

Stricken language would be deleted from and underlined language would be added to present law.
Act 90 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H1/29/13
A Bill

HOUSE BILL 1122

By: Representative Hillman

By: Senator R. Thompson

For An Act To Be Entitled

AN ACT CONCERNING THE REGULATION OF PUBLIC
ACCOUNTANTS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE REGULATION OF PUBLIC
ACCOUNTANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-12-103(a)(6)-(20), concerning definitions for certified public accountants, is amended to read as follows:

(6) "Compilation" means providing a service to be performed in accordance with "Statements on Standards for Accounting and Review Services" and presenting in the form of financial statements information that is the representation of management ~~and/or~~ or owners without undertaking to express any assurance on the financial statements;

(7) "Conviction" means all instances in a criminal case in which a defendant has been found guilty or pleads guilty or nolo contendere regardless of whether:

(A) Sentencing or imposition of sentencing has been deferred or suspended; or

(B) The adjudication of guilt or the sentence is withheld by the court;

(8) "Firm" means a partnership, corporation, limited liability company, sole proprietorship, or other entity required to be registered with the board under ~~the provisions of~~ § 17-12-401 et seq.;



(9) "Home office" means the location specified by the client as the address to which a service under § 17-12-311 is directed;

~~(9)~~(10) "License" means a certificate issued under § 17-12-301 or a registration under § 17-12-312 or § 17-12-401 et seq. or, in each case, a certificate or permit issued or a registration under corresponding provisions of prior law;

~~(10)~~(11) "Licensee" means the holder of a license as defined in this section;

~~(11)~~(12) "Member" means either:

(A) The person in whose name membership interests are registered in the records of a limited liability company; or

(B) The beneficial owner of membership interests of a revocable living trust ~~where~~ when the membership interests are registered in the records of the limited liability company in the name of the revocable living trust;

~~(12)~~(13) "NASBA" means the National Association of State Boards of Accountancy, or its successor;

~~(13)~~(14) "PCAOB" means the Public Company Accounting Oversight Board, or its successor;

~~(14)~~(15) "Practice of public accounting" means the performance of attest services as defined in this section or the performance of professional services ~~while using the title or designation certified public accountant, public accountant, CPA, PA, accountant, or auditor;~~

(16)(A)(i) "Principal place of business" means the primary location from which professional services are performed.

(ii) A person or firm may have only one (1) principal place of business at any one (1) time.

(B) An individual who performs professional services at multiple locations may designate the location that most often serves as the individual's home base of operations as a principal place of business;

~~(15)~~(17) "Professional services" means services arising out of or related to the specialized knowledge or skills performed by certified public accountants or public accountants;

~~(16)~~(18) "Shareholder" means either:

(A) The person in whose name shares are registered in the records of a corporation; or

(B) The beneficial owner of shares of a revocable living trust ~~where~~ when the shares are registered in the records of the corporation in the name of the revocable living trust; and

~~(17)~~(19) "State" means any state, territory, or insular possession of the United States or the District of Columbia.

SECTION 2. Arkansas Code § 17-12-104 is amended to read as follows:
17-12-104. Penalty.

(a)(1) ~~Any~~ A person who violates any provision of § 17-12-106 ~~shall be~~ is guilty of a misdemeanor;

~~(2) and upon conviction~~ A person convicted of violating any provision of § 17-12-106 shall be is subject to:

~~(A) a~~ A fine of not more than ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000);

~~(B) A judgment in favor of the Arkansas State Board of Public Accountancy for investigative costs;~~ or

~~(C) to imprisonment~~ Imprisonment for not more than one (1) year, ~~or to both fine and imprisonment~~ for each violation.

~~(2)~~(3) Each violation of § 17-12-106 ~~shall constitute~~ constitutes a separate offense.

(b) ~~Whenever~~ When the ~~Arkansas State Board of Public Accountancy board~~ has reason to believe that ~~any~~ a person is subject to punishment under this section, the board may certify the facts to the Attorney General or other appropriate enforcement officer, who, ~~in his or her discretion,~~ may cause appropriate proceedings to be brought.

SECTION 3. Arkansas Code § 17-12-106(e), concerning unlawful and misleading designations, is amended to add additional subdivisions to read as follows:

(4)(A) A person or firm shall not use a professional or firm name or designation that is misleading in reference to the legal form of the firm, the ownership of the firm, or the firms owners, partners, officers, members, managers, or shareholders.

(B) However, a firm may use the name of one (1) or more past partners, officers, members, managers, or shareholders in its firm name.

(5)(A)(i) A common brand name or initials used by a firm in its

name is not misleading if the firm is a network firm.

(ii) For purposes of this subsection, "network firm" means an association of entities that includes one (1) or more firms that:

(a) Cooperate to enhance the firms' ability to provide professional services; and

(b) Share one (1) or more of the following:

(1) Common control as defined by generally accepted accounting principles in the United States through ownership, management, or other means;

(2) Profits or costs, excluding costs of operating the association, developing audit methodologies, manuals, and training courses, or other costs that are immaterial to the firm;

(3) A common business strategy, established by the association, that involves ongoing collaboration among the firms and whereby the firms are responsible for implementing the strategy and are held accountable for their performance under it;

(4) Significant part of professional resources; and

(5) Common quality control policies and procedures that the firms are required to implement and are monitored by the association.

(B) A network firm may consist of a subset of entities within an association only if that subset of entities cooperates and shares one (1) or more of the characteristics in subdivision (5)(A)(ii) of this section.

(C) A firm shall comply with the applicable standards on independence if it offers or renders services that require independence.

SECTION 4. Arkansas Code § 17-12-203, concerning the duties and powers of the Arkansas State Board of Public Accountancy, is amended to add additional subsections to read as follows:

(e) The Arkansas State Board of Public Accountancy may:

(1) Adopt rules, not inconsistent with this subchapter, as necessary and proper to carry out the purposes and intentions of this subchapter;

(2)(A) Issue subpoenas to compel the attendance of witnesses and

the production of documents.

(B) In case of refusal to obey a subpoena issued to any person, the Pulaski County Circuit Court, upon application by the Arkansas State Board of Public Accountancy, may issue an order requiring the person to appear before the Arkansas State Board of Public Accountancy to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question.

(C) Failure to obey the order of the court may be punished by the court as a contempt of court;

(3) Administer oaths;

(4) Take testimony and receive evidence; and

(5) Cooperate with the following:

(A) Public Company Accounting Oversight Board; and

(B) The appropriate state, federal, or foreign regulatory authorities having jurisdiction over the professional conduct in question.

(f)(1) The Arkansas State Board of Public Accountancy and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities.

(2) The state shall hold the Arkansas State Board of Public Accountancy, its members, and its agents harmless from all costs, damages, and attorney's fees arising from claims and suits against them with respect to matters to which the immunity applies.

SECTION 5. Arkansas Code § 17-12-304(b), concerning examination requirements, is amended to read as follows:

(b) The board may ~~make use of all or~~ use any part of the Uniform Certified Public Accountant's Accountant Examination and Advisory Grading Services Service from the American Institute of Certified Public Accountants as it deems appropriate to assist it in performing its duties under this section.

SECTION 6. Arkansas Code § 17-12-504(i), concerning expired licenses, is repealed.

~~(i)(1) Any license that has expired but has not been suspended or revoked by the board under § 17-12-601(a)(8) prior to August 12, 2005, shall be considered lapsed and may be reinstated under subsection (g) of this~~

~~section upon application received by the board within one (1) year following August 12, 2005.~~

~~(2)(A) If not reinstated under this subsection, the expired license shall not be subject to renewal or reinstatement.~~

~~(B) The holder of the expired license may apply for a new license or registration under subsection (h) of this section.~~

SECTION 7. Arkansas Code 17-12-507(c), concerning the quality review of practice, is amended to read as follows:

(c)(1) The quality review shall consist of either a uniform or random annual submission by each ~~practice unit~~ licensee of the following kinds of reports issued by that ~~practice unit~~ licensee during the twelve-month period immediately preceding the date of submission, if reports were issued during the period:

~~(1)(A)~~ A compilation report;

~~(2)(B)~~ A review report;

(C) An agreed-upon procedures report;

~~(3)(D)~~ An audit report;

~~(4)(E)~~ An audit report under a federal grant program or other government program; and

~~(5)(F)~~ An examination of prospective financial information.

(2) If none of the above reports were issued during the twelve (12) months immediately preceding the date of submission, a licensee is required to submit reports issued since the date of its last quality review survey submission.

SECTION 8. Arkansas Code 17-12-602(a)(2), concerning sanctions against public accountants, is amended to read as follows:

(2) A penalty not to exceed ~~one thousand dollars (\$1,000)~~ ten thousand dollars (\$10,000) for each violation as well as investigation costs incurred by the board;

/s/Hillman

APPROVED: 02/14/2013