

Act No. 215
Public Acts of 2010
Approved by the Governor
November 23, 2010
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November 23, 2010
EFFECTIVE DATE: November 23, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Johnson, Stamas and Rocca

ENROLLED HOUSE BILL No. 6196

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 720, 725, 726, 727, 728, 729, and 734 (MCL 339.720, 339.725, 339.726, 339.727, 339.728, 339.729, and 339.734), sections 720, 728, and 734 as amended by 2008 PA 161, sections 725 and 729 as amended by 2007 PA 1, and sections 726 and 727 as added by 1997 PA 10.

The People of the State of Michigan enact:

Sec. 720. (1) As used in this article:

(a) “Attest” means providing the following financial statement services:

(i) Any audit or other engagement to be performed in accordance with the statements on auditing standards.

(ii) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(iii) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(iv) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(b) “Certified public accountant” means an individual who is either of the following:

(i) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) “Client” means a person or entity that engages a licensee or licensee’s employer to receive any service in the practice of public accounting.

(d) “Compilation” means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) "Firm" means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) "Home office" means the location specified by the client as the address to which a service described in subdivision (a) or (d) is directed.

(g) Subject to subsection (2), "practice of public accounting" means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that financial information as set forth presents fairly the condition of the entity reviewed or audited, in regard to an entity embracing 1 or more of the following:

(i) Financial information.

(ii) Facts respecting compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(iii) The scope of the accounting procedures rendered in connection with the presentation of a financial statement.

(h) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(i) "Report", when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes, or is accompanied by, any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence 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 or from the language of the report itself. Report includes any form of language which disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(2) In addition to the definition set forth in subsection (1)(g), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by a person holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports on financial statements.

(b) One or more kinds of management advisory, financial advisory, or consulting services, including, but not limited to, business valuation, forensic accounting, and fraud examination services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

Sec. 725. (1) The department shall issue a certificate as a certified public accountant to an individual who meets all of the following requirements:

(a) Is of good moral character.

(b) Has complied with the education requirements of subsection (2).

(c) Has passed an examination meeting the requirements of subsection (3).

(d) Has complied with the experience requirements of subsection (4).

(e) Has completed at least 150 semester hours of college education, including a baccalaureate degree or higher degree with a concentration in accounting, at an educational institution approved by the board.

(2) An individual who has completed a curriculum required for a baccalaureate degree with a concentration in accounting at an educational institution approved by the board may sit for the examination required under subsection (3).

(3) An applicant for a certificate as a certified public accountant shall pass an examination in accounting, auditing, and other related subjects, acceptable to the department and the board, that is given reciprocal status in the plurality of states as compared to other examinations.

(4) For an application for a certificate as a certified public accountant received on or after the effective date of the amendatory act that added this subsection, or an application received before that date if a certificate of certified public accountant has not been issued, the applicant shall have 1 year of qualifying experience, all of which is verified by a certified public accountant of this state, any other state, or any jurisdiction of the United States, submitted on a form prescribed by the department. Qualified experience is experience gained through employment in government, industry, academia, or public practice in 1 or more of the following areas:

(a) Audits of financial statements in accordance with the applicable standards at the time of engagement.

(b) Reviews of financial statements in accordance with the applicable standards at the time of engagement.

(c) Compilations of financial statements with complete disclosure in accordance with the applicable standards at the time of engagement.

(d) Attestation engagements in accordance with the applicable standards at the time of engagement.

(e) Other auditing in accordance with applicable standards at the time of engagement that leads to an expression of a written opinion including any of the following:

(i) Reviews regarding internal control.

(ii) Operational audits.

(iii) Compliance audits.

(iv) Expressions of an opinion on financial forecasts and projections.

(f) Performance of an independent internal audit function.

(g) Compliance audits of government contracts performed on behalf of a government agency that result in the issuance of an opinion or report.

(h) Audits performed on behalf of a government audit agency that result in the issuance of an opinion or report.

(i) Preparation of income and nonprofit tax returns for any taxing jurisdiction.

(j) Properly documented tax research.

(k) Representation of a client before a government agency on a tax matter.

(l) Financial forecasts, analyses, and projections.

(m) Management advisory services including, but not limited to, business valuation, forensic accounting, and fraud examination services that meet applicable standards.

(n) Management and supervision of accounting functions and preparing financial statements for profit or nonprofit entities.

(o) Professional accounting-related work in a public accounting firm.

(p) Other work generally associated with the profession of public accounting.

(5) An applicant for certification under this section shall not receive credit as qualifying experience for the following:

(a) Experience consisting of nonprofessional work, including recruiting, industrial engineering, administration, bookkeeping, and appraisals.

(b) Paraprofessional work that does not comply with subsection (4)(o).

Sec. 726. (1) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant issued by or under the authority of another state or United States jurisdiction and meets either of the following conditions:

(a) Provides proof that the applicant's original certificate as a certified public accountant was secured on the basis of requirements that the board determines are equivalent to the standards required for qualification in this state at the same time the applicant was issued his or her original certificate.

(b) Has had 4 years of experience of the type described in section 725(4) after having passed the examination upon which the applicant's certificate was based, within 10 years immediately preceding the date of application.

(2) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant or an equivalent title issued by or under the authority of a jurisdiction outside the United States equivalent to the requirements as described in section 725.

Sec. 727. After obtaining a certificate as a certified public accountant under section 725 or 726, an individual seeking to use a title authorized by this article shall do 1 of the following:

(a) If the individual only seeks to use a title authorized by this article, the individual shall apply for registration under this article.

(b) If the individual seeks to use a title authorized by this article and to engage in the practice of public accounting, the individual shall apply for licensure under this article. A nonresident member of a firm who has authority for the firm's practice of public accounting in this state is considered to be engaged in the practice of public accountancy in this state.

Sec. 728. (1) A firm shall apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state if either of the following apply:

(a) The firm establishes or maintains an office in this state.

(b) An individual representing the firm performs any engagement described in section 720(1)(a)(i), (iii), or (iv) for any client having its home office in this state.

(2) Reports produced pursuant to engagements in subsection (1)(b) may be supervised or signed, or the report's signature may be authorized for the firm, by an individual practicing public accounting in Michigan pursuant to section 727a.

(3) A firm applying for licensure under this article shall meet all of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this or another state or the equivalent in another licensing jurisdiction acceptable to the board. Owners who are not certified public accountants as defined by section 720(1)(b) must be active individual participants in the firm or its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm license is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) The principal officer of the firm and each officer or director having authority for the practice of public accounting by the firm are licensed in good standing as certified public accountants in this or another state or the equivalent in another licensing jurisdiction acceptable to the board.

(c) Has filed the required certificate of authority with the department pursuant to the business corporations act, 1972 PA 284, MCL 450.1101 to 450.2098, if applicable.

(4) A firm shall provide a change in address to the department within 30 days of the change.

(5) A firm not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services or a compilation for a client having its home office in this state, may use the title "CPA" or "CPA firm", and may practice public accountancy as authorized in this section without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It has met the requirements in subsection (3)(a) and (b) and section 729(2).

(b) It performs such services through an individual with practice privileges under section 727a.

(6) A firm not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (5) may perform other professional services within the practice of public accountancy while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It performs such services through an individual with practice privileges under section 727a.

(b) It can lawfully do so in the licensing jurisdiction where such individuals with practice privilege have their principal place of business.

Sec. 729. (1) As a condition of license renewal, an individual licensee shall complete at least 40 hours of continuing education for each year since the issuance of the original license or the last renewal. Of the 40 hours of continuing education credits, the board shall not require more than 8 of those hours to be in the areas of auditing and accounting. The board may make exceptions from the continuing education requirements of this subsection for reasons of health, military service, or other good cause.

(2) Each licensed firm and sole practitioner that performs any of the following services shall participate in a peer review program established by rule of the department and approved by the board:

(a) Audit.

(b) Review.

(c) Compilations that are relied upon by third parties.

(3) An applicant for renewal shall submit to the department, on a form prescribed by the department and at the time of renewal, proof of peer review obtained within the 3 years immediately preceding the application.

(4) A firm or sole practitioner required to participate in a peer review program under this subsection shall notify the department within 30 days after receipt of a fail rating or second consecutive pass with deficiencies rating. Verbal testimony or documents, or both, pertaining to a peer review shall be considered confidential and shall be exempt from disclosure to the department, except in the case of a fail or second consecutive pass with deficiencies rating.

(5) The peer review requirements under subsection (2) for licensees become effective as follows:

(a) For licensed firms and sole practitioners whose attest services include audits, beginning March 1, 2008.

(b) For licensed firms and sole practitioners whose attest services include compilation with disclosures relied upon by third parties, or review, or both compilation with disclosures and review, but not audits under subdivision (a), beginning March 1, 2009.

(c) For licensed firms and sole practitioners whose attest services include compilation without disclosures relied upon by third parties, but not audits under subdivision (a) or any compilation with disclosures relied upon by third parties, or review, or both compilation with disclosures and review under subdivision (b), beginning March 1, 2010.

Sec. 734. (1) A holder of a certificate, registration, or license as a certified public accountant or an individual exercising the practice privilege granted under section 727a and the firm employing that individual is subject to the penalties of section 602 for 1 or more of the following:

(a) Fraud or deceit in obtaining a certificate or registration as a certified public accountant, a license to practice public accounting, or a practice privilege under this article.

(b) Dishonesty, fraud, or negligence in the practice of public accounting.

(c) Violation of a rule of professional conduct promulgated under this article.

(d) Departure from standards of professional practice applicable to the engagement, at the time of engagement.

(e) Conviction of a felony under the laws of this or another state or the United States or conviction of a crime, an element of which is dishonesty, fraud, or negligence, under the laws of this or another state or of the United States, including, but not limited to, the failure to file a personal federal, state, or local income tax return.

(f) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant by another state or any jurisdiction of the United States for a cause other than failure to pay a licensure or other required fee in that state.

(g) Suspension or revocation of the right to engage in the practice of public accounting before a state or federal agency or a public accounting oversight board.

(h) Conduct discreditable to the public accounting profession.

(i) Determination of mental incompetency by a court of law.

(j) A violation of this article or a rule promulgated under this article.

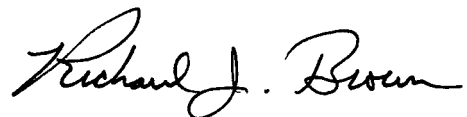
(k) A violation of the provisions of section 604.

(l) A violation of professional standards regarding the issuance of reports on financial statements; 1 or more kinds of management advisory, financial advisory, or consulting services; the preparation of tax returns; or the furnishing of advice on tax matters.

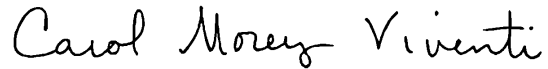
(2) Notwithstanding section 602(e), a person that violates this article or a rule or order promulgated or issued under or related to this article is liable for an administrative fine payable to the department of not more than \$25,000.00 per violation.

(3) Within 30 days after a final determination rendered by a federal or state administrative agency or a judgment or conviction issued by a federal court, a state court, or any other court of record, a licensee or registrant shall report to the department in writing or electronically a determination, order, judgment, or conviction regarding a violation in which dishonesty, fraud, or negligence is an element of that determination, order, judgment, or conviction.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor