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Indicates New Matter

AMENDED

June 4, 2013

**H. 3459**

Introduced by Reps. Sandifer, Bales, J.E. Smith and Erickson

S. Printed 6/4/13--S. [SEC 6/5/13 11:09 AM]

Read the first time February 26, 2013.

**A** **BILL**

TO AMEND SECTION 40‑2‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL DESIGNATE CERTAIN PERSONNEL FOR THE EXCLUSIVE USE OF THE BOARD, TO PROHIBIT THE DEPARTMENT FROM ASSIGNING OTHER WORK TO THESE PERSONNEL WITHOUT APPROVAL OF THE BOARD, AND TO PROVIDE THESE PERSONNEL MAY BE TERMINATED BY THE DIRECTOR OF A MAJORITY OF THE BOARD; TO AMEND SECTION 40‑2‑30, RELATING TO THE PRACTICE OF ACCOUNTANCY, SO AS TO PROVIDE A CERTIFIED PUBLIC ACCOUNTANT LICENSED BY THE BOARD IS EXEMPT FROM LICENSURE REQUIREMENTS OF PRIVATE SECURITY AND INVESTIGATION AGENCIES; AND TO AMEND SECTION 40‑2‑70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE THE BOARD MAY CONDUCT PERIODIC INSPECTIONS OF LICENSEES OR FIRMS; AND TO AMEND SECTION 40‑2‑80, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DEPARTMENT SHALL DIRECT THE INVESTIGATOR ASSIGNED TO THE BOARD TO INVESTIGATE AN ALLEGED VIOLATION TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE MERITING FURTHER PROCEEDINGS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑2‑10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) The director, with the advice and consent of the board, shall designate for the use of the board one full‑time administrator who is a certified public accountant licensed in this State. The administrator’s primary responsibility is to administer the board; provided, however, that the director may assign to the administrator additional duties and responsibilities within the department so long as the additional duties and responsibilities do not unreasonably occupy the administrator’s time so that he does not thoroughly fulfill his duties and responsibilities to the board.

(2) A person employed by the board under this section may be terminated by the director.”

SECTION 2. Section 40‑2‑30 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title.”

SECTION 3. Section 40‑2‑70 of the 1976 Code is amended to read:

“Section 40‑2‑70. In addition to the powers and duties provided in Section 40‑1‑70, the board may:

(1) determine the eligibility of applicants for examination and licensure;

(2) examine applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination;

(c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an adequate amount to cover examination costs;

(3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

(4) adopt a code of professional ethics appropriate to the profession;

(5) evaluate and approve continuing education course hours and programs;

(6) conduct periodic inspections of licensees or firms with notice to the licensee or firm of at least three business days, and if upon inspection a violation is found, a formal complaint shall be filed and the customary procedures for complaints must be followed;

(~~6~~7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

(~~7~~8) participate in national efforts to regulate the accounting profession;

(~~8~~9) discipline licensees or registrants in a manner provided for in this chapter;

(~~9~~10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

(~~10~~11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS);

(~~11~~12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1‑23‑30, including, but not limited to, a schedule of fees for examination, licensure, and regulation; and

(~~12~~13) promulgate standards for peer review.”

SECTION 4. Section 40‑2‑80(B) of the 1976 Code is amended to read:

“(B)(1) An investigation of a licensee pursuant this chapter must be performed by an inspector-investigator who has been licensed as a certified public accountant in this State for at least five years. The inspector-investigator must report the results of his investigation to the board no later than one hundred fifty days after the date upon which he initiated his investigation. If the inspector-investigator has not completed his investigation by that date, then the board may extend the investigation for a period defined by the board. The board may grant subsequent extensions to complete the investigation as needed. The ~~board~~ inspector-investigator may designate additional persons of appropriate competency to assist in an investigation.

(2) The department shall annually post a report related to the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.”

SECTION 5. Section 40‑2‑250(F) of the 1976 Code is amended to read:

“(F) A certified public accountant, accounting practitioner, or public accountant whose license has lapsed or has been inactive for:

(1) fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee;

(2) three or more years, the license may be reinstated upon completion of six months of additional experience, and one hundred and twenty hours of continuing education;

(3) an indefinite period and has active status outside of this State may reinstate the license by submitting an application under Section 40‑2‑240.”

SECTION 6. The Director of the Department of Labor, Licensing and Regulation must submit an annual report to the Chairmen of the Senate and House Committees on Labor, Licensing and Regulation concerning the workload of the Accountancy Board’s Administrator, specifically addressing the amount of time that the administrator must devote to the work of the Accountancy Board compared to the amount of time that he must devote to other duties and responsibilities. The other duties and responsibilities, and the time devoted to them, must be itemized in the report.

SECTION 7. This act takes effect upon approval by the Governor.

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