

FIRST REGULAR SESSION

HOUSE BILL NO. 46

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGIRL.

1045H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 326.289, RSMo, and to enact in lieu thereof one new section relating to certified public accounting firms.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 326.289, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 326.289, to read as follows:

326.289. 1. The board may grant or renew permits to practice as a certified public accounting firm to applicants that demonstrate their qualifications in accordance with this chapter.

(1) ~~[The following shall hold a permit issued under this chapter:~~

~~(a)]~~ Any firm with an office in this state, as defined by the board by rule, offering or performing attest or compilation services~~]; or~~

~~(b) Any firm with an office in this state that uses the title "CPA" or "CPA firm"] shall hold a permit issued under this chapter.~~

(2) Any firm that does not have an office in this state may offer or perform attest or compilation services in this state without a valid permit only if it meets each of the following requirements:

(a) It complies with the qualifications described in subdivision (1) of subsection 4 of this section;

(b) It complies with the requirements of peer review as set forth in this chapter and the board's promulgated regulations;

(c) It performs such services through an individual with practice privileges under section 326.283; and

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (d) It can lawfully do so in the state where said individual with the privilege to
19 practice has his or her principal place of business.

20 (3) A firm which is not subject to the requirements of ~~[subdivisions]~~ **subdivision** (1)
21 or (2) of this subsection may perform other nonattest or noncompilation services while using
22 the title "CPA" or "CPA firm" in this state without a permit issued under this section only if
23 **[#] the firm meets the following requirements:**

24 (a) **The firm** performs such services through an individual **with a license issued**
25 **under section 326.280** or with the privilege to practice under section 326.283; and

26 (b) **If the firm performs such services through an individual with the privilege to**
27 **practice under section 326.283, the firm** can lawfully do so in the state where said
28 individual with privilege to practice has his or her principal place of business.

29 (4) (a) All firms practicing public accounting in this state shall register with the
30 secretary of state.

31 (b) Firms which may be exempt from this requirement include:

32 a. Sole proprietorships;

33 b. Trusts created pursuant to revocable trust agreements, of which the trustee is a
34 natural person who holds a license or privilege to practice as set forth in section 326.280,
35 326.283, or 326.286;

36 c. General partnerships not operating as a limited liability partnership; or

37 d. Foreign professional corporations which do not meet criteria of chapter 356 due to
38 name or ownership, shall obtain a certificate of authority as a general corporation.
39 Notwithstanding the provisions of chapter 356, the secretary of state may issue a certificate of
40 authority to a foreign professional corporation which does not meet the criteria of chapter 356
41 due to name or ownership, if the corporation meets the requirements of this section and the
42 rules of the board.

43 2. Permits shall be initially issued and renewed for periods of not more than three
44 years or for a specific period as prescribed by board rule following issuance or renewal.

45 3. The board shall determine by rule the form for application and renewal of permits
46 and shall annually determine the fees for permits and their renewals.

47 4. An applicant for initial issuance or renewal of a permit to practice under this
48 section shall be required to show that:

49 (1) A simple majority of the ownership of the firm, in terms of financial interests and
50 voting rights of all partners, officers, principals, shareholders, members or managers, belongs
51 to licensees who are licensed in some state, and the partners, officers, principals,
52 shareholders, members or managers, whose principal place of business is in this state and
53 who perform professional services in this state are licensees under section 326.280 or the

54 corresponding provision of prior law. Although firms may include nonlicensee owners, the
55 firm and its ownership shall comply with rules promulgated by the board;

56 (2) Any certified public accounting firm may include owners who are not licensees
57 provided that:

58 (a) The firm designates a licensee of this state, or in the case of a firm which must
59 have a permit under this section designates a licensee of another state who meets the
60 requirements of section 326.283, who is responsible for the proper registration of the firm and
61 identifies that individual to the board;

62 (b) All nonlicensee owners are active individual participants in the certified public
63 accounting firm or affiliated entities;

64 (c) All owners are of good moral character; and

65 (d) The firm complies with other requirements as the board may impose by rule;

66 (3) Any licensee who is responsible for supervising attest services, or signs or
67 authorizes someone to sign the licensee's report on the financial statements on behalf of the
68 firm, shall meet competency requirements as determined by the board by rule which shall
69 include one year of experience in addition to the experience required under subdivision (6) of
70 subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience
71 required by this subsection shall include experience in attest work supervised by a licensee.

72 5. An applicant for initial issuance or renewal of a permit to practice shall register
73 each office of the firm within this state with the board and show that all attest and compilation
74 services rendered in this state are under the charge of a licensee.

75 6. No licensee or firm holding a permit under this chapter shall use a professional or
76 firm name or designation that is misleading as to:

77 (1) The legal form of the firm;

78 (2) The persons who are partners, officers, members, managers or shareholders of the
79 firm; or

80 (3) Any other matter.

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82 The names of one or more former partners, members or shareholders may be included in the
83 name of a firm or its successor unless the firm becomes a sole proprietorship because of the
84 death or withdrawal of all other partners, officers, members or shareholders. A firm may use
85 a fictitious name if the fictitious name is registered with the board and is not otherwise
86 misleading. The name of a firm shall not include the name or initials of an individual who is
87 not a present or a past partner, member or shareholder of the firm or its predecessor. The
88 name of the firm shall not include the name of an individual who is not a licensee.

89 7. Applicants for initial issuance or renewal of permits shall list in their application all
90 states in which they have applied for or hold permits as certified public accounting firms and

91 list any past denial, revocation, suspension or any discipline of a permit by any other state.
92 Each holder of or applicant for a permit under this section shall notify the board in writing
93 within thirty days after its occurrence of any change in the identities of partners, principals,
94 officers, shareholders, members or managers whose principal place of business is in this state;
95 any change in the number or location of offices within this state; any change in the identity of
96 the persons in charge of such offices; and any issuance, denial, revocation, suspension or any
97 discipline of a permit by any other state.

98 8. Firms which fall out of compliance with the provisions of this section due to
99 changes in firm ownership or personnel after receiving or renewing a permit shall take
100 corrective action to bring the firm back into compliance as quickly as possible. The board
101 may grant a reasonable period of time for a firm to take such corrective action. Failure to
102 bring the firm back into compliance within a reasonable period as defined by the board may
103 result in the suspension or revocation of the firm permit.

104 9. The board shall require by rule, as a condition to the renewal of permits, that firms
105 undergo, no more frequently than once every three years, peer reviews conducted in a manner
106 as the board shall specify. The review shall include a verification that individuals in the firm
107 who are responsible for supervising attest and compilation services or sign or authorize
108 someone to sign the accountant's report on the financial statements on behalf of the firm meet
109 the competency requirements set out in the professional standards for such services, provided
110 that any such rule:

111 (1) Shall include reasonable provision for compliance by a firm showing that it has
112 within the preceding three years undergone a peer review that is a satisfactory equivalent to
113 peer review generally required under this subsection;

114 (2) May require, with respect to peer reviews, that peer reviews be subject to
115 oversight by an oversight body established or sanctioned by board rule, which shall
116 periodically report to the board on the effectiveness of the review program under its charge
117 and provide to the board a listing of firms that have participated in a peer review program that
118 is satisfactory to the board; and

119 (3) Shall require, with respect to peer reviews, that the peer review processes be
120 operated and documents maintained in a manner designed to preserve confidentiality, and that
121 the board or any third party other than the oversight body shall not have access to documents
122 furnished or generated in the course of the peer review of the firm except as provided in
123 subdivision (2) of this subsection.

124 10. The board may, by rule, charge a fee for oversight of peer reviews, provided that
125 the fee charged shall be substantially equivalent to the cost of oversight.

126 11. Notwithstanding any other provision in this section, the board may obtain the
127 following information regarding peer review from any approved American Institute for
128 Certified Public Accountants peer review program:

129 (1) The firm's name and address;

130 (2) The firm's dates of enrollment in the program;

131 (3) The date of acceptance and the period covered by the firm's most recently
132 accepted peer review; and

133 (4) If applicable, whether the firm's enrollment in the program has been dropped or
134 terminated.

135 12. In connection with proceedings before the board or upon receipt of a complaint
136 involving the licensee performing peer reviews, the board shall not have access to any
137 documents furnished or generated in the course of the performance of the peer reviews except
138 for peer review reports, letters of comment and summary review memoranda. The documents
139 shall be furnished to the board only in a redacted manner that does not specifically identify
140 any firm or licensee being peer reviewed or any of their clients.

141 13. The peer review processes shall be operated and the documents generated thereby
142 be maintained in a manner designed to preserve their confidentiality. No third party, other
143 than the oversight body, the board, subject to the provisions of subsection 12 of this section,
144 or the organization performing peer review shall have access to documents furnished or
145 generated in the course of the review. All documents shall be privileged and closed records
146 for all purposes and all meetings at which the documents are discussed shall be considered
147 closed meetings under subdivision (1) of section 610.021. The proceedings, records and
148 workpapers of the board and any peer review subjected to the board process shall be
149 privileged and shall not be subject to discovery, subpoena or other means of legal process or
150 introduction into evidence at any civil action, arbitration, administrative proceeding or board
151 proceeding. No member of the board or person who is involved in the peer review process
152 shall be permitted or required to testify in any civil action, arbitration, administrative
153 proceeding or board proceeding as to any matters produced, presented, disclosed or discussed
154 during or in connection with the peer review process or as to any findings, recommendations,
155 evaluations, opinions or other actions of such committees or any of its members; provided,
156 however, that information, documents or records that are publicly available shall not be
157 subject to discovery or use in any civil action, arbitration, administrative proceeding or board
158 proceeding merely because they were presented or considered in connection with the peer
159 review process.

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