

Senate Bill 473

By: Senators Seabaugh of the 28th, Balfour of the 9th and Shafer of the 48th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 3 of Title 43 of the Official Code of Georgia Annotated, relating to
2 accountants, so as to increase regulatory protections for consumers of accounting services;
3 to provide definitions; to change a requirement for certification as a certified public
4 accountant; to change the registration requirements of firms of certified public accountants;
5 to provide for substantial equivalency; to provide for certain permissions to use certain titles;
6 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 3 of Title 43 of the Official Code of Georgia Annotated, relating to accountants, is
11 amended by revising Code Section 43-3-2, relating to definitions, as follows:

12 "43-3-2.

13 As used in this chapter, the term:

14 (1) 'Attest' means providing the following financial statement services:

15 (A) Any audit or other engagement to be performed in accordance with the Statements
16 on Auditing Standards (SAS);

17 (B) Any review of a financial statement to be performed in accordance with the
18 Statements on Standards for Accounting and Review Services (SSARS);

19 (C) Any examination of prospective financial information to be performed in
20 accordance with the Statements on Standards for Attestation Engagements (SSAE); and

21 (D) Any engagement to be performed in accordance with the auditing standards of the
22 Public Company Accounting Oversight Board.

23 The standards specified in this paragraph shall be adopted by reference by the board
24 pursuant to rule making and shall be those developed for general application by

recognized national accountancy organizations, such as the American Institute for Certified Public Accountants and the Public Company Accounting Oversight Board.

~~(1)~~(2) 'Board' means the State Board of Accountancy.

(3) 'Compilation' means providing a service to be performed in accordance with the Statements on Standards for Accounting and Review Services that presents information in the form of financial statements that are the representation of management or owners without undertaking to express any assurance as to the statements.

~~(2)~~(4) 'Firm' means any person, proprietorship, partnership, corporation, association, or any other legal entity which practices public accountancy.

(5) 'Home office' means the location identified by the client as the address to which a service described in paragraph (4) of subsection (b) of Code Section 43-3-24 is directed.

~~(3)~~(6) 'Live permit' means a permit issued under Code Section 43-3-24 which is in full force and effect.

(7) 'Principal place of business' means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

~~(4)~~(8) 'State' means the District of Columbia and any state other than this state and any territory or insular possession of the United States."

SECTION 2.

Said chapter is further amended by revising subparagraph (a)(3)(B) of Code Section 43-3-6, relating to requirements for certificate of "certified public accountant" and disclosure of commissions for sale of insurance or financial products, as follows:

"(B) ~~Two year's~~ One year of continuous experience in public accountancy immediately preceding the date of application for the certificate or within a reasonable time prior to the date of such application as provided by the board by rule, provided that the board may promulgate rules stating certain circumstances which shall constitute acceptable breaks in the continuity of said experience; and provided, further, that the board may accept, in lieu of ~~both of such years~~ such year of experience in public accounting, evidence satisfactory to it of ~~five years~~ one year of continuous employment in the accounting field in industry, business, government, or college teaching; any combination of the above; or any combination of the above and practice in public accountancy immediately preceding the date of application for the certificate or what the board determines to be the equivalent thereof; and provided, further, that any person certified as a certified public accountant under the laws of this state on July 1, 1977, shall be deemed to have the experience in the practice of public accountancy required by this subparagraph; and"

SECTION 3.

Said title is further amended by revising Code Section 43-3-21, relating to registration requirements for firms of certified public accountants, in its entirety as follows:

"43-3-21.

(a) The board shall grant or renew the registration of a firm practicing public accountancy to firms that meet the following requirements:

(1) Partners, members, or shareholders owning at least a simple majority of the financial interest and voting rights of the firm shall be certified public accountants of some state in good standing, except that such partners, members, or shareholders who are certified public accountants and whose principal place of business is in this state and who perform accounting services in this state must hold a live permit from this state. An individual who has practice privileges under subsection (b) of Code Section 43-3-24 who performs services for which a firm registration is required under paragraph (4) of subsection (b) of Code Section 43-3-24 shall not be required to obtain a certificate or live permit under this chapter;

(2) The firm shall be in compliance with all requirements and provisions of state law governing the organizational form of the firm in the state of the firm's principal place of business;

(3) The firm shall comply with all regulations pertaining to firms registered with the board;

(4) The resident manager of each office of the firm within this state in the practice of public accountancy shall be a certified public accountant of this state in good standing;

(5) Any firms that include nonlicensee owners shall comply with the following rules:

(A) The firm shall designate the holder of a live permit, or in the case of a firm which must register pursuant to subparagraph (b)(1)(C) of this Code section, a licensee of another state who meets the requirements set forth in subsection (b) of Code Section 43-3-24, who shall be responsible for the proper registration of the firm and shall identify that individual to the board;

(B) All nonlicensee owners shall be active individual participants in the firm or affiliated entities; and

(C) The firm shall comply with such other requirements as the board may impose by rule or regulation;

(6) Any holder of a live permit and any individual who qualifies for practice privileges under subsection (b) of Code Section 43-3-24 who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in the professional standards for such services; and

(7) Any holder of a live permit and any individual who qualifies for practice privileges under subsection (b) of Code Section 43-3-24 who signs or authorizes someone to sign the accountants' report on the financial statements on behalf of the firm shall meet the competency requirements of subparagraph (6) of this subsection.

(b)(1) The following firms must register under this Code section:

(A) Any firm with an office in this state practicing public accountancy;

(B) Any firm with an office in this state that uses the title 'CPA' or 'CPA firm'; and

(C) Any firm that does not have an office in this state but performs any service described in subparagraph (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 for a client having its home office in this state.

(2) A firm that does not have an office in this state may perform services described in subparagraph (B) of paragraph (1) or paragraph (3) of Code Section 43-3-2 for a client having its home office in this state, may practice public accountancy as authorized under this Code section, and may use the title 'CPA' or 'CPA firm' without registering as provided in this Code section only if:

(A) It meets the qualifications described in paragraph (1) of subsection (a) of this Code section and it complies with the board's rules and regulations regarding peer review; and

(B) It performs such services through an individual with practice privileges under subsection (b) of Code Section 43-3-24.

(3) A firm that does not have an office in this state and that is not subject to the requirements of subparagraph (C) of paragraph (1) of this subsection or paragraph (2) of this subsection may perform other professional services included in the practice of public accountancy while using the title 'CPA' or 'CPA firm' in this state without registering under this Code section only if:

(A) It performs such services through an individual with practice privileges under subsection (b) of Code Section 43-3-24; and

(B) It can lawfully perform such services in the state where said individuals with practice privileges have their principal place of business.

(c) Each firm required to register under paragraph (1) of subsection (b) of this Code section shall be registered biennially under this chapter with the board, provided that any firm for which such requirement becomes effective between biennial reporting periods shall register with the board within 60 days. Such a firm must show that all attest and compilation services rendered in this state are under the supervision of a person holding a live permit issued by this state or a person with practice privileges under subsection (b) of Code Section 43-3-24. The board, by regulation, shall prescribe the procedure to be

1 followed in effecting such registration and the information which must be provided
2 regarding the firm and its practice.

3 (d) A registered firm shall file written notice to the board, within 60 days after the
4 occurrence of the opening of a new office or the closing or change of address of any of its
5 offices in this state. Each such office shall be under the supervision of a resident manager
6 who may be a partner, principal, shareholder, member, or a staff employee holding a live
7 permit.

8 (e) Neither the denial of a firm registration under this Code section nor the denial of the
9 renewal of a firm registration under Code Section 43-3-23 shall be considered to be a
10 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
11 Procedure Act.' Notice and hearing within the meaning of said Chapter 13 of Title 50 shall
12 not be required, but the applicant shall be allowed to appear before the board if he or she
13 requests."

14 **SECTION 4.**

15 Said chapter is further amended by revising Code Section 43-3-24, relating to issuance
16 permits to practice public accountancy and issuance of temporary permits to nonresidents,
17 as follows:

18 "43-3-24.

19 (a) A permit to engage in the practice of public accountancy in this state shall be issued
20 by the division director, at the direction of the board, to each person who is certificated as
21 a certified public accountant under Code Sections 43-3-6 through 43-3-12 or registered as
22 a foreign accountant under Code Section 43-3-20 who shall have furnished evidence,
23 satisfactory to the board, of compliance with the requirements of Code Section 43-3-25,
24 and to individuals and firms registered under Code Section 43-3-21, provided that such
25 entities are maintained and registered as required under Code Sections 43-3-21 and
26 43-3-23. There shall be a biennial permit fee in an amount to be determined by the board.

27 ~~(b) For the purpose of enabling persons or firms licensed in other states to perform specific~~
28 ~~professional engagements involving the practice of public accounting in this state, the~~
29 ~~board shall grant temporary permits to practice to persons or firms who make application~~
30 ~~and demonstrate their qualifications therefor in accordance with the following provisions:~~

31 ~~(1) An applicant for a temporary permit under this subsection shall show that he or she~~
32 ~~is duly licensed and authorized to practice as a certified public accountant or as a firm of~~
33 ~~certified public accountants or the equivalent in another state and shall give the name of~~
34 ~~each person who will be engaged in the practice of public accounting in this state in the~~
35 ~~performance of the professional engagement which is the subject of the application;~~

~~(2) The board shall charge a fee for each application for issuance or renewal of a temporary permit under this subsection, in an amount to be determined by the board by rule, for each applicant and for each person who is to engage in the practice of public accounting in this state under the permit;~~

~~(3) A temporary permit issued under this Code section shall be limited to the single specific professional engagement which is the occasion for the application for a permit; it shall name each person who is to engage in the practice of public accounting in this state pursuant to such engagement; and it shall be valid for no more than 90 days after its issuance;~~

~~(4) An application for a temporary permit under this subsection shall constitute the appointment of the Secretary of State as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the performance of the professional engagement for which the temporary permit was issued; and~~

~~(5) No temporary permit shall be issued to, or with respect to the performance of services by, any person who is a resident of this state.~~

(b) Individuals may practice based on a substantial equivalency practice privilege as follows:

(1) An individual whose principal place of business is outside this state shall be presumed to have qualifications substantially equivalent to this state's requirements, shall have all the privileges of live permit holders of this state, and may practice public accountancy in this state without the requirement to obtain a live permit, certificate, or registration under this chapter or to otherwise notify or register with the board or pay any fee if the individual:

(A) Holds a valid license as a certified public accountant from any state which requires, as a condition of licensure, that an individual:

(i) Has at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university;

(ii) Achieves a passing grade on the Uniform Certified Public Accountant Examination; and

(iii) Possesses at least one year of experience, including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, which may be obtained through government, industry, academic, or public practice all of which was verified by a licensee; or

(B) Holds a valid license as a certified public accountant from any state which does not meet the requirements of subparagraph (A) of this paragraph but such individual's

certified public accountant qualifications are substantially equivalent to those requirements. Any individual who passed the Uniform Certified Public Accountant Examination and holds a valid license issued by any other state prior to January 1, 2012, may be exempt from the education requirement in division (1)(A)(i) of this subsection for purposes of this subparagraph;

(2) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means, under this Code section shall be granted practice privileges in this state and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements of paragraph (3) of this subsection;

(3) An individual licensee of another state exercising the privilege afforded under this subsection, and the firm that employs that individual, shall simultaneously consent, as a condition of exercising this privilege;

(A) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(B) To comply with the provisions of this chapter and the board's rules and regulations;

(C) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual shall cease offering or rendering professional services in this state individually and on behalf of a firm; and

(D) To the appointment of the state board that issued the individual's license as the individual's agent upon whom process may be served in any action or proceeding by this state's board against the individual;

(4) An individual who qualifies for the practice privilege under this Code section who, for any entity with its home office in this state, performs any service under subparagraph (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 may do so only through a firm that has registered with the board under Code Section 43-3-21; and

(5) An individual qualifying for the practice privilege under paragraph (1) of this subsection may provide expert witness services in this state and shall be deemed to be in compliance with paragraph (1) of subsection (c) of Code Section 24-9-67.1 for purposes of such services."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 43-3-28, relating to revocation, suspension, or refusal to renew certificate, registration, or permits, as follows:

"(a) After notice and hearing as provided in Code Section 43-3-30, the board may revoke or suspend any certification issued under Code Sections 43-3-6 through 43-3-12 or a

1 registration issued under Code Section 43-3-20 or may revoke, suspend, or refuse to renew
2 any live permit or may censure the holder of any such permit, or may forbid an individual
3 from exercising the substantial equivalency practice privilege, for any cause which the
4 board may deem sufficient, including, without limiting the generality of the foregoing, any
5 one or any combination of the following causes:

6 (1) Violation of any rule, regulation, or order promulgated by the board in accordance
7 with this chapter;

8 (2) Fraud or deceit in obtaining certification as a certified public accountant or
9 registration as a public accountant, in obtaining registration under this chapter, or in
10 obtaining a live permit;

11 (3) Violation of any of the provisions of Code Section 43-3-35 or any other Code section
12 of this chapter;

13 (4) Dishonesty, fraud, or gross negligence in the practice of public accountancy;

14 (5) Commission of a felony under the laws of any state or of the United States;

15 (6) Commission of any crime, an element of which is dishonesty or fraud, under the laws
16 of any state or of the United States;

17 (7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a
18 certified public accountant or as a public accountant by any other state for any cause
19 other than voluntary withdrawal or failure to pay an annual registration fee in such other
20 state;

21 (8) Suspension or revocation of the right to practice before any state or federal agency;

22 (9) Failure to furnish evidence of satisfaction of requirements of continuing professional
23 education as required by the board pursuant to Code Section 43-3-25 or to meet any
24 conditions with respect to continuing professional education which the board may have
25 ordered under that Code section;

26 (10) Conduct which discredits the accounting profession; or

27 (11) Failure of such holder's firm to register or renew its registration under Code
28 Sections 43-3-21 and 43-3-23 or the failure of such firm to comply with any of the
29 provisions of Code Section 43-3-23."

30 SECTION 6.

31 Said chapter is further amended by revising subsection (c) of Code Section 43-3-30, relating
32 to adjudicative hearings before the board, as follows:

33 "(c) Before the board shall revoke or suspend a permit, certificate, ~~or registration,~~ or
34 practice privilege, it shall provide for a hearing for the holder of such permit, certificate,
35 ~~or registration,~~ or practice privilege in accordance with Chapter 13 of Title 50, the 'Georgia
36 Administrative Procedure Act.' Any person who has exhausted all administrative remedies

1 available within this chapter and who is aggrieved by a final decision in a contested case
2 is entitled to judicial review in accordance with Chapter 13 of Title 50."

3 **SECTION 7.**

4 Said chapter is further amended by revising Code Section 43-3-31, relating to reinstatement
5 of certification or registration and modification of suspension of permit, as follows:

6 "43-3-31.

7 Upon written application after a hearing pursuant to Chapter 13 of Title 50, the 'Georgia
8 Administrative Procedure Act,' the board may recertificate a certified public accountant or
9 reregister a ~~public accountant~~ or foreign accountant whose certification or registration has
10 been revoked or may reissue or modify the suspension of a live permit or practice privilege
11 which has been revoked or suspended."

12 **SECTION 8.**

13 Said chapter is further amended by revising Code Section 43-3-34, relating to holding oneself
14 to be a licensed certified public accountant or public accountant and single prohibited acts
15 as grounds for injunction or conviction, as follows:

16 "43-3-34.

17 The display or uttering by a person of a card, sign, advertisement, or other printed,
18 engraved, or written instrument or device bearing a person's name in conjunction with the
19 words 'certified public accountant' or any abbreviation thereof, or 'public accountant' or any
20 abbreviation thereof shall be prima-facie evidence in any action brought under Code
21 Section 43-3-33 or 43-3-38 that the person whose name is so displayed caused or procured
22 the display or uttering of such card, sign, advertisement, or other printed, engraved, or
23 written instrument or device and that such person is holding himself or herself out to be a
24 certified public accountant or a public accountant holding a live permit or otherwise claims
25 to be qualified to use such title by virtue of the substantial equivalency practice privilege
26 under subsection (b) of Code Section 43-3-24 or of the firm practice provisions of
27 subsection (b) of Code Section 43-3-21. In any such action, evidence of the commission
28 of a single act prohibited by this chapter shall be sufficient to justify an injunction or a
29 conviction without evidence of a general course of conduct."

30 **SECTION 9.**

31 Said chapter is further amended by revising Code Section 43-3-35, relating to the use of titles
32 or devices, false or fraudulent claims, and regulation of solicitation of employment, by
33 adding two new subsections to read as follows:

1 "(h) It shall not be a violation of this Code section or chapter for an individual who does
2 not hold a live permit under this chapter but who qualifies for the substantial equivalency
3 practice privilege under subsection (b) of Code Section 43-3-24 to use the title or
4 designation 'certified public accountant' or 'C.P.A.' or other titles to indicate that the person
5 is a certified public accountant, and such individual may provide professional services in
6 this state with the same privileges as a live permit holder so long as the individual complies
7 with paragraph (4) of subsection (b) of Code Section 43-3-24.

8 (i) It shall not be a violation of this Code section or chapter for a firm that has not
9 registered with the board or obtained a live permit under this chapter and that does not have
10 an office in this state to use the title or designation 'certified public accountant' or 'C.P.A.'
11 or other titles to indicate that the firm is composed of certified public accountants, and such
12 firm may provide professional services in this state with the same privileges as a registered
13 firm with a live permit so long as it complies with subsection (b) of Code Section 43-3-21."

14 **SECTION 10.**

15 This Act shall become effective upon its approval by the Governor or upon its becoming law
16 without such approval.

17 **SECTION 11.**

18 All laws and parts of laws in conflict with this Act are repealed.