

1 State of Arkansas
2 89th General Assembly
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4

A Bill

HOUSE BILL 1122

5 By: Representative Hillman
6 By: Senator R. Thompson
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE REGULATION OF PUBLIC
10 ACCOUNTANTS; AND FOR OTHER PURPOSES.
11

Subtitle

12 CONCERNING THE REGULATION OF PUBLIC
13 ACCOUNTANTS.
14

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

20 SECTION 1. Arkansas Code § 17-12-103(a)(6)-(20), concerning
21 definitions for certified public accountants, is amended to read as follows:

22 (6) "Compilation" means providing a service to be performed in
23 accordance with "Statements on Standards for Accounting and Review Services"
24 and presenting in the form of financial statements information that is the
25 representation of management ~~and/or~~ or owners without undertaking to express
26 any assurance on the financial statements;

27 (7) "Conviction" means all instances in a criminal case in which
28 a defendant has been found guilty or pleads guilty or nolo contendere
29 regardless of whether:

30 (A) Sentencing or imposition of sentencing has been
31 deferred or suspended; or

32 (B) The adjudication of guilt or the sentence is withheld
33 by the court;

34 (8) "Firm" means a partnership, corporation, limited liability
35 company, sole proprietorship, or other entity required to be registered with
36 the board under ~~the provisions of~~ § 17-12-401 et seq.;



1 (9) "Home office" means the location specified by the client as
 2 the address to which a service under § 17-12-311 is directed;

3 ~~(9)~~(10) "License" means a certificate issued under § 17-12-301
 4 or a registration under § 17-12-312 or § 17-12-401 et seq. or, in each case,
 5 a certificate or permit issued or a registration under corresponding
 6 provisions of prior law;

7 ~~(10)~~(11) "Licensee" means the holder of a license as defined in
 8 this section;

9 ~~(11)~~(12) "Member" means either:

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

12 (B) The beneficial owner of membership interests of a
 13 revocable living trust ~~where~~ when the membership interests are registered in
 14 the records of the limited liability company in the name of the revocable
 15 living trust;

16 ~~(12)~~(13) "NASBA" means the National Association of State Boards
 17 of Accountancy, or its successor;

18 ~~(13)~~(14) "PCAOB" means the Public Company Accounting Oversight
 19 Board, or its successor;

20 ~~(14)~~(15) "Practice of public accounting" means the performance
 21 of attest services as defined in this section or the performance of
 22 professional services ~~while using the title or designation certified public~~
 23 ~~accountant, public accountant, CPA, PA, accountant, or auditor;~~

24 (16)(A)(i) "Principal place of business" means the primary
 25 location from which professional services are performed.

26 (ii) A person or firm may have only one (1)
 27 principal place of business at any one (1) time.

28 (B) An individual who perform professional services at
 29 multiple locations may designate the location that most often serves as the
 30 individual's home base of operations as a principal place of business;

31 ~~(15)~~(17) "Professional services" means services arising out of
 32 or related to the specialized knowledge or skills performed by certified
 33 public accountants or public accountants;

34 ~~(16)~~(18) "Shareholder" means either:

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

1 (B) The beneficial owner of shares of a revocable living
 2 trust ~~where~~ when the shares are registered in the records of the corporation
 3 in the name of the revocable living trust; and

4 ~~(17)~~(19) "State" means any state, territory, or insular
 5 possession of the United States or the District of Columbia.

6
 7 SECTION 2. Arkansas Code § 17-12-104 is amended to read as follows:
 8 17-12-104. Penalty.

9 (a)(1) ~~Any~~ A person who violates any provision of § 17-12-106 ~~shall be~~
 10 is guilty of a misdemeanor;

11 ~~(2) and upon conviction~~ A person convicted of violating any
 12 provision of § 17-12-106 shall be is subject to:

13 (A) a fine of not more than ~~five hundred dollars (\$500)~~
 14 one thousand dollars (\$1,000);

15 (B) A judgment in favor of the Arkansas State Board of
 16 Public Accountancy for investigative costs; or

17 (C) to imprisonment ~~to imprisonment~~ for not more than one (1)
 18 year, ~~or to both fine and imprisonment~~ for each violation.

19 ~~(2)~~(3) Each violation of § 17-12-106 ~~shall constitute~~
 20 constitutes a separate offense.

21 (b) ~~Whenever~~ When the ~~Arkansas State Board of Public Accountancy board~~
 22 has reason to believe that ~~any~~ a person is subject to punishment under this
 23 section, the board may certify the facts to the Attorney General or other
 24 appropriate enforcement officer, who, ~~in his or her discretion,~~ may cause
 25 appropriate proceedings to be brought.

26
 27 SECTION 3. Arkansas Code § 17-12-106(e), concerning unlawful and
 28 misleading designations, is amended to add additional subdivisions to read as
 29 follows:

30 (4)(A) A person or firm shall not use a professional or firm
 31 name or designation that is misleading in reference to the legal form of the
 32 firm, the ownership of the firm, or the firms owners, partners, officers,
 33 members, managers, or shareholders.

34 (B) However, a firm may use the name of one (1) or more
 35 past partners, officers, members, managers, or shareholders in its firm name.

36 (5)(A)(i) A common brand name or initials used by a firm in its

1 name is not misleading if the firm is a network firm.

2 (ii) For purposes of this subsection, "network firm"
 3 means an association of entities that includes one (1) or more firms that:

4 (a) Cooperate to enhance the firms' ability to
 5 provide professional services; and

6 (b) Share one (1) or more of the following:

7 (1) Common control as defined by
 8 generally accepted accounting principles in the United States through
 9 ownership, management, or other means;

10 (2) Profits or costs, excluding costs of
 11 operating the association, developing audit methodologies, manuals, and
 12 training courses, or other costs that are immaterial to the firm;

13 (3) A common business strategy,
 14 established by the association, that involves ongoing collaboration among the
 15 firms and whereby the firms are responsible for implementing the strategy and
 16 are held accountable for their performance under it;

17 (4) Significant part of professional
 18 resources; and

19 (5) Common quality control policies and
 20 procedures that the firms are required to implement and are monitored by the
 21 association.

22 (B) A network firm may consist of a subset of entities
 23 within an association only if that subset of entities cooperates and shares
 24 one (1) or more of the characteristics in subdivision (5)(A)(ii) of this
 25 section.

26 (C) A firm shall comply with the applicable standards on
 27 independence if it offers or renders services that require independence.

28
 29 SECTION 4. Arkansas Code § 17-12-203, concerning the duties and powers
 30 of the Arkansas State Board of Public Accountancy, is amended to add
 31 additional subsections to read as follows:

32 (e) The Arkansas State Board of Public Accountancy may:

33 (1) Adopt rules, not inconsistent with this subchapter, as
 34 necessary and proper to carry out the purposes and intentions of this
 35 subchapter;

36 (2)(A) Issue subpoenas to compel the attendance of witnesses and

1 the production of documents.

2 (B) In case of refusal to obey a subpoena issued to any
 3 person, the Pulaski County Circuit Court, upon application by the Arkansas
 4 State Board of Public Accountancy, may issue an order requiring the person to
 5 appear before the Arkansas State Board of Public Accountancy to produce
 6 documentary evidence if so ordered or to give evidence touching the matter
 7 under investigation or in question.

8 (C) Failure to obey the order of the court may be punished
 9 by the court as a contempt of court;

10 (3) Administer oaths;

11 (4) Take testimony and receive evidence; and

12 (5) Cooperate with the following:

13 (A) Public Company Accounting Oversight Board; and

14 (B) The appropriate state, federal, or foreign regulatory
 15 authorities having jurisdiction over the professional conduct in question.

16 (f)(1) The Arkansas State Board of Public Accountancy and its agents
 17 are immune from personal liability for actions taken in good faith in the
 18 discharge of the board's responsibilities.

19 (2) The state shall hold the Arkansas State Board of Public
 20 Accountancy, its members, and its agents harmless from all costs, damages,
 21 and attorney's fees arising from claims and suits against them with respect
 22 to matters to which the immunity applies.

23
 24 SECTION 5. Arkansas Code § 17-12-304(b), concerning examination
 25 requirements, is amended to read as follows:

26 (b) The board may ~~make use of all or~~ use any part of the Uniform
 27 Certified Public Accountant's Accountant Examination and Advisory Grading
 28 Services Service from the American Institute of Certified Public Accountants
 29 as it deems appropriate to assist it in performing its duties under this
 30 section.

31
 32 SECTION 6. Arkansas Code § 17-12-504(i), concerning expired licenses,
 33 is repealed.

34 ~~(i)(1) Any license that has expired but has not been suspended or~~
 35 ~~revoked by the board under § 17-12-601(a)(8) prior to August 12, 2005, shall~~
 36 ~~be considered lapsed and may be reinstated under subsection (g) of this~~

1 section upon application received by the board within one (1) year following
 2 August 12, 2005.

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

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

7
 8 SECTION 7. Arkansas Code 17-12-507(c), concerning the quality review
 9 of practice, is amended to read as follows:

10 (c)(1) The quality review shall consist of either a uniform or random
 11 annual submission by each ~~practice unit~~ licensee of the following kinds of
 12 reports issued by that ~~practice unit~~ licensee during the twelve-month period
 13 immediately preceding the date of submission, if reports were issued during
 14 the period:

15 ~~(1)(A)~~ A compilation report;

16 ~~(2)(B)~~ A review report;

17 (C) An agreed-upon procedures report;

18 ~~(3)(D)~~ An audit report;

19 ~~(4)(E)~~ An audit report under a federal grant program or
 20 other government program; and

21 ~~(5)(F)~~ An examination of prospective financial
 22 information.

23 (2) If none of the above reports were issued during the twelve
 24 (12) months immediately preceding the date of submission, a licensee is
 25 required to submit reports issued since the date of its last quality review
 26 survey submission.

27
 28 SECTION 8. Arkansas Code 17-12-602(a)(2), concerning sanctions against
 29 public accountants, is amended to read as follows:

30 (2) A penalty not to exceed ~~one thousand dollars (\$1,000)~~ ten
 31 thousand dollars (\$10,000) for each violation as well as investigation costs
 32 incurred by the board;