applicant to be licensed as a certified public
22 accountant of this state.

23 (2)(A) Upon review and a preliminary determination that the
24 applicant qualifies for registration as a certified public accountant firm
25 under this section, except that the firm does not have at least one (1)
26 general partner, shareholder, or member who is a certified public accountant
27 of this state, the board shall notify the applicant in writing of receipt of
28 its application and that the applicant shall have the privilege to practice
29 public accountancy in this state for a period of ninety (90) days in order to
30 permit the general partner, shareholder, or member to complete the
31 application process.

32 (B) The board may extend the ninety-day practice privilege
33 period for one (1) additional thirty-day period upon the applicant's written
34 request and demonstration that the failure of the general partner,
35 shareholder, or member to complete the application process is beyond the
36 control of the applicant firm and certified public accountant.

1 (3) The fees paid to apply for registration of the applicant
2 firm and licensure of the general partner, shareholder, or member for
3 registration shall not be refundable.

4 (4) While exercising the practice privilege during the
5 application process, each applicant shall comply with this chapter and board
6 rules, and each applicant firm, general partner, shareholder, and member
7 shall be subject to the provisions of § 17-12-601 et seq.

8
9 SECTION 13. Arkansas Code § 17-12-502(a), concerning continuing
10 education requirements, is amended to read as follows:

11 (a) Every application for renewal of a license by any person who holds
12 a certificate as a certified public accountant or registration as a public
13 accountant shall be accompanied or supported by such evidence as the Arkansas
14 State Board of Public Accountancy shall prescribe, documenting completion of
15 forty (40) hours of acceptable continuing education, approved by the board,
16 during the twelve-month period immediately preceding the expiration date of
17 ~~application~~ the license, or one hundred twenty (120) hours of acceptable
18 continuing education approved by the board, during the thirty-six-month
19 period immediately preceding the expiration date of the ~~application~~ license.

20
21 SECTION 14. Arkansas Code § 17-12-504 is amended to read as follows:
22 17-12-504. ~~Renewal fee.~~ Renewals and renewal fees.

23 (a)(1) Individual certified public accountants and public accountants
24 shall pay an annual fee in an amount to be determined by Arkansas State Board
25 of Public Accountancy rule.

26 (2) ~~All~~ Unless otherwise provided by board rule, all licenses
27 shall expire on December 31 of each year and may be renewed annually for a
28 period of one (1) year by ~~certificate holders and registrants~~ current
29 licensees in good standing upon payment of the annual renewal fee.

30 (b)(1) A firm registered with the board shall pay an annual
31 registration fee in an amount to be determined by board rule.

32 (2) ~~All~~ Unless otherwise provided by board rule, all firm
33 registrations shall expire on December 31 of each year and may be renewed
34 annually for a period of one (1) year by registrants in good standing upon
35 payment of the annual renewal fee.

36 (c) The board may establish a reduced renewal fee for any licensee who

1 has attained a specified age and has met all other qualifications determined
2 by the board.

3 (d)(1) A licensee may choose not to renew a license by notifying the
4 board in writing prior to the expiration date of the license.

5 (2) The licensee shall surrender the license to the board
6 immediately upon its expiration or otherwise comply with board rules
7 concerning the disposition of the license.

8 (e) A licensee who complies with the requirements of subsection (d) of
9 this section may apply to renew or reinstate his or license or to receive a
10 new license as provided in this section.

11 (f)(1) Beginning the first day of the first month after expiration,
12 each licensee shall pay a monthly penalty for the late renewal of a license
13 or registration in an amount determined by the board.

14 (2) If the license or registration is not renewed by the first
15 day of the fourth month after expiration the license or registration shall
16 lapse.

17 (g)(1) Upon application received within three (3) years following the
18 expiration of a license, the board may reinstate a lapsed license.

19 (2) A license may be reinstated if the applicant:

20 (A) Pays a reinstatement fee determined by the board; and

21 (B) Complies with continuing professional education and
22 any other requirements applicable to:

23 (i) The renewal of the license at the date of its
24 expiration; and

25 (ii) The reinstatement of the license at the date of
26 the application for reinstatement.

27 (h)(1) Any license or registration that is not reinstated within three
28 (3) years following expiration shall be void and shall not be subject to
29 renewal or reinstatement.

30 (2) The holder of a void license or registration may apply for a
31 new license or registration under § 17-12-301 et seq. or § 17-21-401 et seq.

32 (3) The board may require the applicant to comply with
33 educational or other requirements deemed appropriate by the board, including
34 successful completion of the examination identified in § 17-12-304 in order
35 to obtain a new license.

36 (i)(1) Any license that has expired but has not been suspended or

1 revoked by the board under § 17-12-601(a)(8) prior to the effective date of
2 this act shall be considered lapsed and may be reinstated under subsection
3 (g) of this section upon application received by the board within one (1)
4 year following the effective date of this act.

5 (2)(A) If not reinstated under this subsection, the expired
6 license shall not be subject to renewal or reinstatement.

7 (B) The holder of the expired license may apply for a new
8 license or registration under subsection (h) of this section.

9 (j) Any licensee who fails to timely renew his or her license to
10 practice shall not perform attest services as defined in § 17-12-103(a)(2)
11 until he or she has obtained a license to practice under this subsection.

12
13 SECTION 15. Arkansas Code § 17-12-506 is repealed.

14 ~~17-12-506. Reinstatement.~~

15 ~~(a) Unless in its discretion the Arkansas State Board of Public~~
16 ~~Accountancy determines the failure to have been due to reasonable cause, the~~
17 ~~board shall deprive a certified public accountant or public accountant of the~~
18 ~~right to apply for renewal of a license in the event a certified public~~
19 ~~accountant or public accountant shall fail to apply for renewal of a license~~
20 ~~or to be placed on inactive status within one (1) year from the expiration~~
21 ~~date of the license last obtained or renewed pursuant to § 17-12-501.~~

22 ~~(b) If the board determines the failure to have been due to reasonable~~
23 ~~cause, in its discretion, the board may impose a reinstatement fee not to~~
24 ~~exceed one hundred dollars (\$100) plus the total annual renewal fees which~~
25 ~~the certified public accountant or public accountant would have paid under §~~
26 ~~17-12-504 during the period when neither a license nor inactive status was~~
27 ~~maintained.~~

28
29 SECTION 16. Arkansas Code § 17-12-507 is amended to read as follows:

30 17-12-507. Quality review of each practice unit.

31 (a) The Arkansas State Board of Public Accountancy may by rule require
32 as a condition for the renewal of a license a quality review of each practice
33 unit maintained in this state.

34 (b)(1) The board may charge the accountant or firm reviewed a fee for
35 each:

36 (A) Quality review of each practice unit; and

1 (B) Follow-up action to a quality review that is not in
2 conformity with applicable professional standards.

3 (2) The amount of the fee shall be established by board rule.

4 (c) The quality review shall consist of either a uniform or random
5 annual submission by each practice unit of the following kinds of reports
6 issued by that practice unit during the twelve-month period immediately
7 preceding the date of submission, if reports were issued during the period:

8 (1) A compilation report;

9 (2) A review report;

10 (3) An audit report;

11 (4) An audit report under a federal grant program or other
12 government program; and

13 (5) An examination of prospective financial information.

14 ~~(b)~~(d) All persons acting on behalf of the board in a quality review
15 program under this section shall be considered officers or employees of the
16 State of Arkansas for purposes of:

17 (1) Immunity from civil liability pursuant to § 19-10-301 et
18 seq.; and

19 (2) Payment of actual damages on behalf of state officers or
20 employees pursuant to § 21-9-201 et seq.

21 ~~(e)~~(e) All financial statements, working papers, or other documents
22 obtained from applicants for quality review shall be confidential and shall
23 not be subject to public inspection except pursuant to an order of a court of
24 competent jurisdiction. However, the documents may be introduced as evidence
25 in any relevant proceedings before the board.

26 ~~(d)~~(f) For purposes of this section, a "practice unit" shall be deemed
27 to be any firm registered with the board under § 17-12-401 et seq., and any
28 licensee not employed by or associated with any firm registered with the
29 board under § 17-12-401 et seq. but who has issued one or more compilation
30 reports.

31 (g)(1) Notwithstanding any provision to the contrary in this chapter,
32 a certified public accountant, public accountant, or firm of certified public
33 accountants or public accountants currently licensed by another state or
34 foreign country shall not be required to obtain a license under this chapter
35 for the sole purpose of conducting peer review as defined by board rule of a
36 licensee in this state and may use the applicable title "certified public

1 accountant” or “public accountant” or abbreviation “CPA” or “PA” solely in
2 conjunction with the peer review activities.

3 (2) Any certified public accountant, public accountant, or firm
4 of certified public accountants or public accountants, whether licensed in
5 this state or in another jurisdiction, shall meet standards adopted by the
6 board to accomplish the goals of this chapter in order to qualify to perform
7 peer review of licensees under this chapter.

8
9 SECTION 17. Arkansas Code § 17-12-601 is amended to read as follows:
10 17-12-601. Grounds generally.

11 ~~(a) After notice and hearing as provided in § 17-12-603, the Arkansas~~
12 ~~State Board of Public Accountancy may revoke, suspend, or refuse to renew for~~
13 ~~such period as the board may determine any certificate, license, or practice~~
14 ~~privilege issued or granted under § 17-12-301 et seq. or § 17-12-401 et seq.,~~
15 ~~assess a fine not to exceed one thousand dollars (\$1,000) per violation, or~~
16 ~~reprimand, censure, or limit the scope of practice of the holder of any such~~
17 ~~certificate, license, or practice privilege for any one (1) or any~~
18 ~~combination of the following causes:~~

19 ~~(1) Fraud or deceit in obtaining a certificate or registration~~
20 ~~as a certified public accountant or public accountant or in the registration~~
21 ~~of a firm under this chapter;~~

22 ~~(2) Dishonesty, fraud, or gross negligence in the practice of~~
23 ~~public accounting;~~

24 ~~(3) Violation of any of the provisions of § 17-12-106;~~

25 ~~(4) Violation of a rule of professional conduct promulgated by~~
26 ~~the board under the authority granted by this chapter;~~

27 ~~(5) Conviction of a felony under the laws of any state or of the~~
28 ~~United States;~~

29 ~~(6) Conviction of any crime, an element of which is dishonesty~~
30 ~~or fraud, under the laws of any state or of the United States;~~

31 ~~(7) Cancellation, revocation, suspension, or refusal to renew~~
32 ~~authority to practice as a certified public accountant or a public accountant~~
33 ~~by any other state for any cause other than failure to pay an annual~~
34 ~~registration fee in the other state;~~

35 ~~(8) Failure of a licensee to register annually under § 17-12-501~~
36 ~~et seq. within either;~~

1 ~~(A) Three (3) years from the expiration date of the~~
2 ~~license or registration renewal last obtained or renewed by the certificate~~
3 ~~holder or registrant; or~~

4 ~~(B) Three (3) years from the date upon which the holder or~~
5 ~~registrant was granted his or her certificate or registration, if no license~~
6 ~~or registration renewal was ever issued to him or her, unless under § 17-12-~~
7 ~~506 the failure shall have been excused by the board pursuant to the~~
8 ~~provisions of § 17-12-506; or~~

9 ~~(9) Conduct discreditable to the public accounting profession.~~

10 ~~(b) In lieu of or in addition to any remedy specifically provided in~~
11 ~~subsection (a) of this section, the board may require of a permit holder any~~
12 ~~or all of the following:~~

13 ~~(1) A quality review conducted in such manner as the board may~~
14 ~~specify; and~~

15 ~~(2) A satisfactory completion of such continuing education~~
16 ~~programs as the board may specify.~~

17 ~~(c) In any proceeding in which a remedy provided by subsections (a) or~~
18 ~~(b) of this section is imposed, the board may also require the respondent to~~
19 ~~pay the costs of the proceeding.~~

20 (a) The following acts, conduct, or practices are prohibited, and any
21 licensee or holder of a practice privilege found guilty by the Arkansas State
22 Board of Public Accountancy of the acts, conducts, or practices shall be
23 subject to, after notice and hearing as provided in § 17-12-603, disciplinary
24 action as provided in § 17-12-602:

25 (1) Fraud, dishonesty, or deceit in obtaining or attempting to
26 obtain a certificate or registration as a certified public accountant or
27 public accountant, registration of a firm, or a practice privilege under this
28 chapter;

29 (2) Dishonesty, fraud, or gross negligence in the practice of
30 public accountancy;

31 (3) Violation of any of the provisions of this chapter;

32 (4) Violation of a rule of professional conduct or other rule
33 promulgated by the board under the authority granted by this chapter;

34 (5) Conviction of a felony under the law of any state or of the
35 United States;

36 (6) Conviction of any crime, an element of which is dishonesty,

1 fraud, or moral turpitude under the law of any state or of the United States;

2 (7) Imposition of any sanction or disciplinary action, other
 3 than for failure to pay annual fees, by the Securities and Exchange
 4 Commission, Public Company Accounting Oversight Board, Internal Revenue
 5 Service, or other federal or state agency or foreign authority or
 6 credentialing body that regulates public accounting regarding the licensee's
 7 conduct while rendering public accounting or other professional services;

8 (8) Conduct discreditable to the public accounting profession;
 9 and

10 (9) Violation of any board order or agreement for the resolution
 11 of asserted violations of this chapter, a board rule of professional conduct,
 12 or other board rule.

13 (b) The board may deny an application for a license, registration,
 14 certificate, or practice privilege if it finds the applicant committed any of
 15 the acts, conduct, or practices prohibited by subsection (a) of this section.

16
 17 SECTION 18. Arkansas Code § 17-12-602 is amended to read as follows:

18 ~~17-12-602. Grounds for firms.~~

19 ~~(a) After notice and hearing as provided in § 17-12-603, the Arkansas~~
 20 ~~State Board of Public Accountancy shall revoke the registration of a firm if~~
 21 ~~at any time it does not have all the qualifications prescribed by the section~~
 22 ~~of this chapter under which it qualified for registration.~~

23 ~~(b) After notice and hearing as provided in § 17-12-603, the board may~~
 24 ~~revoke or suspend the registration of a firm or may censure the holder of a~~
 25 ~~firm registration for any of the causes enumerated in § 17-12-601 or for any~~
 26 ~~of the following additional causes:~~

27 ~~(1) The revocation or suspension of the certificate or~~
 28 ~~registration or the revocation or suspension or refusal to renew the license~~
 29 ~~of any partner, shareholder, or member; or~~

30 ~~(2) The cancellation, revocation, suspension, or refusal to~~
 31 ~~renew the authority of the firm or any partner, shareholder or member thereof~~
 32 ~~to practice public accounting in any other state for any cause other than~~
 33 ~~failure to pay an annual registration fee in the other state.~~

34
 35 17-12-602. Sanctions.

36 (a) If a licensee or holder of a practice privilege under § 17-12-

1 401(i) is found to have committed any action or omission identified in § 17-
2 12-601, the Arkansas State Board of Public Accountancy may impose any one (1)
3 or more of the following sanctions:

4 (1) Suspension, revocation, or denial of his or her license or
5 practice privilege or the renewal thereof;

6 (2) A penalty not to exceed one thousand dollars (\$1,000) for
7 each violation;

8 (3) Completion of appropriate education programs or courses;

9 (4) Preissuance review of audits, review reports, or
10 compilations;

11 (5) Quality review conducted in such manner as the board may
12 specify;

13 (6) Successful completion of the licensing examination;

14 (7) Conditions or restrictions upon the license, registration,
15 or practice privilege; and

16 (8) Any other requirements or penalties the board finds
17 appropriate to the circumstances of the case and which would achieve the
18 desired disciplinary purposes, but which would not impair the public welfare
19 and morals.

20 (b) In any proceeding in which the board finds that the licensee or
21 holder of a practice privilege has committed any action or omission
22 identified in § 17-12-601, the board may also require the licensee to pay the
23 cost of the proceeding.

24 (c) Each instance when a federal or state law or any board rule is
25 violated shall constitute a separate violation.

26 (d) Upon imposition of a sanction, the board may order that the
27 license, permit, certificate, credential, registration, or practice privilege
28 be suspended until its holder has complied in full with all applicable
29 sanctions imposed under this section.

30 (e)(1) The power and authority of the board to impose sanctions
31 authorized in this section are independent of and in addition to any other
32 civil or criminal proceeding concerning the same violation.

33 (2) The imposition of a penalty does not preclude the board from
34 imposing other sanctions short of revocation.

35 (f) The board is authorized to file suit in either the Pulaski County
36 Circuit Court or the circuit court of any county in which the defendant

1 resides or does business to collect any monetary penalty assessed under this
2 chapter if the penalty is not paid within the time prescribed by the board.

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/s/ Harris

APPROVED: 2/1/2005

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