**A** **BILL**

TO AMEND SECTION 40‑2‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MEMBERS OF THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO REVISE THE BOARD COMPOSITION; TO AMEND SECTION 40‑2‑30, RELATING TO LICENSING AND REGISTRATION REQUIREMENTS FOR ACCOUNTANTS, SO AS TO PROVIDE THAT IF A LICENSED CERTIFIED PUBLIC ACCOUNTANT IN THE PERFORMANCE OF HIS DUTIES CONDUCTS CERTAIN INVESTIGATIONS, HE IS EXEMPT FROM THE LICENSING REQUIREMENTS OF SECURITY AND PRIVATE INVESTIGATION BUSINESSES; TO AMEND SECTION 40‑2‑35, RELATING TO CERTIFIED PUBLIC ACCOUNTANT LICENSURE REQUIREMENTS, SO AS TO ALSO REQUIRE SUCH APPLICANTS FOR LICENSURE TO UNDERGO STATE AND FEDERAL CRIMINAL RECORDS CHECKS AND TO REQUIRE CONTINUING EDUCATION OR ADDITIONAL EXPERIENCE, AS APPLICABLE, FOR AN APPLICANT WHO DELAYS SUBMITTING AN APPLICATION FOR A SUBSTANTIAL PERIOD OF TIME AFTER PASSING THE CERTIFIED PUBLIC ACCOUNTING EXAMINATION OR OBTAINING ACCOUNTING EXPERIENCE; TO AMEND SECTION 40‑2‑40, RELATING TO QUALIFICATIONS FOR REGISTRATION OF A CERTIFIED PUBLIC ACCOUNTING FIRM, SO AS TO PROVIDE THAT A SIMPLE MAJORITY OF THE FIRM OWNERSHIP MUST BE CERTIFIED PUBLIC ACCOUNTANTS, TO FURTHER PROVIDE QUALIFICATIONS AND CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR NONCERTIFIED PUBLIC ACCOUNTANT OWNERS, AND TO GIVE THE BOARD OF ACCOUNTANCY THE DISCRETION TO CHARGE REGISTRATION AND RENEWAL FEES; TO AMEND SECTION 40‑2‑80, RELATING TO THE INVESTIGATION OF COMPLAINTS AND DISCIPLINARY PROCEEDINGS, SO AS TO PROVIDE THAT IN CONDUCTING SUCH INVESTIGATIONS AND PROCEEDINGS THE DEPARTMENT OF LABOR, LICENSING AND REGULATION MAY REQUIRE STATE AND FEDERAL CRIMINAL RECORDS CHECKS; TO AMEND SECTION 40‑2‑250, RELATING TO APPLICATIONS FOR LICENSE RENEWAL, SO AS TO PROVIDE THAT SUCH APPLICATIONS MUST BE FILED ON OR BEFORE FEBRUARY FIRST AND TO PROVIDE THAT LATE FILINGS MAY RESULT IN REINSTATEMENT FEES AND SANCTIONING OF THE LICENSEE; AND TO AMEND SECTION 40‑2‑255, RELATING TO APPLICATIONS FOR REGISTRATION RENEWAL, SO AS TO PROVIDE THAT SUCH APPLICATIONS MUST BE FILED ON OR BEFORE FEBRUARY FIRST AND TO PROVIDE THAT LATE FILINGS MAY RESULT IN SANCTIONING OF THE REGISTRANT.

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

SECTION 1. Section 40‑2‑10(A) of the 1976 Code is amended to read:

“(A) There is created the South Carolina Board of Accountancy which is responsible for the administration and enforcement of this chapter. The board shall consist of nine members appointed by the Governor, all of whom must be residents of this State; ~~five~~ six of whom must be licensed certified public accountants~~, two~~; one of whom must be a licensed public ~~accountants~~ accountant or a licensed accounting ~~practitioners,~~ practitioner; and two of whom must be members of the public, ~~who are~~ one of whom must be an attorney licensed by this State and one of whom must be an individual who is not engaged in the practice of public accounting, who does not have ~~no~~ a financial interest in the profession of public accounting, and who does not have ~~no~~ an immediate family member in the profession of public accounting. As used in this section, ‘immediate family member’ is as defined in Section 8‑13‑100(18). Members are appointed for terms of four years and serve until their successors are appointed and qualify. ~~Vacancies~~ A vacancy must be filled by the Governor for the unexpired ~~portions~~ portion of the term in the manner of the original appointment. The Governor shall remove a member of the board in accordance with Section 1‑3‑240.”

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

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

SECTION 3. Section 40‑2‑35 of the 1976 Code is amended to read:

“Section 40‑2‑35. (A) The board shall grant a license to practice as a certified public accountant to persons who make application and demonstrate:

(1) at least one hundred fifty semester hours of college education, including a baccalaureate or higher degree conferred by a college or university acceptable to the board, with the total educational program including an accounting concentration or equivalent;  ~~and~~

(2) a passing score on a standardized test of accounting knowledge, skills, and abilities approved by the board and comparable to the Uniform Certified Public Accountant Examination prepared by the American Institute of Certified Public Accountants; ~~and~~

(3) a passing score on an examination in professional ethics as approved by the board and an affidavit by the candidate acknowledging that he or she has read the statute and regulations governing the practice of accountancy in South Carolina and subscribes both to the spirit and letter of the statute and regulations and agrees to observe them faithfully in the performance of his or her professional work; ~~and~~

(4) appropriate experience, which may include:

(a) at least one year of accounting experience satisfactory to the board in public, governmental, or private employment under the direct supervision and review of a certified public accountant or public accountant licensed to practice accounting in some state or territory of the United States or the District of Columbia; or

(b) at least five years’ experience teaching accounting in a college or university recognized by the board; or

(c) any combination of experience determined by the board to be substantially equivalent to the foregoing; and

(5) evidence of good moral character, which means lack of a history of dishonest or felonious acts.

(B) In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure to practice as a certified public accountant, the board may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the board regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The board shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action. Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of a fraudulent intent in drawing a dishonored check case by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of a lack of good moral character for the purposes of disqualifying a person seeking licensure or renewal of licensure pursuant to this chapter.

(C) To meet the educational requirement as part of the one hundred fifty semester hours of education, the applicant must demonstrate successful completion of:

(1) at least thirty‑six semester hours of accounting in courses that are applicable to a baccalaureate, masters, or doctoral degree and which cover financial accounting, managerial accounting, taxation, and auditing, of which at least twenty‑four semester hours must be taught at the junior level or above; and

(2) at least thirty‑six semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and which may include macro and micro economics, finance, business law, management, computer science, marketing, and accounting hours not counted in item (1).

~~(C)~~(D) The board shall accept a transcript from a college or university accredited by the Southern Association of Colleges and Schools or another regional accrediting association having the equivalent standards or an independent senior college in South Carolina certified by the State Department of Education for teacher training, and accounting and business programs accredited by the American Assembly of Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. Official transcripts signed by the college or university registrar and bearing the college or university seal must be submitted to demonstrate education and degree requirements. Photocopies of transcripts must not be accepted.

~~(D)~~(E) An applicant may apply for examination by submitting forms approved by the board. In order for an application to be considered a completed application, all blanks and questions on the application form must be completed and answered and all applicable documentation must be attached and:

(1) the application must be accompanied by the submission of photo identification, fingerprints, or other identification information as considered necessary to ensure the integrity of the exam administration;

(2) application fees must accompany the application. Fees for the administration of the examination must recover all costs for examination administration. The fees required for each examination must be published to applicants on the application form. If a check in payment of examination fees fails to clear the bank, the application is considered incomplete and the application must be returned to the candidate;

(3) the applicant must have on record with the board official transcripts from a college or university approved by the board demonstrating successful completion of one hundred twenty semester hours credit, including:

(a) at least twenty‑four semester hours of accounting in courses that are applicable to a baccalaureate, masters, or doctoral degree and which cover financial accounting, managerial accounting, taxation, and auditing; and

(b) at least twenty‑four semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and which may include macro and micro economics, finance, business law, management, computer science, marketing, and accounting hours not counted in ~~item~~ subitem (a).

~~(E)~~(F) A candidate must pass all sections of the examination provided for in ~~Section 40‑2‑35~~ subsection (A)(2) in order to qualify for a certificate.

(1) Upon the implementation of a computer‑based examination, a candidate may take the required test sections individually and in any order. Credit for any test section passed is valid for eighteen months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section and without regard to whether the candidate has taken other test sections.

(a) A candidate must pass all four test sections of the Uniform CPA Examination within a rolling eighteen‑month period, which begins on the date that the first test section is passed. The board by regulation may provide additional time to an applicant on active military service. The board also may accommodate any hardship which results from the conditions of administration of the examination.

(b) A candidate cannot retake a failed test section in the same examination window. An examination window refers to a three‑month period in which candidates have an opportunity to take the CPA examination. If a candidate does not pass all four test sections of the Uniform CPA Examination ~~are not passed~~ within the rolling eighteen‑month period, credit for any test section the candidate passed outside the eighteen‑month period expires, and the candidate must retake that test section ~~must be retaken~~.

(c) A candidate who applies for a license more than three years after the date on which the candidate passed the last test section of the Uniform CPA Examination must, in addition to all other requirements imposed by this section, document one hundred and twenty hours of acceptable continuing professional education, in order to qualify.

(2) A candidate may arrange to have credits for passing sections of the examination under the jurisdiction of another state or territory of the United States transferred to this State. Credits transferred for less than all sections of the examination are subject to the same conditional credit rules as if the examination had been taken in South Carolina.

~~(F)~~(G) An applicant may demonstrate experience as follows:

(1) Experience may be gained in either full‑time or part‑time employment. Two thousand hours of part‑time accounting experience is equivalent to one year. Experience may not accrue more rapidly than forty hours per week.

(2) The five years of teaching experience provided for in ~~Section 40‑2‑35~~ subsection (A)(4)(b) consists of five years of full‑time teaching of accounting courses at a college or university accredited by the Southern Association of Colleges and Schools or another regional accrediting association having equivalent standards or an independent senior college in South Carolina certified by the State Department of Education for teacher training.

(a) In order for teaching experience to qualify as full‑time teaching, the applicant must have been employed on a full‑time basis as defined by the educational institution where the experience was obtained; however, teaching ~~less~~ fewer than twelve ~~semester~~ hours per ~~year~~ semester, or the equivalent in quarter hours, must not be considered as full‑time teaching experience.

(b) Experience credit for teaching on a part‑time basis qualifies on a pro rata basis based upon the number of semester hours required for full‑time teaching at the educational institution where the teaching experience was obtained.

(c) Teaching experience may not accrue more rapidly than elapsed chronological time.

(d) An applicant must not be granted credit for full‑time teaching completed in less than one academic year.

(e) An applicant must not be granted more than one full‑time teaching year credit for teaching completed within one calendar year.

(f) Teaching experience must not be granted for teaching subjects outside the field of accounting. Subjects considered to be outside the field of accounting include, but are not limited to, business law, finance, computer applications, personnel management, economics, and statistics.

(g) Of the five years of full‑time teaching experience, credit for teaching accounting principles courses or fundamental accounting (below intermediate accounting) may not exceed two full‑time teaching years and the remaining three full‑time teaching years’ experience must be obtained in teaching courses above accounting principles.

(h) Accounting courses considered to be above accounting principles include, but are not limited to, intermediate accounting, advanced accounting, auditing, income tax, financial accounting, management accounting, and cost accounting.

(i) Experience other than public accounting experience counts only in proportion to duties which, in the opinion of the board, contribute to competence in public accounting.

(j) The board may require other information as it considers necessary to determine the acceptability of experience including, but not limited to, review of work papers and other work products, review of time records, and interviews with applicants and supervisors.

(3) For purposes of this subsection, ‘appropriate experience’ is as defined in subsection (A)(4); however, if the applicant obtained the experience seven or more years before submitting an application, the applicant shall have obtained an additional six months of appropriate experience within two years before submitting the application.”

SECTION 4. Section 40‑2‑40(C) and (F) of the 1976 Code is amended to read:

“(C) Qualifications for registration as a certified public accountant firm are as follows:

(1) A ~~super majority, sixty‑six and two‑thirds percent~~ simple majority of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers must belong to certified public accountants currently licensed in some state. Although firms may include nonlicensed owners, the firm and its ownership must comply with regulations promulgated by the board. All nonlicensed owners ~~The noncertified public accountant owner~~ must be ~~actively engaged as a member of the firm~~ active individual participants in the firm or ~~its~~ affiliated entities ~~in providing services to the firm’s clients. Ownership by investors or commercial enterprises is prohibited~~.

(2) Partners, officers, shareholders, members, or managers whose principal place of business is in this State, and who perform professional services in this State, must hold a valid license issued pursuant to this section. An individual who has practice privileges under Section 40‑2‑245 who performs services for which a firm permit is required pursuant to Section 40‑2‑245(D) must not be required to obtain a license from this State pursuant to Section 40‑2‑35.

(3) For firms registering under subsection (B)(1)(a) or (b), there must be a designated resident manager in charge of each office in this State who must be a certified public accountant licensed in this State.

(4) Noncertified public accountant owners must not assume ultimate responsibility for any financial statement, attest, or compilation engagement.

(5) Noncertified public accountant owners shall abide by the code of professional ethics adopted pursuant to this chapter.

(6) Owners shall at all times maintain ownership equity in their own right and must be the beneficial owners of the equity capital ascribed to them. Provision must be made for the ownership to be transferred to the firm or to other qualified owners if the noncertified public accountant ceases to be ~~actively engaged~~ an active individual participant in the firm.

(7)(a) This section applies only to noncertified public accountant owners who are residents of this State.

(b) Noncertified public accountant owners must complete the same number of hours of continuing professional education as licensed CPAs in this State.

(c) Noncertified public accountant owners who are licensed professionals subject to continuing education requirements applicable to that profession may complete the required number of continuing professional education hours in courses offered or accepted by organizations or regulatory bodies governing that profession, and also must complete the same number of hours of continuing professional education as licensed CPAs in this State.

(8) A CPA firm and its designated resident manager under item (3), are responsible for the following in regard to a noncertified public accountant owner:

(a) a noncertified public accountant owner shall comply with all applicable accountancy statutes and regulations; and

(b) a noncertified public accountant owner must be of good moral character and must not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.

(F) The board ~~shall~~ may charge a fee for each application for initial issuance or renewal of a registration issued pursuant to this section.”

SECTION 5. Section 40‑2‑80 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter unless ordered by the department as a cost in a disciplinary proceeding. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action. Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of a fraudulent intent in drawing a dishonored check case by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of performance of a fraudulent act for disciplinary purposes.”

SECTION 6. Section 40‑2‑250 of the 1976 Code is amended to read:

“Section 40‑2‑250. (A) A licensee shall file an application for renewal of the calendar‑year license on or before ~~January~~ February first of ~~each calendar~~ the following year.

(B) The application for renewal of a license must include:

(1) current information concerning practice status;

(2) a verified continuing education report;

(3) renewal fee, if any.

(C) ~~The~~ A licensee shall file a verified report of continuing education ~~must~~ on or before February first and document forty hours of acceptable continuing education ~~each~~ during the immediately preceding calendar year. Not more than twenty percent of the required hours may be in personal development subjects. A licensee is not required to report continuing education for the year in which the initial license was obtained. The board by regulation may provide for the carryover of excess hours of continuing education not to exceed twenty hours a year. No carryover is allowed from a year in which continuing education was not required.

(D) ~~A license not renewed~~ If a licensee does not file an application for renewal on or before ~~January~~ February first, the license is ~~considered~~ deemed to be revoked. Continued practice after ~~January~~ February fifteenth ~~must~~ may be sanctioned as unlicensed practice of accounting.

(E) If a person files or completes a renewal ~~applications filed or completed~~ application after ~~January~~ February fifteenth, ~~are~~ the person may be subject to a reinstatement fee in the amount of five hundred dollars. A person may not practice on a revoked license.

(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~~ have his or her license 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, if any;

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

(3) an indefinite period and who has active status outside of this State may ~~reinstate the license~~ have his or her license reinstated by submitting an application ~~under~~ pursuant to Section 40‑2‑240.”

SECTION 7. Section 40‑2‑255 of the 1976 Code is amended to read:

“Section 40‑2‑255. (A) A registrant shall file an application for renewal of the calendar‑year registration on or before ~~January~~ February first of ~~each calendar~~ the following year.

(B) The application for renewal of a registration shall include:

(1) current information concerning ownership;

(2) current information concerning the identity of the licensee in charge of the office;

(3) renewal fee, if any.

(C) As a condition of renewal of registration, an applicant who engages in attest or compilation services, or both, must provide evidence of satisfactory completion of peer review no more frequently than once every three years. Peer review must be conducted in a manner as the board specifies by regulation. This review must include a verification that individuals in the firm, who are responsible for supervising attest or compilation services, or both, and who sign or authorize someone to sign the accountant’s report on the financial statements on behalf of the firm, meet the competency requirements set out in the professional standards for these services and these regulations must:

(1) ~~include reasonable provision for compliance by~~ require an applicant ~~that can~~ to show that ~~it~~ the applicant has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review as generally required pursuant to this subsection;

(2) require~~, with respect to~~ peer reviews~~, that they~~ to be subject to oversight by a body established or sanctioned by the board, which shall periodically report to the board on program review effectiveness under its charge and provide to the board a listing of firms that have participated in a peer review program;

(3) require~~, with respect to peer review, that the~~ peer ~~review processes~~ reviews to be ~~operated~~ conducted and that work and documents be maintained in a manner designed to preserve confidentiality of documents furnished or generated in the course of the review.

(D) ~~A registration not renewed~~ If a registrant does not file an application for renewal on or before ~~January~~ February first, the registration is ~~considered~~ deemed to be revoked. Continued practice after ~~January~~ February fifteenth ~~must~~ may be sanctioned as unlicensed practice of accounting.”

SECTION 8. This act takes effect upon approval by the Governor.

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