

**SOUTH CAROLINA
LABOR, LICENSING & REGULATION**

BOARD OF ACCOUNTANCY

**SC Code of Laws, Title 40 – Professions & Occupations
Chapter 2 – Accountants**

Additions are highlighted

ARTICLE 1.

REGULATION OF CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTANTS

SECTION 40-2-5. Purpose of chapter.

It is the policy of this State, and the purpose of this chapter, to promote the reliability of information used for guidance in financial transactions or for accounting or for assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance of the reliability or fairness of presentation of such information shall have demonstrated their qualifications, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having special competency or offering such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and that the use of titles with a capacity or tendency to deceive the public of the status or competence of the persons using such titles be prohibited.

SECTION 40-2-10. South Carolina Board of Accountancy created; membership; terms; filing vacancies.

- (A)(1) 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 eleven members appointed by the Governor, all of whom must be residents of this State; and
- (a) there must be one resident licensed certified public accountant from each congressional district;
 - (b) two members must be a licensed public accountant or a licensed accounting practitioner; and
 - (c) two members must be from the public at large, one of whom must be an attorney licensed in this State, who:
 - (i) are not engaged in the practice of public accounting;
 - (ii) have no financial interest in the profession of public accounting; and

(iii) have no immediate family member in the profession of public accounting. As used in this section, "immediate family member" is defined in Section 8-13-100(18).

- (2) Members are appointed for terms of four years and serve until their successors are appointed and qualify. Vacancies must be filled by the Governor for the unexpired portions of the term in the manner of original appointment. The Governor shall remove a member of the board in accordance with Section 1-3-240.
- (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 40-2-80 and 40-2-90 and except as necessary to protect confidential information in accordance with board regulations or state law. 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.
- (C) The board shall have a seal which must be judicially noticed. In any court proceeding, civil or criminal, arising out of or founded upon any provision of this chapter, copies of any records certified as true copies under the seal of the board are admissible in evidence as proving the contents of these records.
- (D) All monies collected by the Department of Labor, Licensing and Regulation from fees authorized to be charged by this chapter must be received and accounted for by the Department of Labor, Licensing and Regulation and must be deposited in the State Treasury. The budget of the board must include adequate funds for the expenses of administering the provisions of this chapter, which may include, but is not limited to, the costs of conducting investigations, of taking testimony, and of procuring the attendance of witnesses before the board or its committees; all legal proceedings undertaken for the enforcement of this chapter; participation in national efforts to regulate the accounting profession, and educational and licensing programs for the benefit of the public, the licensees and their employees. Initial fees must be established by the board and shall serve as the basis for necessary adjustments in accordance with Section 40-1-50(D).
- (E) The board may appoint committees or persons, to advise or assist it in the administration and enforcement of this chapter, as it sees fit.
- (F)(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 40-2-20. Definitions.

As used in this chapter:

- (1) "AICPA" means the American Institute of Certified Public Accountants or successor organizations.
- (2) "Attest" means providing the following services:
 - (a) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
 - (b) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);
 - (c) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);
 - (d) any engagement to be performed in accordance with Public Company Oversight Board (PCAOB) Auditing Standards, or
 - (e) any examination, review, or agreed upon procedure to be performed in accordance with the SSAE, other than an examination described in item (c).
- (3) "Board" means the South Carolina Board of Accountancy.
- (4) "Client" means a person or entity that agrees with a licensee or licensee's employer to receive any professional service.
- (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.
- (6) "Department" means the Department of Labor, Licensing and Regulation.
- (7) "Direct" means the person supervised in the usual line of authority or is in a staff position reporting to the supervisor. Direct supervision means a clear-cut personal connection to the employee being supervised, marked by a firsthand knowledge and association.
- (8) "Experience" means providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills whether gained through employment in government, industry, academia, or public practice.
- (9) "Firm" means a sole proprietorship, a corporation, a partnership or any other form of organization registered under this chapter. "Firm" includes a person or persons practicing public accounting in the form of a proprietorship, partnership, limited liability partnership, limited liability company, or professional corporation or association.
- (10) "License" means authorization to practice as issued under this chapter.
- (11) "Licensee" means the holder of a license.
- (12) "Manager" means a licensee in responsible charge of an office.

- (13) "NASBA" means the National Association of State Boards of Accountancy.
- (14) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a licensee of the board or a firm registered with the board that performs attest or compilation services by a person or persons who hold certificates and who are not affiliated with the certificate holder or certified public accountant firm being reviewed.
- (15) "Practice of accounting" means:
- (a) Issuing a report on financial statements of a person, firm, organization, or governmental unit or offering to render or rendering any attest or compilation service. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by a nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or
 - (b) using or assuming the title "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.
- (16) "Professional" means arising out of or related to the specialized knowledge or skills associated with licensees.
- (17) "Report", when used with reference to **any attest or compilation service**, means an opinion, report, or other form of language that states or implies assurance as to the reliability of **the attested information or compiled** financial statement and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competency in accounting or auditing. This statement or implication of special knowledge or competency may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor. The term "report" includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply positive assurance as to the reliability of the **attested information or compiled** financial statements referred to or special competency on the part of the person or firm issuing such language, or both; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competency, or both.
- (18) "Resident manager" means a responsible party for a firm.
- (19) "Registration" means an authorization to practice as a firm issued under this chapter.
- (20) "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and Guam; except that "this State" means the State of South Carolina.
- (21) "Substantial equivalency" is a determination by the Board of Accountancy or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or

exceed the education, examination, and experience requirements contained in Section 40-2-245(A)(2), or that an individual licensee's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in Section 40-2-245(A)(2). In ascertaining substantial equivalency as used in this chapter, the board or its designee shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

- (22) "Supervision" means having jurisdiction, oversight, or authority over the practice of accounting and over the people who practice accounting.
- (23) "Home office" means the location specified by the client as the address to which an attest or compilation service is directed.
- (24) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity."

SECTION 40-2-30. Licensing or registration requirement; form for issuance of report by person other than CPA or PA; use of titles CPA and PA; exemption.

- (A) It is unlawful for a person to engage in the practice of accountancy as regulated by this board without holding a valid license or registration or without qualifying for a practice privilege pursuant to Section 40-2-245.
- (B) Only licensed certified public accountants or public accountants or individuals qualifying for a practice privilege pursuant to Section 40-2-245 may issue a report on financial statements of a person, firm, organization, or governmental unit or offer to render or render any attest or compilation service as defined, except as provided in Section 40-2-340. This restriction does not prohibit an act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports.
- (C) Persons, other than certified public accountants or public accountants, may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS). Transmittals using the following language must not be considered the unlicensed practice of accountancy:

"I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing 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 accordingly do not express an opinion or any other form of assurance on them."

- (D) Only a person holding a valid license as a certified public accountant or qualifying for a practice privilege under Section 40-2-245 shall use or assume the title "Certified Public

Accountant”, or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a certified public accountant.

- (E) A firm may not provide attest services or assume or use the title “ Certified Public Accountants”, “Public Accountants” or the abbreviation “ CPAs”, and “PAs” or any other title, designation, words, letters, abbreviation, sign, card, or device indicating the firm is a CPA firm unless:
- (1) the firm holds a valid registration issued under this chapter or is exempt from the registration requirement by operation of subsection (I);
 - (2) ownership of the firm is in accordance with Section 40-2-40(C) and implementing regulations promulgated by the board, unless the firm is exempt from the registration requirement by operation of subsection (I); and
 - (3) owners who are not certified public accountants must be permitted to use the titles “principal”, “partner”, “owner”, “officer”, “member”, or “shareholder” but must not hold themselves out to be certified public accountants.
- (F) A person must not assume or use the title “Public Accountant”, or the abbreviation “PA”, or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless that person holds a valid registration issued under this chapter.
- (G) Only a person or firm holding a valid license or registration issued under this chapter, an individual qualifying for practice privileges under Section 40-2-245, or a firm exempt from the registration requirement by operation of subsection (I) shall assume or use any title or designation likely to be confused with the titles ‘Certified Public Accountant’ or ‘Public Accountant’ or use a similar abbreviation likely to be confused with the abbreviations ‘CPA’ or ‘PA’. The title ‘Enrolled Agent’ or ‘EA’ may only be used by individuals designated by the Internal Revenue Service. Persons or firms that are not licensed or registered, individuals qualifying for practice privileges under Section 40-2-245, and firms exempt from the registration requirement by operation of subsection (I) may use designations granted by national accrediting organizations so long as those designations do not imply qualification to render any attest or compilation service.
- (H) This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country; whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement; who performs no attest or compilation services and who issues no reports, as defined in this chapter, with respect to the information of any other persons, firms, or governmental units in this State; and who does not use in this State any title or designation other than the one under which the person practices in their country, followed by a translation of the title or designation into the English language if it is in a different language, and by the name of the country.

- (I) (1) Firms that do not have an office in this State, and that do not perform the services described in Section 40-2-20(2)(a) (audits), (c) (examinations), or (d) (services under PCAOB Auditing Standards) for a client having its home office in this State, may engage in the practice of accounting, without obtaining a registration pursuant to Section 40-2-40, as specified in this subsection.
- (2) A firm described in subsection (I)(1) may perform services described in Section 40-2-20(2)(b), (2)(e) or (5) for a client having its home office in this State, may engage in the practice of accounting, as specified in this section, and may use the title 'CPA' or 'CPA firm' only if the firm:
 - (a) has the qualifications described in Section 40-2-40(C) and Section 40-2-255(C); and
 - (b) performs these services through an individual with practice privileges under Section 40-2-245.
- (3) A firm described in subsection (I)(1) that is not subject to the requirements of subsection (I)(2) may perform other professional services within the practice of accounting while using the title 'CPA' or 'CPA firm' in this State only if the firm:
 - (a) performs these services through an individual with practice privileges under Section 40-2-245; and
 - (b) can lawfully do so in the state where these individuals with practice privileges have their principal place of business.
- (4) Notwithstanding any other provision of this section, it is not a violation of this section for a firm that does not hold a valid permit under Section 40-2-40 and which does not have an office in this State to provide its professional services or to engage in the practice of accounting so long as it complies with the requirements of subsection (I)(2) or (3), whichever is applicable.
- (J) 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 40-2-35. Requirements for license to practice; fulfilling education, examinations and experience requirements.

- (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) (1) 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, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed 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. 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.

(2) Notwithstanding any other provision of law to the contrary, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check 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.

(3) The applicant must bear all costs associated with conducting criminal records checks.

(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).
- (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.
- (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 (a).

(F) A candidate must pass all sections of the examination provided for in Section 40-2-35(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 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 and twenty hours of acceptable continuing professional education in order to qualify, in addition to all other requirements imposed by this section.

(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.

(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(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 than

twelve semester hours per year, 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, 'experience' shall have the same meaning as 'appropriate experience' in Section 40-2-35(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 experience within two years before submitting the application.

SECTION 40-2-40. Grant or renewal of registration to practice as firm; qualifications for registration; changes in identities of partners or officers.

- (A) The board shall grant or renew registration to practice as a firm to applicants that demonstrate their qualifications in accordance with this section.
- (B) (1) The following must hold a registration issued pursuant to this section:
- (a) a firm with an office in this State performing attest services as defined in Section 40-2-20(2) or engaging in the practice of accounting;
 - (b) a firm with an office in this State that uses the title 'CPA' or 'CPA firm'; or
 - (c) a firm that does not have an office in this State but performs attest services described in Section 40-2-20(2)(a) (audits), (c) (examinations), or (d) (services under PCAOB Auditing Standards) for a client having a home office in this State.
- (2) A firm not subject to subsection (B)(1) may be exempted from the registration requirement provided for in Section 40-2-30(l).
- (C) Qualifications for registration as a certified public accountant firm are as follows:
- (1) A 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 nonlicense owners must be active individual participants in the firm or affiliated entities.
 - (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 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 certified public accountants 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 certified public accountants in this State.
- (8) A certified public accountant firm and its designated resident manager under subitem (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 shall be of good moral character and shall not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.
- (D) Registration must be initially issued and renewed annually. Applications for registration must be made in such form, and in the case of applications for renewal, between such dates as the board by regulation may specify, and the board shall grant or deny any such application after filing in proper form.
- (E) An applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall register each firm within this State with the board and shall demonstrate that all attest and compilation services rendered in this State are under the charge of a person holding a valid license issued pursuant to this section or the corresponding provision of prior law or of some other state.
- (F) The board may charge a fee for each application for initial issuance or renewal of a registration issued pursuant to this section.
- (G) An applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall list on the application all states in which the firm has applied for or holds registration and shall list any past denial, revocation, or suspension of a registration by any other state.
- (H) Each holder of or applicant for a registration issued pursuant to this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this State, any change in the number or location of offices within this State, any change in the identity of the licensee in charge of these offices, and any issuance, denial, revocation, or suspension of a registration by any other state.
- (I) A firm that falls out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective

action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take this corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board shall result in the suspension or revocation of the firm permit.

SECTION 40-2-50 to 40-2-60. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

SECTION 40-2-50 to 40-2-60. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

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SECTION 40-2-70. Powers and duties of board.

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;
- (7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;
- (8) participate in national efforts to regulate the accounting profession;
- (9) discipline licensees or registrants in a manner provided for in this chapter;

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

SECTION 40-2-80. Investigations of complaints or other information suggesting violations.

- (A) The department, upon receipt of a complaint or other information suggesting violation of this chapter or of regulations promulgated pursuant to this chapter, shall conduct an appropriate investigation to determine whether there is probable cause to institute proceedings. An investigation under this section is not a prerequisite to conducting proceedings if a determination of probable cause can be made without investigation. In aid of investigations, the administrator of the board may issue subpoenas to compel witnesses to testify or to produce evidence, or both.
- (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 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."
- (C) The results of an investigation must be presented to the board.
- (D) For the purpose of an investigation under this section, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to the Administrative Law Court for an order requiring compliance with the subpoena.

- (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.
- (F) The board may review the publicly available professional work of licensees, and all professional work submitted to the State, on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety. If as a result of a review the board discovers reasonable grounds for a more specific investigation, the board may proceed under subsections (A) through (E).
- (G) If the department receives information indicating a possible violation of state or federal law, the department may provide that information, to the extent the department considers necessary, to the appropriate state or federal law enforcement agency or regulatory body.
- (H)(1) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed 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. 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.
- (2) Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check 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.
- (3) of conducting a criminal records check are the responsibility of 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.

SECTION 40-2-90. Report of violations to board; hearing; notice to accused licensee or registrant.

- (A) If the Department of Labor, Licensing and Regulation or the board has reason to believe that a licensee or registrant has violated a provision of this chapter or a regulation promulgated pursuant to this chapter or that a licensee has become unfit to practice as a certified public accountant, a public accountant, or an accounting practitioner the department shall present its evidence to the board and the board may, in accordance with the Administrative Procedures Act, take action as

authorized by law. The board may designate a hearing officer or panel to conduct hearings or take other action as may be necessary.

- (B) The board shall notify the accused licensee or registrant in writing not less than thirty days before the hearing with a copy of the formal charges attached to the notice. The notice must be served personally or sent to the charged licensee or registrant by certified mail, return receipt requested, directed to his or her last mailing address furnished to the board. The post office registration receipt signed by the licensee or registrant, his or her agent, or a responsible member of his or her household or office staff, or if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.
- (C) The licensee or registrant has the right to be present and 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.
- (D) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any hearing panel or member pursuant to this chapter, whether by way of complaint or testimony, is privileged against liability. No action or proceeding, civil or criminal, lies against any person by whom or on whose behalf such communication has been made, except upon proof that the communication was made with malice.
- (E) Nothing contained in this section may be construed to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

SECTION 40-2-100. Cease and desist order for conduct violating chapter; temporary restraining orders; injunctions.

- (A) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If the person is practicing accountancy without being licensed pursuant to this chapter, is violating an order of the board, a provision of this chapter, or a regulation promulgated pursuant to this chapter, the board also may apply, in accordance with the rules of the Administrative Law Court for a temporary restraining order. A board member or the Director of the Department of Labor, Licensing and Regulation or another employee of the department may not be held liable for damages resulting from a wrongful temporary restraining order.
- (B) The board may seek from the Administrative Law Court other equitable relief to enjoin the violation or intended violation of this chapter or a regulation promulgated pursuant to this chapter.

SECTION 40-2-110. Revocation, suspension or probation of licensees; revocation of registration or limitation of scope of practice of firm.

- (A) After notice and hearing pursuant to the Administrative Procedures Act, the board may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a licensee and impose an administrative fine not exceeding ten thousand dollars per violation. The board also may place a licensee on probation, require a peer review as the board may specify, or require satisfactory completion of a continuing professional education program as the board may specify, all with or without terms, conditions, and limitations, for any one or more of the following reasons:
- (1) conviction of a felony, or of any crime with an element of dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the acts involved constitute a crime under state laws;
 - (2) conduct reflecting adversely upon the licensee's fitness to perform services as a licensee;
 - (3) use of a false, fraudulent, or forged statement or document or committal of a fraudulent, deceitful, or dishonest act or omission of a material fact in obtaining licensure pursuant to this chapter;
 - (4) intentional use of a false or fraudulent statement in a document connected with the practice of the individual's profession or occupation;
 - (5) obtaining fees or assistance in obtaining fees under fraudulent circumstances;
 - (6) failure to comply with established professional standards, including standards set by federal or state law or regulation;
 - (7) violation of the code of professional ethics adopted by the board or of the AICPA Professional Standards: Code of Professional Conduct;
 - (8) failure to respond to requests for information or to cooperate in investigations on behalf of the board;
 - (9) engagement or aid of another, intentionally or knowingly, directly or indirectly, in unlicensed practice of accounting;
 - (10) failure to disclose or disclaim the appropriate license status of a person or entity not holding a license but associated with financial statements;
 - (11) engagement in advertising or other forms of solicitation or use of a firm name in a manner that is false, misleading, deceptive, or tending to promote unsupported claims;
 - (12) the revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee.

- (B) After notice and hearing, as provided in Section 40-2-90, the board shall revoke the registration of a firm if at any time it does not meet the requirements prescribed by Section 40-2-40 and also may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a registrant and impose an administrative fine not to exceed ten thousand dollars per violation for any of the causes enumerated in subsection (A) or for:
 - (1) the revocation or suspension or refusal to renew the license to practice of a member of a firm;
 - (2) the revocation, suspension, reprimand, or other discipline of the right to practice by the firm in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee;
 - (3) the failure to notify the board in writing, within thirty days after its occurrence, of any revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency.
- (C) A final order of the board disciplining a licensee under this section is public information.
- (D) Upon a determination by the board that discipline is not appropriate, the board may issue a nondisciplinary letter of caution.
- (E) The board may establish a procedure to allow a licensee who has been issued a public reprimand to petition the board for expungement of the reprimand from the licensee's record.
- (F) Licensees of this State offering or rendering services or using their "Certified Public Accountant" title in another state are subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline.

SECTION 40-2-120. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

SECTION 40-2-130. Denial of authorization to practice.

The board may deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this chapter. The board must deny authorization to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure required by this chapter. The applicant shall demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license.

SECTION 40-2-140. Effect of prior criminal conviction on right to authorization to practice.

A person may not be refused an authorization to practice, pursue, or engage in accounting solely because of a prior criminal conviction unless the criminal conviction directly relates to accounting for which the authorization to practice is sought. However, the board may refuse an authorization to practice if, based upon all information available, including the applicant's record

of prior convictions, the board finds that the applicant is unfit or unsuited to engage in accounting.

SECTION 40-2-150. Surrender of license to practice while under investigation for violation; reinstatement.

A licensee who is under investigation for a violation provided for in this chapter or Section 40-1-110 may voluntarily surrender his or her authorization to practice to the board. The voluntary surrender invalidates the authorization to practice at the time of its relinquishment, and no person whose authorization to practice is surrendered voluntarily may practice accountancy unless the board, by a majority vote, reinstates the license. A person practicing accountancy during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter. The surrender of an authorization to practice must not be considered an admission of guilt in a proceeding under this chapter and does not preclude the board from taking disciplinary action against the licensee as provided for in this chapter including, but not limited to, imposing prerequisite conditions for board reinstatement of the license.

SECTION 40-2-160. Appeals.

A person aggrieved by a final action of the board may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the board's decision pending completion of the appellate process.

SECTION 40-2-170. Costs of investigation and prosecution.

- (A) In an order issued in resolution of a disciplinary proceeding before the board, a licensee found in violation of the applicable licensing act may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case in addition to other sanctions.
- (B) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the director, or the director's designee, is prima facie evidence of reasonable costs.
- (C) Failure to make timely payment in accordance with the order results in the collection of costs in accordance with Section 40-1-180.
- (D) The board may conditionally renew or reinstate for a maximum of one year the license of an individual who demonstrates financial hardship and who enters into a formal agreement to reimburse the board within that time period for the unpaid costs.

SECTION 40-2-180. Unpaid costs become judgment.

- (A) All costs and fines imposed pursuant to this chapter are due and payable immediately upon imposition or at the time indicated by final order of the board.

Unless the costs and fines are paid within sixty days of the date they are due, the order becomes a judgment and may be filed and executed upon in the same manner as a judgment in the court of common pleas, and the board may collect costs and attorney's fees incurred in executing the judgment. Interest at the legal rate accrues on the amount due from the date imposed until the date paid. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180 and subject to the collection and enforcement provisions of the Setoff Debt Collection Act.

- (B) All fines and costs collected under this chapter must be remitted by the department to the State Treasurer and deposited in a special fund established for the department to defray the administrative costs associated with investigations and hearings under this chapter.

SECTION 40-2-190. Disclosure of information communicated by client; ownership of statements, records, working papers, etc., created by licensee; furnishing copies of working papers to clients.

- (A) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of a client, a licensee under this chapter must not voluntarily disclose information communicated by the client relating to and in connection with services rendered. This information is confidential. However, nothing in this chapter may be construed to prohibit the disclosure of information requiring disclosure by the standards of the public accounting profession in reporting on the examination of financial statements or to prohibit disclosures in court proceedings, investigations or proceedings under this chapter, in ethical investigations conducted by private professional organizations, in the course of peer reviews, in performing services for that client on a need to know basis by other active persons of the organization, or in the business of persons in the entity needing this information for the sole purpose of assuring quality control.
- (B) Subject to the provisions of this section, all statements, records, schedules, working papers, and memoranda created by a licensee or on behalf of a registrant, incident to, or in the course of, rendering services to a client except the reports submitted by the licensee to the client and except for records that are part of the client's records, are and remain the property of the licensee in the absence of an expressed agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, or new members of the registrant, or any combined or merged firm or successor in interest to the licensee. Nothing in this section may be construed to prohibit temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to this section.
- (C) A licensee shall furnish to a client or former client, upon request and reasonable notice:

- (1) a copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and
 - (2) accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of these documents of the client when based on work completed by the licensee.
- (D) Nothing in this section requires a licensee to keep paper work beyond the period prescribed in any other applicable law.

SECTION 40-2-200. Violations; penalty.

A person or firm who knowingly violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than one year, or both.

SECTION 40-2-210. Cease and desist order for violation of licensing requirement; injunctions and restraining orders; penalty.

If the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of Section 40-2-30, the board may issue a cease and desist order. The board may also apply to the Administrative Law Court pursuant to Section 40-1-210 for an order enjoining these acts or practices, and upon a showing by the board that the person or firm has engaged or is about to engage in these acts or practices, the division shall grant an injunction, restraining order, or other order as may be appropriate. For each violation, the Administrative Law Court may impose a fine of no more than ten thousand dollars.

SECTION 40-2-220 to 40-2-230. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

SECTION 40-2-240. Licensing of persons licensed in another state.

- (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) 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) 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) 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) 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) demonstrated completion of eighty hours of qualified CPE within the last two years; and
 - (6) filed an application and pays an annual fee sufficient to cover the cost of administering this section.
- (B) Each holder of a certificate issued under this section shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

SECTION 40-2-245. Conditions for granting individual whose office is outside State privilege of performing services.

- (A) An individual whose principal place of business is outside this State is presumed to have qualifications substantially equivalent to this state's requirements and may exercise all the privileges of licensees of this State without the need to obtain a license under Section 40-2-35 if the individual:
- (1) holds a valid license as a certified public accountant from any state which requires, as a condition of licensure, that an individual:
 - (a) have at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university;
 - (b) achieve a passing grade on the Uniform Certified Public Accountant Examination; and
 - (c) possess the appropriate experience pursuant to Section 40-2-35(4)(a); or
 - (2) holds a valid license as a certified public accountant from any state that does not meet the requirements of subsection (A)(1) but such individual's CPA qualifications are substantially equivalent to those requirements. An individual who passed the Uniform CPA Examination and holds a valid license issued by any other state before January 1, 2012, may be exempt from the education requirement in subsection (A)(1)(a) for purposes of this item.
- (B) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means

- pursuant to this section is granted practice privileges in this State and no notice, fee, or other submission may be required of the individual. The individual is subject to the requirements of subsection (C).
- (C) An individual licensee or holder of a permit to practice of another state exercising the privilege afforded under this section and the firm that employs that licensee simultaneously consents, as a condition of exercising this privilege:
 - (1) to the personal and subject matter jurisdiction and disciplinary authority of the board;
 - (2) comply with the provisions of this section and the regulations promulgated pursuant to this section;
 - (3) that in the event the license or permit to practice from the state of the individual's principal place of business is no longer valid, to cease offering or rendering professional services in this State individually and on behalf of a firm; and
 - (4) to have an administrative notice of hearing served on the board in the individual's principal state of business in any action or proceeding by this board against the licensee.
 - (D) An individual who qualifies for practice privileges under this section who performs any of the following services for an entity with its home office in this State may only perform these services through a firm that has obtained a registration issued under Section 40-2-40:
 - (1) a financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards;
 - (2) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements; or
 - (3) an engagement to be performed in accordance with Public Company Accounting Oversight Board Auditing Standards.
 - (E) A licensee of this State offering or rendering services or using his or her CPA title in another state is subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. The board shall investigate any complaint made by the board of accountancy of another state."

SECTION 40-2-250. Renewal of licenses; reinstatement of lapsed licenses.

- (A) A licensee shall file an application for renewal on or before **February** first of **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) A licensee shall file a verified report of continuing education on or before February first and document forty hours of acceptable continuing education during the immediate 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) If a licensee does not file an application for renewal on or before February first, the licensee is considered lapsed. Continued practice after February fifteenth may be sanctioned as unlicensed practice of accounting.
- (E) Renewal applications filed or completed after February fifteenth are subject to a reinstatement fee in the amount of five hundred dollars. A person may not practice on a lapsed 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 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 40-2-255. Renewal of registration; peer reviews.

- (A) A registrant shall file an application for renewal of the calendar-year registration on or before February first of 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) require an applicant to show that 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 peer reviews 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 peer reviews to be 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) If a registrant does not file an application for renewal on or before February first, the registration is considered lapsed. Continued practice after February fifteenth may be sanctioned as unlicensed practice of accounting.

SECTION 40-2-270. "Emeritus" status.

- (A) A licensee who is retired and does not perform or offer to perform for compensation one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory, or consulting services or the preparation of tax returns or the furnishing of advice on tax matters, may apply to the board for permission to place the word "Emeritus" adjacent to the licensee's " Certified Public Accountant" title or "Public Accountant" title on any document or device on which the "Certified Public Accountant" or "Public Accountant" title appears.
- (B) A license in "emeritus" status must be renewed annually with no fee required. A license in "emeritus" status may not be reinstated as an active license.
- (C) A licensee holding a license in "emeritus" status may apply for licensure under Section 40-2-35 as if the licensee was a new applicant and never sat for the exam.

SECTION 40-2-280 to 40-2-320. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

SECTION 40-2-330. Severability.

If a provision of this chapter or the application of a provision of this chapter to a person or entity or in any circumstances is held invalid, the remainder of the chapter and the application of the provision to others or in other circumstances must not be affected thereby.

SECTION 40-2-335. Performance in accordance with professional standards; misleading professional or firm names.

- (A) Licensed certified public accountants/public accountants performing or supervising the performance of attest or compilation services must provide those services in accordance with professional standards.
- (B) A person holding a license or firm holding a registration under this chapter must not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm or about any other matter; however, names of one or more former owners, partners, members, managers, or shareholders may be included in the name of a firm or its successor.

SECTION 40-2-340. Disclaimer.

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."

SECTION 40-2-350 to 40-2-380. Omitted by 2004 Act No. 289, Section 1, eff July 22, 2004.

ARTICLE 3.

REGULATION OF ACCOUNTING PRACTITIONERS

SECTION 40-2-510. Persons deemed to be engaged in practice.

A person, firm, or professional association not exempt under Section 40-2-530 is considered to be engaged in the practice of offering to render and rendering to the public the services which are regulated by this article if the person, firm, or professional association:

- (1) offers to prospective clients in South Carolina to perform for compensation one or more of these services:
 - (a) the development, recording, analysis, or presentation of financial information including, but not limited to, the preparation of financial statements; or
 - (b) advice or assistance in regard to accounting controls, systems, and procedures; and
- (2) in any manner holds himself or itself out to the public in South Carolina as skilled in one or more of the types of services described in item (1).

SECTION 40-2-520. Unlicensed practice.

- (A) No professional association, person, or partnership, other than a person or partnership holding a permit to practice issued pursuant to this article, may engage in the practice defined in Section 40-2-510 unless he or it plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article.
- (B) No professional association, person, or partnership, other than a person or partnership holding a permit to practice issued pursuant to this article, may assume or use the title or designation "Accounting Practitioner" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is an accounting practitioner or that the partnership is composed of accounting practitioners or that the person, partnership, or professional association is authorized under this article to engage in the practice defined under Section 40-2-510.

SECTION 40-2-530. Exemptions.

Nothing contained in this article:

- (1) applies to a certified public accountant or public accountant who holds a license to practice issued under the law of South Carolina and no provision of this article applies to a partnership of certified public accountants or public accountants which holds a permit to practice issued under South Carolina authority;
- (2) applies to a person, firm, or professional association which plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article;
- (3) prohibits a person from serving as an employee of a person, partnership, or professional association if the employee does not engage in the practice defined in Section 40-2-510 on his own account;
- (4) prohibits a person, partnership, or professional association from offering to prepare or from preparing a tax return with respect to taxes imposed by a governmental authority,

whether federal, state, or local, and this article does not prevent a person from advising clients in connection with tax matters;

- (5) prohibits a person, partnership, or professional association holding a license or permit issued by another state, territory, or the District of Columbia, which authorizes the person, partnership, or professional association to engage in the other jurisdiction in the type of practice described in Section 40-2-510, from temporarily practicing in this State as an incident to his or its regular practice outside of this State if the temporary practice is conducted in conformity with the rules of ethical conduct promulgated by the board;
- (6) applies to the affixing of the signature or name of an officer, employee, partner, or principal of an organization to a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which he holds in the organization, and the provisions of this article do not apply to an act of a public official or public employee in the performance of his duties;
- (7) applies to the offering or rendering of data processing services by mechanical or electronic means or to the offering or rendering of services in connection with the operation, sale, lease, rental, or installation of mechanical or electronic bookkeeping or data processing equipment or to the sale, lease, rental, or installation of this equipment.

SECTION 40-2-540. Authority of board.

The South Carolina Board of Accountancy shall examine, license, and discipline accounting practitioners. The board may charge a reasonable fee for examinations, not exceeding the fee charged for certified public accountants' examinations.

SECTION 40-2-550. Applicant qualifications.

In order to be eligible for licensing under this article as an accounting practitioner, an applicant may not hold another license granted under this chapter and must:

- (1) not have any history of dishonest or felonious acts;
- (2) be a resident of this State or have a place of business in this State, or as an employee, be regularly employed in this State;
- (3) be at least eighteen years of age; and
- (4) meet these requirements:
 - (a) pass an examination approved by the board, which is designed to test the applicant's basic knowledge of the subjects described in Section 40-2-510(1) and which may consist of parts of the examination administered to certified public accountant applicants or another examination as the board may prescribe; and

- (b) have a bachelor's degree with a major in accounting as determined by the board from a four-year college or university accredited by the Southern Association of Colleges and Schools or from a college or university having equivalent standards as determined by the board;
- (5) surrenders, if licensed and holds a current annual permit to practice in this State as a certified public accountant or public accountant, his license and permit to practice as a certified public accountant or public accountant upon being licensed as an accounting practitioner.

SECTION 40-2-560. Issuance of licenses.

- (A) Licenses must be issued by the board to persons satisfying the requirements of Section 40-2-550 upon the payment of a license fee in an amount to be determined by the board.
- (B) A licensee must file an application for renewal in accordance with Section 40-2-250.
- (C) A partnership, firm, or registrant must file an application in accordance with Section 40-2-40 and Section 40-2-255.
- (D) Partnerships, without payment of a permit fee, which meet the following standards:
 - (1) at least one general partner must be an accounting practitioner of this State in good standing;
 - (2) each partner must be lawfully engaged in the practice, as defined in Section 40-2-520, in a state of the United States;
 - (3) each resident manager in charge of an office must be an accounting practitioner of this State in good standing.

SECTION 40-2-570. Disciplinary action.

- (A) After notice and hearing pursuant to Section 40-2-310 the board may revoke a license or permit as accounting practitioner issued under this article; suspend a license or permit for a period of not more than five years; reprimand, censure, or limit the scope of practice of a license or permit holder; impose an administrative fine not exceeding ten thousand dollars; or place a license or permit holder on probation, all with or without terms, conditions, and limitation for any one or more of these reasons:
 - (1) Fraud or deceit in obtaining a license or permit;
 - (2) cancellation, revocation, or suspension of, or refusal to renew authority to engage in the practice of public accountancy in another state, territory of the United States, or the District of Columbia for any cause;
 - (3) revocation or suspension of the right to practice before a state or federal agency;

- (4) dishonesty, fraud, or gross negligence in the practice of public accounting or in filing or failure to file the license or permit holder's own income tax return;
 - (5) violation of a provision of this article or Article 1 or a regulation promulgated by the board under the authority granted by this chapter;
 - (6) violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;
 - (7) conviction of a felony or any crime, an element of which is dishonesty or fraud, under the laws of the United States, of this State, or another state if the acts involved would have constituted a crime under the laws of this State. The record of conviction or a copy of the record, certified by the clerk of court or the judge in whose court the conviction is had, is conclusive evidence of the conviction and "conviction" shall include a plea of guilty or a plea of nolo contendere;
 - (8) performance of a fraudulent act while holding a license or permit under this article;
or
 - (9) conduct reflecting adversely upon the license or permit holder's fitness to engage in the practice of public accountancy.
- (B) In lieu of or in addition to a remedy specifically provided in subsection (A), the board may require one or more of these requirements of a license or permit holder:
- (1) a quality review conducted in a fashion as the board may require; or
 - (2) satisfactory completion of continuing professional education programs as the board may specify. A "quality review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy by a person or persons who hold certificates or licenses and who are not affiliated with the person or firm being reviewed.
- (C) In a proceeding in which a remedy imposed by subsections (A) and (B) is imposed, the board also may require the respondent license or permit holder to pay the costs of the proceeding.

SECTION 40-2-580. Initiation of proceedings; procedures.

The board may initiate proceedings under this article on its own motion or on the complaint of a person, and the procedures provided in Article 1 for these proceedings are applicable and binding in procedures under this article.

SECTION 40-2-590. Violations.

A person who violates a provision of this article is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars or more than two hundred dollars or imprisoned not less than twenty days or more than sixty days. Each violation constitutes a separate offense and each day's violation constitutes a separate offense.

SECTION 40-2-600. Partnerships between public accountants and accounting practitioners.

Nothing contained in this article may be construed to prohibit the formation of partnerships by and between public accountants and accounting practitioners if all members of the partnerships and all resident public managers of offices of the partnerships are licensed under this chapter as public accountants or accounting practitioners and if the partnerships apply for an annual permit in the manner prescribed in this article for other partnerships.

Annual Report from LLR

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.

Time effective

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

Ratified the 2nd day of June, 2015.

Approved the 3rd day of June, 2015