~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 26, 2019

**H. 3785**

Introduced by Reps. Sandifer, Howard, Thayer and West

S. Printed 3/26/19--H.

Read the first time January 29, 2019.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3785) to amend Section 40‑2‑10, Code of Laws of South Carolina, 1976, relating to the operation of the Board of Accountancy, so as to remove, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, deleting all after the enacting words and inserting:

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

“(B) The board shall elect annually from among its members a chairman, a vice chairman, and a secretary. The board shall meet at least two times a year at places fixed by the chairman. Meetings of the board must be open to the public except those concerned with investigations under ~~Sections~~ Section 40‑2‑80 ~~and 40‑2‑90~~ and except as necessary to protect confidential information in accordance with board regulations ~~or~~, federal law, state law, or Section 40-2-90(C). A majority of the board members in office constitutes a quorum at any meeting of the board. A board member shall attend meetings or provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the board as provided for in Section 1‑3‑240.”

SECTION 2. Section 40‑2‑20(5) of the 1976 Code is amended to read:

“(5) ‘Compilation’ means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) ~~that presents in the form of financial statements, information representative of management (owners) without undertaking expression of any assurance on the statements~~ in which the objective of the accountant is to apply accounting and financial reporting expertise to assist management in the presentation of financial statements and reports in accordance with this section without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with the applicable financial reporting framework.”

SECTION 3. Section 40‑2‑35 (F)(1) of the 1976 Code is amended to read:

“(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 all four test sections of the Uniform CPA Examination are not passed within the rolling eighteen‑month period, credit for any test section passed outside the eighteen‑month period expires and that test section must be retaken.

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

SECTION 4. Section 40-2-40(C)(7)(b) of the 1976 Code is amended to read:

“(b) Noncertified public accountant owners must complete the same number of hours of continuing professional education as licensed certified public accountants in this State. However, in each three year period, as established by the board, six of the hours must be in ethics, and at least two of these hours must be a board-approved South Carolina Accountancy Rules and Regulations course.”

SECTION 5. Section 40‑2‑80(E) of the 1976 Code is amended to read:

“(E) The testimony and documents submitted in support of the complaint or gathered in the investigation must be treated as confidential information and must not be disclosed to any person except law enforcement authorities and, to the extent necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation. All proceedings related to the investigations and inquiries during the investigation process undertaken pursuant to this chapter are confidential, unless the licensee or registrant who is the subject of the investigation or inquiry waives the confidentiality of the existence of the complaint.”

SECTION 6. Section 40‑2‑90(C) of the 1976 Code is amended to read:

“(C) If a hearing is to be held, the licensee or registrant has the right to be present ~~and~~, to present evidence and argument on all issues involved, to present and to cross examine witnesses, and to be represented by counsel~~,~~ at the licensee’s or registrant’s expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses ~~and~~, the production of documents and other evidence, and may administer oaths and hear testimony, either oral or documentary, for and against the accused licensee. ~~All investigations, inquiries, and proceedings undertaken pursuant to this chapter are confidential, except as otherwise provided for~~ All evidence, including the records the hearing panel considers, must be made part of the record in the proceedings. These hearings must be open to the public, except:

(1) as necessary to protect confidential information in accordance with federal or state law; and

(2) as necessary to protect confidential information provided by a client for whom a licensee performs services, or the heirs, successors, or personal representatives of the client.”

SECTION 7. Section 40‑2‑240(A) of the 1976 Code is amended to read:

“(A) The board may issue a license to a holder of a certificate, license, or permit issued under the laws of any state or territory of the United States or the District of Columbia or any authority outside the United States upon a showing of substantially equivalent education, examination, and experience upon the condition that the applicant:

(1)(a) received the designation, based on educational and examination standards substantially equivalent to those in effect in this State, at the time the designation was granted; and

(~~2~~b) completed an experience requirement, substantially equivalent to the requirement provided for in Section 40‑2‑35(F), in the jurisdiction which granted the designation or has engaged in four years of professional practice, outside of this State, as a certified public accountant within the ten years immediately preceding the application; and

(~~3~~c) passed a uniform qualifying examination in national standards and an examination on the laws, regulations, and code of ethical conduct in effect in this State acceptable to the board; and

(~~4~~d) listed all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy or in which any applications have been denied; and

(~~5~~e) demonstrated completion of eighty hours of qualified CPE within the last two years; and

(~~6~~f) filed an application and pays an annual fee sufficient to cover the cost of administering this section.

(2)(a) satisfies the requirements of item (1)(c), (d), (e), and (f);

(b) holds a valid license issued by any other state before January 1, 2012; and

(c) has engaged in four years of professional practice, outside of this State, as a certified public accountant within the ten years immediately preceding the application.”

SECTION 8. Section 40‑2‑340 of the 1976 Code is amended to read:

“Section 40‑2‑340. An accounting practitioner or firm of accounting practitioners is permitted to associate his or the firm’s name with compiled financial statements as defined by Professional Standards for Accounting and Review Services, provided ~~the following disclaimer is used:~~

~~‘I (we) have compiled the accompanying balance sheet of XYZ Company as of December 31, XXXX, and the related statements of income, retained earning and cash flows for the year then ended, in accordance with statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. A compilation is limited to presenting, in the form of financial statements, information that is the representation of management (owners). I (we) have not audited or reviewed the accompanying financial statements and I am (we are) prohibited by law from expressing an opinion on them.’~~ a disclaimer is used that complies with the most recent version of the statement on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and a statement in the report that provides:

‘I (we) have not audited or reviewed the accompanying financial statements and I am (we are) prohibited by law from expressing an opinion on them’.”

SECTION 9. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND SECTION 40‑2‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OPERATION OF THE BOARD OF ACCOUNTANCY, SO AS TO REMOVE AN OBSOLETE REFERENCE AND TO PROVIDE MEETINGS MAY BE CLOSED IN CERTAIN INSTANCES PURSUANT TO FEDERAL LAW OR AT THE DISCRETION OF THE BOARD; TO AMEND SECTION 40‑2‑20, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTANTS, SO AS TO REVISE A DEFINITION; TO AMEND SECTION 40‑2‑35, RELATING TO EXAMINATION REQUIREMENTS FOR LICENSURE BY THE BOARD, SO AS TO REMOVE THE REQUIREMENT THAT CERTAIN EXAMINATIONS BE COMPUTER BASED; TO AMEND SECTION 40‑2‑80, RELATING TO THE CONFIDENTIAL TREATMENT OF CERTAIN EVIDENCE OBTAINED DURING INVESTIGATIONS BY THE BOARD, SO AS TO PROVIDE ALL PROCEEDINGS AND INQUIRIES RELATED TO THE INVESTIGATIONS ARE CONFIDENTIAL EXCEPT AS OTHERWISE PROVIDED; TO AMEND SECTION 40‑2‑90, RELATING TO INVESTIGATIONS BY THE BOARD, SO AS TO REMOVE A DUPLICATIVE REFERENCE AND TO PROVIDE DISCIPLINARY HEARINGS BY THE BOARD MUST BE OPEN TO THE PUBLIC EXCEPT IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 40‑2‑240, RELATING TO LICENSURE OF OUT‑OF‑STATE PERSONS BY THE BOARD, SO AS TO REVISE CRITERIA FOR SUCH LICENSURE; AND TO AMEND SECTION 40‑2‑340, RELATING TO DISCLAIMERS THAT ACCOUNTING PRACTITIONERS AND ACCOUNTING PRACTITIONER FIRMS MUST USE WHEN ASSOCIATING THEIR NAMES WITH CERTAIN COMPILED FINANCIAL STATEMENTS, SO AS TO REMOVE THE EXISTING BOILERPLATE LANGUAGE AND INSTEAD PROVIDE SUCH DISCLAIMERS MUST COMPLY WITH CERTAIN NATIONAL STANDARDS.

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

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

“(B) The board shall elect annually from among its members a chairman, a vice chairman, and a secretary. The board shall meet at least two times a year at places fixed by the chairman. Meetings of the board must be open to the public except those concerned with investigations under ~~Sections~~ Section 40‑2‑80 ~~and 40‑2‑90~~ and except as necessary to protect confidential information in accordance with board regulations ~~or~~, federal law, state law, or at the discretion of the board. A majority of the board members in office constitutes a quorum at any meeting of the board. A board member shall attend meetings or provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the board as provided for in Section 1‑3‑240.”

SECTION 2. Section 40‑2‑20(5) of the 1976 Code is amended to read:

“(5) ‘Compilation’ means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) ~~that presents in the form of financial statements, information representative of management (owners) without undertaking expression of any assurance on the statements~~ in which the objective of the accountant is to apply accounting and financial reporting expertise to assist management in the presentation of financial statements and reports in accordance with this section without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with the applicable financial reporting framework.”

SECTION 3. Section 40‑2‑35 (F)(1) of the 1976 Code is amended to read:

“(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 all four test sections of the Uniform CPA Examination are not passed within the rolling eighteen‑month period, credit for any test section passed outside the eighteen‑month period expires and that test section must be retaken.

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

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

“(E) The testimony and documents submitted in support of the complaint or gathered in the investigation must be treated as confidential information and must not be disclosed to any person except law enforcement authorities and, to the extent necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation. All proceedings related to the investigations and inquiries during the investigation process undertaken pursuant to this chapter are confidential, except as otherwise provided.”

SECTION 5. Section 40‑2‑90(C) of the 1976 Code is amended to read:

“(C) The licensee or registrant has the right to be present ~~and~~, to present evidence and argument on all issues involved, to present and to cross examine witnesses, and to be represented by counsel~~,~~ at the licensee’s or registrant’s expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses ~~and~~, the production of documents and other evidence, and may administer oaths and hear testimony, either oral or documentary, for and against the accused licensee. ~~All investigations, inquiries, and proceedings undertaken pursuant to this chapter are confidential, except as otherwise provided for~~ These hearings must be open to the public, except as necessary to protect confidential information, in accordance with state law, federal law, or at the discretion of the board. The board only may close portions or all of the hearings, testimony, evidence, and reports in any action to the extent necessary to protect confidential information.”

SECTION 6. Section 40‑2‑240(A) of the 1976 Code is amended to read:

“(A) The board may issue a license to a holder of a certificate, license, or permit issued under the laws of any state or territory of the United States or the District of Columbia or any authority outside the United States upon a showing of substantially equivalent education, examination, and experience upon the condition that the applicant:

(1)(a) received the designation, based on educational and examination standards substantially equivalent to those in effect in this State, at the time the designation was granted; and

(~~2~~b) completed an experience requirement, substantially equivalent to the requirement provided for in Section 40‑2‑35(F), in the jurisdiction which granted the designation or has engaged in four years of professional practice, outside of this State, as a certified public accountant within the ten years immediately preceding the application; and

(~~3~~c) passed a uniform qualifying examination in national standards and an examination on the laws, regulations, and code of ethical conduct in effect in this State acceptable to the board; and

(~~4~~d) listed all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy or in which any applications have been denied; and

(~~5~~e) demonstrated completion of eighty hours of qualified CPE within the last two years; and

(~~6~~f) filed an application and pays an annual fee sufficient to cover the cost of administering this section.

(2)(a) satisfies the requirements of item (1)(c), (d), (e), and (f);

(b) holds a valid license issued by any other state before January 1, 2012;

(c) has engaged in four years of professional practice, outside of this State, as a certified public accountant within the ten years immediately preceding the application; and

(d) has demonstrated completion of eighty hours of qualified CPE within the last two years.”

SECTION 7. Section 40‑2‑340 of the 1976 Code is amended to read:

“Section 40‑2‑340. An accounting practitioner or firm of accounting practitioners is permitted to associate his or the firm’s name with compiled financial statements as defined by Professional Standards for Accounting and Review Services, provided ~~the following disclaimer is used:~~

~~‘I (we) have compiled the accompanying balance sheet of XYZ Company as of December 31, XXXX, and the related statements of income, retained earning and cash flows for the year then ended, in accordance with statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. A compilation is limited to presenting, in the form of financial statements, information that is the representation of management (owners). I (we) have not audited or reviewed the accompanying financial statements and I am (we are) prohibited by law from expressing an opinion on them.’~~ a disclaimer is used that complies with the most recent version of the statement on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.”

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

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