

The House Committee on Banks and Banking offers the following substitute to SB 473:

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); provided,
19 however, that nothing in this definition shall alter the rights of unlicensed accountants
20 contained in Code Section 43-3-36;

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

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

1 The standards specified in this paragraph shall be adopted by reference by the board
 2 pursuant to rule making and shall be those developed for general application by
 3 recognized national accountancy organizations, such as the American Institute for
 4 Certified Public Accountants and the Public Company Accounting Oversight Board.

5 ~~(1)~~(2) 'Board' means the State Board of Accountancy.

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

10 (4) 'CPA' means certified public accountant.

11 ~~(2)~~(5) 'Firm' means any person, proprietorship, partnership, corporation, association, or
 12 any other legal entity which practices public accountancy.

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

15 ~~(3)~~(7) 'Live permit' means a permit issued under Code Section 43-3-24 which is in full
 16 force and effect.

17 (8) 'Practice of public accountancy' or 'practicing public accountancy' means offering to
 18 perform or performing for a client one or more types of services involving the use of
 19 accounting or auditing skills, one or more types of management advisory or consulting
 20 services, or the preparation of tax returns or the furnishing of advice on tax matters while
 21 holding oneself out in such manner as to state or imply that one is a licensee.

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

24 ~~(4)~~(10) 'State' means the District of Columbia and any state other than this state and any
 25 territory or insular possession of the United States."

26 SECTION 2.

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

30 "(B) ~~Two year's~~ One year of continuous experience in public accountancy immediately
 31 preceding the date of application for the certificate or within a reasonable time prior to
 32 the date of such application as provided by the board by rule, provided that the board
 33 may promulgate rules stating certain circumstances which shall constitute acceptable
 34 breaks in the continuity of said experience; and provided, further, that the board may
 35 accept, in lieu of ~~both of such years~~ such year of experience in public accounting,
 36 evidence satisfactory to it of ~~five years~~ one year of continuous employment in the

1 accounting field in industry, business, government, or college teaching; any
 2 combination of the above; or any combination of the above and practice ~~in~~ of public
 3 accountancy immediately preceding the date of application for the certificate or what
 4 the board determines to be the equivalent thereof; and provided, further, that any person
 5 certified as a certified public accountant under the laws of this state on July 1, 1977,
 6 shall be deemed to have the experience in the practice of public accountancy required
 7 by this subparagraph; and"

8 SECTION 3.

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

11 "43-3-21.

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

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

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

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

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

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

31 (A) The firm shall designate the holder of a live permit, or in the case of a firm which
 32 must register pursuant to subparagraph (b)(1)(C) of this Code section, a licensee of
 33 another state who meets the requirements set forth in subsection (b) of Code Section
 34 43-3-24, who shall be responsible for the proper registration of the firm and shall
 35 identify that individual to the board;

- 1 (B) All nonlicensee owners shall be active individual participants in the firm or
2 affiliated entities; and
- 3 (C) The firm shall comply with such other requirements as the board may impose by
4 rule or regulation;
- 5 (6) Any holder of a live permit and any individual who qualifies for practice privileges
6 under subsection (b) of Code Section 43-3-24 who is responsible for supervising attest
7 or compilation services and signs or authorizes someone to sign the accountant's report
8 on the financial statements on behalf of the firm shall meet the competency requirements
9 set out in the professional standards for such services; and
- 10 (7) Any holder of a live permit and any individual who qualifies for practice privileges
11 under subsection (b) of Code Section 43-3-24 who signs or authorizes someone to sign
12 the accountants' report on the financial statements on behalf of the firm shall meet the
13 competency requirements of subparagraph (6) of this subsection.
- 14 (b)(1) The following firms must register under this Code section:
- 15 (A) Any firm with an office in this state practicing public accountancy;
- 16 (B) Any firm with an office in this state that uses the title 'CPA' or 'CPA firm'; and
- 17 (C) Any firm that does not have an office in this state but performs any service
18 described in subparagraph (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 for
19 a client having its home office in this state.
- 20 (2) A firm that does not have an office in this state may perform services described in
21 subparagraph (B) of paragraph (1) or paragraph (3) of Code Section 43-3-2 for a client
22 having its home office in this state, may practice public accountancy as authorized under
23 this Code section, and may use the title 'CPA' or 'CPA firm' without registering as
24 provided in this Code section only if:
- 25 (A) It meets the qualifications described in paragraph (1) of subsection (a) of this Code
26 section and it complies with the board's rules and regulations regarding peer review;
27 and
- 28 (B) It performs such services through an individual with practice privileges under
29 subsection (b) of Code Section 43-3-24.
- 30 (3) A firm that does not have an office in this state and that is not subject to the
31 requirements of subparagraph (C) of paragraph (1) of this subsection or paragraph (2) of
32 this subsection may perform other professional services included in the practice of public
33 accountancy while using the title 'CPA' or 'CPA firm' in this state without registering
34 under this Code section only if:
- 35 (A) It performs such services through an individual with practice privileges under
36 subsection (b) of Code Section 43-3-24; and

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

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

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

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

23 SECTION 4.

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

27 "43-3-24.

28 (a) A permit to engage in the practice of public accountancy in this state shall be issued
29 by the division director, at the direction of the board, to each person who is certificated as
30 a certified public accountant under Code Sections 43-3-6 through 43-3-12 or registered as
31 a foreign accountant under Code Section 43-3-20 who shall have furnished evidence,
32 satisfactory to the board, of compliance with the requirements of Code Section 43-3-25,
33 and to individuals and firms registered under Code Section 43-3-21, provided that such
34 entities are maintained and registered as required under Code Sections 43-3-21 and
35 43-3-23. There shall be a biennial permit fee in an amount to be determined by the board.

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

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

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

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

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

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

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

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

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

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

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

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

8 (B) Holds a valid license as a certified public accountant from any state which does not
9 meet the requirements of subparagraph (A) of this paragraph but such individual's
10 certified public accountant qualifications are substantially equivalent to those
11 requirements. Any individual who passed the Uniform Certified Public Accountant
12 Examination and holds a valid license issued by any other state prior to January 1,
13 2012, may be exempt from the education requirement in division (1)(A)(i) of this
14 subsection for purposes of this subparagraph;

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

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

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

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

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

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

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

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

5 SECTION 5.

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

8 "(a) After notice and hearing as provided in Code Section 43-3-30, the board may revoke
 9 or suspend any certification issued under Code Sections 43-3-6 through 43-3-12 or a
 10 registration issued under Code Section 43-3-20 or may revoke, suspend, or refuse to renew
 11 any live permit or may censure the holder of any such permit, or may forbid an individual
 12 from exercising the substantial equivalency practice privilege, for any cause which the
 13 board may deem sufficient, including, without limiting the generality of the foregoing, any
 14 one or any combination of the following causes:

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

17 (2) Fraud or deceit in obtaining certification as a certified public accountant or
 18 registration as a public accountant, in obtaining registration under this chapter, or in
 19 obtaining a live permit;

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

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

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

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

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

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

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

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

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

4 SECTION 6.

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

7 "(c) Before the board shall revoke or suspend a permit, certificate, ~~or registration, or~~
 8 practice privilege, it shall provide for a hearing for the holder of such permit, certificate,
 9 ~~or registration, or practice privilege~~ in accordance with Chapter 13 of Title 50, the 'Georgia
 10 Administrative Procedure Act.' Any person who has exhausted all administrative remedies
 11 available within this chapter and who is aggrieved by a final decision in a contested case
 12 is entitled to judicial review in accordance with Chapter 13 of Title 50."

13 SECTION 7.

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

16 "43-3-31.

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

22 SECTION 8.

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

26 "43-3-34.

27 The display or uttering by a person of a card, sign, advertisement, or other printed,
 28 engraved, or written instrument or device bearing a person's name in conjunction with the
 29 words 'certified public accountant' or any abbreviation thereof, or 'public accountant' or any
 30 abbreviation thereof shall be prima-facie evidence in any action brought under Code
 31 Section 43-3-33 or 43-3-38 that the person whose name is so displayed caused or procured
 32 the display or uttering of such card, sign, advertisement, or other printed, engraved, or
 33 written instrument or device and that such person is holding himself or herself out to be a
 34 certified public accountant or a public accountant holding a live permit or otherwise claims

1 to be qualified to use such title by virtue of the substantial equivalency practice privilege
2 under subsection (b) of Code Section 43-3-24 or of the firm practice provisions of
3 subsection (b) of Code Section 43-3-21. In any such action, evidence of the commission
4 of a single act prohibited by this chapter shall be sufficient to justify an injunction or a
5 conviction without evidence of a general course of conduct."

6 **SECTION 9.**

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

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

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

23 **SECTION 10.**

24 This Act shall become effective on July 1, 2009.

25 **SECTION 11.**

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