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An Act

HOUSE BILL 10-1236

BY REPRESENTATIVE(S) Kerr A., Apuan, Gerou;
also SENATOR(S) Tochtrop, Morse, Williams.

CONCERNING THE CONTINUATION OF THE REGULATION OF CERTIFIED PUBLIC
ACCOUNTANTS BY THE STATE BOARD OF ACCOUNTANCY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 24-34-104 (41) (p), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(p) ~~The state board of accountancy, created by article 2 of title 12, C.R.S.;~~

SECTION 2. 24-34-104 (50), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (50) The

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

following agencies, functions, or both, shall terminate on July 1, 2019:

(e) THE STATE BOARD OF ACCOUNTANCY, CREATED BY ARTICLE 2 OF TITLE 12, C.R.S.

SECTION 3. 12-2-132 (1), Colorado Revised Statutes, is amended to read:

12-2-132. Repeal of article. (1) This article is repealed, effective July 1, 2019.

SECTION 4. 12-2-108 (1), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-2-108. Certificate of certified public accountant - issuance - renewal - reinstatement - rules. (1) THE BOARD SHALL GRANT A CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT TO ANY APPLICANT WHO:

(a) MEETS THE REQUIREMENTS OF SECTION 12-2-113;

(b) SATISFIES THE BOARD OF THE APPLICANT'S CONTINUED COMPETENCE; OR

(c) (I) PASSES A WRITTEN EXAMINATION PURSUANT TO SECTION 12-2-111; AND

(II) MEETS THE REQUIREMENTS OF SECTION 12-2-109;

SECTION 5. The introductory portion to 12-2-109 (1) (a) and 12-2-109 (1) (a) (II), (1) (b), and (1) (c), Colorado Revised Statutes, are amended, and the said 12-2-109 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-2-109. Educational and experience requirements - rules - repeal. (1) Any person who has qualified under the provisions of section 12-2-108 shall be granted a certificate of certified public accountant:

(a) If ~~he~~ THE PERSON:

(II) Has one year's experience ~~doing public accounting work as an~~

~~employee of a certified public accountant or what the board determines to be the equivalent~~ THAT:

(A) MEETS THE REQUIREMENTS SET BY THE BOARD BY RULE;

(B) IS IN ANY TYPE OF SERVICE OR ADVICE INVOLVING THE USE OF ACCOUNTING, ATTEST, COMPILATION, MANAGEMENT ADVISORY, FINANCIAL ADVISORY, TAX, OR CONSULTING SKILLS, WHICH MAY BE GAINED THROUGH EMPLOYMENT IN GOVERNMENT, INDUSTRY, ACADEMIA, OR PUBLIC PRACTICE; AND

(C) IS VERIFIED BY AN ACTIVELY LICENSED CERTIFIED PUBLIC ACCOUNTANT;

(b) If ~~he~~ THE PERSON has successfully completed a course of study concerning the subject of professional ethics, approved by the board, and passed a written examination concerning such subject prepared and given by educational institutions or professional organizations deemed qualified by the board to administer such examination;

(c) If ~~he~~ THE PERSON has a baccalaureate or higher degree conferred by an accredited college or university with an accounting program approved by the board and has a concentration in accounting, plus, when the baccalaureate is the highest degree held, not less than thirty semester hours' additional study, the total educational program to include an accounting concentration or its equivalent and such related subjects as the board determines to be appropriate.

(2) ON AND AFTER JULY 1, 2015, A PERSON MEETS THE EDUCATIONAL REQUIREMENTS NECESSARY TO BE ISSUED A CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT IF THE APPLICANT:

(a) (I) HAS A BACCALAUREATE OR HIGHER DEGREE CONFERRED BY AN ACCREDITED COLLEGE OR UNIVERSITY WITH AN ACCOUNTING PROGRAM APPROVED BY THE BOARD OR HAS A BACCALAUREATE WITH A NONACCOUNTING CONCENTRATION SUPPLEMENTED BY WHAT THE BOARD DETERMINES TO BE THE EQUIVALENT OF AN ACCOUNTING CONCENTRATION, INCLUDING RELATED COURSES IN OTHER AREAS OF BUSINESS ADMINISTRATION; AND

(II) HAS COMPLETED AT LEAST ONE HUNDRED FIFTY SEMESTER HOURS OF COLLEGE EDUCATION;

(b) HAS SUCCESSFULLY COMPLETED A COURSE OF STUDY CONCERNING THE SUBJECT OF PROFESSIONAL ETHICS APPROVED BY THE BOARD AND PASSED A WRITTEN EXAMINATION CONCERNING SUCH SUBJECT PREPARED AND GIVEN BY EDUCATIONAL INSTITUTIONS OR PROFESSIONAL ORGANIZATIONS DEEMED QUALIFIED BY THE BOARD TO ADMINISTER THE EXAMINATION; AND

(c) HAS ONE YEAR'S EXPERIENCE THAT:

(I) MEETS THE REQUIREMENTS SET BY THE BOARD BY RULE;

(II) IS IN ANY TYPE OF SERVICE OR ADVICE INVOLVING THE USE OF ACCOUNTING, ATTEST, COMPILATION, MANAGEMENT ADVISORY, FINANCIAL ADVISORY, TAX, OR CONSULTING SKILLS, WHICH MAY BE GAINED THROUGH EMPLOYMENT IN GOVERNMENT, INDUSTRY, ACADEMIA, OR PUBLIC PRACTICE; AND

(III) IS VERIFIED BY AN ACTIVELY LICENSED CERTIFIED PUBLIC ACCOUNTANT WHO MEETS THE REQUIREMENTS SET BY THE BOARD BY RULE.

(3) SUBSECTION (1) OF THIS SECTION AND THIS SUBSECTION (3) ARE REPEALED, EFFECTIVE JULY 1, 2015.

SECTION 6. 12-2-111 (1), (4), and (6), Colorado Revised Statutes, are amended to read:

12-2-111. Examinations - reexaminations - rules.

(1) ~~Examinations provided for in this section shall be held by the board. Examinations shall be given no less than twice a year at times and locations set by the board.~~ THE BOARD SHALL PROVIDE LICENSURE EXAMINATIONS AS OFTEN AS NECESSARY TO PROVIDE CANDIDATES A REASONABLE OPPORTUNITY TO TAKE THE EXAMINATION. Examinations shall adequately test a candidate's knowledge of accounting, auditing, and any other related subject the board deems relevant and necessary. Any additional examination subject shall be designated by the board by rule. The board shall set the passing score for an examination at a level to adequately reflect the minimum level of competency necessary for the practice of

accountancy.

(4) A candidate for a certificate of certified public accountant who meets the EDUCATIONAL requirements of ~~section 12-2-109 (1) (a) (I) or (1) (c)~~ SET BY THE BOARD BY RULE is entitled to TAKE AN examination. ~~A candidate who will graduate from an accredited college or university within sixty days after the date of an examination and who will meet the educational requirements upon graduation is entitled to examination.~~

(6) If a candidate fails an examination or fails to pass in all subjects as provided in subsection (5) of this section, the board may require ~~him~~ THE CANDIDATE to take additional study before taking another examination.

SECTION 7. The introductory portion to 12-2-123 (1) and 12-2-123 (1) (g) and (1) (h), Colorado Revised Statutes, are amended to read:

12-2-123. Grounds for disciplinary action - administrative penalties. (1) After notice and hearing as provided in section 12-2-125, the board may deny the issuance of, refuse to renew, revoke, or suspend any certificate of a certified public accountant issued under this article or any prior law of this state or may fine, ~~censure~~, issue a letter of admonition to, or place on probation the holder of any certificate and impose other conditions or limitations for any of the following causes:

(g) ~~Cancellation, revocation, suspension, or refusal to renew~~ DISCIPLINE TAKEN AGAINST THE PERSON'S authority to practice as a certified public accountant or a public accountant in any ~~state~~ JURISDICTION;

(h) ~~Suspension or revocation of the~~ DISCIPLINE TAKEN AGAINST THE PERSON'S right to practice before any state or federal agency OR AGENCY OUTSIDE THE UNITED STATES OR THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD, CREATED BY THE FEDERAL "SARBANES-OXLEY ACT OF 2002", 15 U.S.C. SEC. 7201 ET SEQ., for improper conduct or willful violation of the rules or regulations of such state or federal agency OR THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD;

SECTION 8. 12-2-124 (2), Colorado Revised Statutes, is amended to read:

12-2-124. Revocation or suspension of partnership, professional corporation, or limited liability company registration. (2) After notice and hearing as provided in section 12-2-125, the board may DENY, revoke, ~~or~~ suspend, OR REFUSE TO RENEW the registration of a partnership, professional corporation, or limited liability company OR THE BOARD MAY FINE, ISSUE A CONFIDENTIAL LETTER OF CONCERN TO, ISSUE A LETTER OF ADMONITION TO, OR PLACE ON PROBATION A REGISTRANT for any of the causes enumerated in section 12-2-123 or for the following additional causes:

(a) The revocation, suspension, or refusal to renew the certificate of any partner, shareholder, or member;

(b) The cancellation, revocation, suspension, or refusal to renew the authority of the partnership or any partner thereof to practice public accounting in any other ~~state~~ JURISDICTION;

(c) The cancellation, revocation, suspension, or refusal to renew the authority of the professional corporation, limited liability company, or foreign corporation or limited liability company or any shareholder or member thereof to practice public accounting ~~in~~ BY any other state OR FEDERAL JURISDICTION , OR JURISDICTION OUTSIDE THE UNITED STATES OR THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD, CREATED BY THE FEDERAL "SARBANES-OXLEY ACT OF 2002", 15 U.S.C. SEC. 7201 ET SEQ.

SECTION 9. The introductory portion to 12-2-123 (1) and 12-2-123 (1) (b), (1) (p), (1) (r), (3), and (5) (a), Colorado Revised Statutes, are amended to read:

12-2-123. Grounds for disciplinary action - administrative penalties. (1) After notice and hearing as provided in section 12-2-125, the board may deny the issuance of, refuse to renew, revoke, or suspend any certificate of a certified public accountant issued under this article or any prior law of this state or may fine, ~~censure~~; issue a letter of admonition to, or place on probation the holder of any certificate and impose other conditions or limitations for any of the following causes:

(b) Fraud or negligence in the practice of public accounting in Colorado or any other state or in the filing of or failure to file ~~his~~ THE CERTIFIED PUBLIC ACCOUNTANT'S own income tax returns;

(p) Habitual intemperance with respect to or excessive use of any A habit-forming drug, any controlled substance as defined in section 12-22-303 (7), or any alcoholic beverage any of which renders him THAT RENDERS THE CERTIFIED PUBLIC ACCOUNTANT unfit to practice public accounting;

(r) Failure of a partnership, professional corporation, or limited liability company to register with the board pursuant to section 12-2-117 and to renew such THE registration once every three years as prescribed by the board.

~~(3) (a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the certificate holder.~~

~~(b) When a letter of admonition is sent by the board, by certified mail, to a certificate holder, such certificate holder shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.~~

~~(c) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.~~

(5) (a) In addition to any other penalty which THAT may be imposed pursuant to this section, any person violating any provision of this article or any rules or regulations promulgated pursuant to this article may be fined upon a finding of misconduct by the board as follows, EITHER:

(I) In the first administrative A proceeding against a certificant, a fine not in excess of one FIVE thousand dollars PER VIOLATION; OR

(II) In any subsequent administrative A proceeding against a certificant REGISTRANT, a fine not less than one thousand dollars nor in excess of two TEN thousand dollars PER VIOLATION.

SECTION 10. 12-2-115, Colorado Revised Statutes, is amended to

read:

12-2-115. Use of the title "certified public accountant".

(1) (a) ~~Any~~ A person who has received from the board and holds an active certificate of certified public accountant shall be styled and known as a certified public accountant and may also use the abbreviation "C.P.A." ~~No other person shall assume or use the title certified public accountant or the abbreviation "C.P.A." or any other word, words, letters, or figures to indicate that the person using the same is a certified public accountant, except as provided in section 12-2-115.5 or 12-2-121 (2). The terms "chartered accountant" and "certified accountant" and the abbreviation "C.A." are specifically prohibited to such other persons as being misleading to the public.~~

(b) A PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY OF CERTIFIED PUBLIC ACCOUNTANTS THAT IS REGISTERED UNDER THIS ARTICLE MAY USE THE WORDS "CERTIFIED PUBLIC ACCOUNTANTS" OR THE ABBREVIATION "C.P.A.S" IN CONNECTION WITH ITS PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY NAME.

(2) ~~Any~~ A person authorized to use the title "certified public accountant" or the abbreviation "C.P.A." shall provide to any client residing in or headquartered in Colorado, during the course of an engagement, an address and telephone number for the certified public accountant's firm or, in the case of a sole practitioner, the address and telephone number of the sole practitioner.

(3) (a) EXCEPT AS AUTHORIZED IN SUBSECTION (4) OF THIS SECTION, A PERSON SHALL NOT ASSUME OR USE THE TITLE OR DESIGNATION "CERTIFIED PUBLIC ACCOUNTANT", THE ABBREVIATION "C.P.A.", OR ANY OTHER TITLE, DESIGNATION, WORDS, LETTERS, ABBREVIATION, SIGN, CARD, OR DEVICE TENDING TO INDICATE THAT SUCH PERSON IS A CERTIFIED PUBLIC ACCOUNTANT UNLESS THE PERSON HOLDS A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT ISSUED UNDER THIS ARTICLE OR UNDER THE LAWS OF ANY OTHER STATE. A PERSON WHO IS INACTIVE PURSUANT TO SECTION 12-2-122.5 MAY USE THE TITLE "INACTIVE CERTIFIED PUBLIC ACCOUNTANT" OR "INACTIVE C.P.A."

(b) EXCEPT AS AUTHORIZED BY SUBSECTION (1) OR (4) OF THIS

SECTION, AN INDIVIDUAL, PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY SHALL NOT ASSUME OR USE ANY TITLE OR DESIGNATION USING THE WORD "CERTIFIED", "REGISTERED", "CHARTERED", "ENROLLED", "LICENSED", "INDEPENDENT", OR "APPROVED" IN CONJUNCTION WITH THE WORD ACCOUNTANT OR AUDITOR OR ANY ABBREVIATION THEREOF OR ANY TITLE, DESIGNATION, OR ABBREVIATION LIKELY TO BE CONFUSED WITH "CERTIFIED PUBLIC ACCOUNTANT" OR THE ABBREVIATION "C.P.A.", INCLUDING THE TERMS "CHARTERED ACCOUNTANT" AND "CERTIFIED ACCOUNTANT" AND THE ABBREVIATION "C.A."

(c) EXCEPT AS AUTHORIZED IN SUBSECTION (4) OF THIS SECTION, A PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY SHALL NOT ASSUME OR USE THE TITLE OR DESIGNATION "CERTIFIED PUBLIC ACCOUNTANTS", THE ABBREVIATION "C.P.A.S", OR ANY OTHER TITLE, DESIGNATION, WORDS, LETTERS, ABBREVIATION, SIGN, CARD, OR DEVICE TENDING TO INDICATE THAT SUCH PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY IS COMPOSED OF CERTIFIED PUBLIC ACCOUNTANTS UNLESS SUCH PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY IS REGISTERED AS A PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY OF CERTIFIED PUBLIC ACCOUNTANTS UNDER THIS ARTICLE OR THE LAWS OF ANY OTHER STATE.

(4) (a) A CERTIFIED PUBLIC ACCOUNTANT FROM ANOTHER STATE OR JURISDICTION OF THE UNITED STATES WHO IS PRACTICING IN THIS STATE PURSUANT TO SECTION 12-2-121 MAY USE THE TITLE "CERTIFIED PUBLIC ACCOUNTANT", THE ABBREVIATION "C.P.A.", OR ANY OTHER TITLE, DESIGNATION, WORDS, LETTERS, ABBREVIATION, SIGN, CARD, OR DEVICE TENDING TO INDICATE THAT THE PERSON IS A CERTIFIED PUBLIC ACCOUNTANT.

(b) A FOREIGN PARTNERSHIP, CORPORATION, LIMITED PARTNERSHIP, LIMITED LIABILITY LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT IS PRACTICING IN THIS STATE PURSUANT TO SECTION 12-2-121 MAY USE THE TITLE OR DESIGNATION "CERTIFIED PUBLIC ACCOUNTANTS", THE ABBREVIATION "C.P.A.S", OR ANY OTHER TITLE, DESIGNATION, WORDS, LETTERS, ABBREVIATION, SIGN, CARD, OR DEVICE TENDING TO INDICATE THAT THE PARTNERSHIP, CORPORATION, OR LIMITED LIABILITY COMPANY IS COMPOSED OF CERTIFIED PUBLIC ACCOUNTANTS.

SECTION 11. The introductory portion to 12-2-117 (1) and 12-2-117 (2) (b) and (5), Colorado Revised Statutes, are amended, and the said 12-2-117 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-2-117. Partnerships, professional corporations, and limited liability companies composed of certified public accountants - registration thereof - definitions. (1) Except as provided in section 12-2-121 (2), a partnership, professional corporation, or limited liability company engaged in this state in the practice of public accounting as certified public accountants shall register ~~once every three years~~ with the board as a partnership, professional corporation, or limited liability company of certified public accountants and must meet the following requirements; and, as used in this article, "partnership" includes a registered limited partnership, limited liability partnership, limited liability limited partnership, foreign limited partnership, foreign limited liability partnership, and foreign limited liability limited partnership:

(2) (b) The board shall in each case determine whether the applicant is eligible for registration. ~~A partnership, professional corporation, or limited liability company which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.s" in connection with its partnership, professional corporation, or limited liability company name.~~

(2.2) EACH FIRM REGISTRATION EXPIRES PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES. THE REGISTRANT SHALL RENEW OR REINSTATE THE REGISTRATION. THE DIRECTOR OF THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES MAY ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105, C.R.S. IF A FIRM FAILS TO RENEW ITS REGISTRATION PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS, THE REGISTRATION SHALL EXPIRE. A FIRM WHOSE REGISTRATION HAS EXPIRED SHALL BE SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION 24-34-102 (8), C.R.S.

(3.7) EFFECTIVE ON THE FIRST RENEWAL PERIOD ESTABLISHED BY THE BOARD AFTER MAY 31, 2011, THE BOARD SHALL NOT RENEW THE REGISTRATION OF A FIRM THAT ISSUES ATTEST OR COMPILATION REPORTS

UNLESS THE REGISTERED PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY HAS UNDERGONE A PEER REVIEW CONDUCTED ACCORDING TO RULES PROMULGATED BY THE BOARD THAT MEET THE STANDARDS FOR PERFORMING AND REPORTING ON A PEER REVIEW OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OR AN EQUIVALENT STANDARD.

(5) The partnership, corporation, or limited liability company shall do nothing in this state which, if done by a person who holds a certificate as a certified public accountant within this state and employed by it, would violate the provisions of this article. Any violation by the partnership, corporation, or limited liability company of this article shall be grounds for the board to DENY, revoke, or suspend, OR REFUSE TO RENEW its registration, OR THE BOARD MAY FINE, ISSUE A CONFIDENTIAL LETTER OF CONCERN TO, ISSUE A LETTER OF ADMONITION TO, OR PLACE ON PROBATION THE REGISTRANT.

SECTION 12. 12-2-120 (1), (2), (5), and (6) (b) (II), Colorado Revised Statutes, are amended to read:

12-2-120. Unlawful acts. (1) ~~Except as provided in section 12-2-121 (2), no person shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A.", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant unless such person holds an active certificate as a certified public accountant under section 12-2-108, 12-2-109, or 12-2-113, or a prior law of this state.~~

(2) ~~Except as provided in section 12-2-121 (2), no partnership, professional corporation, or limited liability company shall assume or use the title or designation "certified public accountants" or the abbreviation "C.P.A.s", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership, professional corporation, or limited liability company is composed of certified public accountants unless such partnership, professional corporation, or limited liability company is registered as a partnership, professional corporation, or limited liability company of certified public accountants under section 12-2-117.~~

(5) ~~Except as provided in sections 12-2-115, 12-2-117 (2) (b), and~~

~~12-2-121 (2), no person, partnership, professional corporation, or limited liability company shall assume or use any title or designation using the word "certified", "registered", "chartered", "enrolled", "licensed", "independent", or "approved" in conjunction with the word accountant or auditor or any abbreviation thereof or any title, designation, or abbreviation likely to be confused with "certified public accountant" or the abbreviation "C.P.A."~~

(6) (b) The provisions of paragraph (a) of this subsection (6) shall not prohibit any officer or employee of a corporation, partner or employee of a partnership, member or employee of a limited liability company, or individual or employee of an individual from:

(II) ~~Issuing or authoring any such opinion~~ AN ASSESSMENT or certificate utilizing any wording designating the position, title, or office ~~which he~~ THAT THE PERSON holds ~~relating to any statement or report in reference to~~ CONCERNING the financial affairs of such corporation, partnership, limited liability company, or individual.

SECTION 13. Repeal. 12-2-121 (2) (b) (II) and (2) (b) (III), Colorado Revised Statutes, are repealed as follows:

12-2-121. Exceptions - acts not prohibited - rules.

(2) (b) Nothing in this article shall prohibit:

(II) ~~A certified public accountant from another state or jurisdiction of the United States who is practicing in this state pursuant to this subsection (2) from using the title "certified public accountant" or the abbreviation "C.P.A.", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant; or~~

(III) ~~A foreign partnership, corporation, limited partnership, limited liability limited partnership, or limited liability company that is practicing in this state pursuant to this subsection (2) from using the title or designation "certified public accountants" or the abbreviation "C.P.A.s", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership, corporation, or limited liability company is composed of certified public accountants.~~

SECTION 14. 12-2-122, Colorado Revised Statutes, is amended to

read:

12-2-122. Single act evidence of practice. Any person who displays, utters, or causes to be displayed or uttered a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing such person's name in conjunction with the words "certified public accountant", or the abbreviation "C.P.A.", or any title, designation, or abbreviation prohibited by section ~~12-2-120~~ 12-2-115 may be presumed in any action brought under section 12-2-126 to have held himself OR HERSELF out to be a certified public accountant holding an active certificate of certified public accountant pursuant to section 12-2-108. In any legal action brought under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify an injunction.

SECTION 15. 12-2-129, Colorado Revised Statutes, is amended to read:

12-2-129. Unauthorized practice - penalties. Any person who violates section 12-2-115 OR 12-2-120 ~~(1), (2), (5), or (6)~~ (a) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and, for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

SECTION 16. 12-2-104 (1) (a) and (1) (g), Colorado Revised Statutes, are amended to read:

12-2-104. Powers and duties of board. (1) The board has the power and duty to:

(a) Elect annually from among its members a ~~president~~ CHAIR and prescribe the duties of such office;

(g) Prescribe forms for and receive applications for certificates and grant certificates, INCLUDING CONTRACTING WITH PEOPLE TO RECEIVE AND REVIEW THE APPLICATIONS AS THE AGENT OF THE BOARD;

SECTION 17. 12-2-106 (1), (2), (3), and (4), Colorado Revised Statutes, are amended to read:

12-2-106. Fees. (1) A fee authorized to be established pursuant to section 24-34-105, C.R.S., shall be paid for each application made to the board, whether ~~the same~~ IT is an application for examination or reexamination or for issuance, renewal, reactivation, or reinstatement of a certificate of certified public accountant, an application for registration with the board as a ~~certified public accountant~~ PUBLIC ACCOUNTING FIRM, or any other application requiring formal action or consideration by the board. The fee required shall not be returnable irrespective of the action taken by the board.

(2) A fee authorized to be established pursuant to section 24-34-105, C.R.S., shall be paid for each examination in which the candidate is examined in the subjects prescribed by the board. ~~Examination fees required in this subsection (2) are in addition to the fee required in subsection (1) of this section and shall be returned to the candidate should the board deny the candidate the right to take the examination or the candidate request in writing, not less than thirty days prior to the date fixed by the board for the examination, that the application be withdrawn.~~

(3) Any person making application for a certificate of certified public accountant under section 12-2-113 shall pay a fee authorized to be established pursuant to section 24-34-105, C.R.S., in addition to the fee required in subsection (1) of this section. ~~Should such application be rejected by the board, the fee shall be returned to the applicant.~~

(4) ~~All fees shall be paid to the board and are to be paid by the applicant in advance of examination dates or of any action by the board.~~

SECTION 18. The introductory portion to 12-2-112 (1) and 12-2-112 (1) (a), Colorado Revised Statutes, are amended to read:

12-2-112. Approval of schools. (1) The board shall approve the accounting program of ~~such~~ THE schools as THAT meet the following requirements:

(a) ~~Such~~ THE school ~~shall have~~ HAS a curriculum designed to give the ~~student~~ CANDIDATE proficiency in those subjects in which ~~he~~ THE CANDIDATE must pass an examination ~~by the board~~ TO BE LICENSED.

SECTION 19. 12-2-113 (1) (b), Colorado Revised Statutes, is

amended to read:

12-2-113. Issuance of certificate by reciprocity or by passing examination of another state. (1) The board, in its discretion, may waive the examination of persons qualified under this subsection (1) and may issue a certificate of certified public accountant to:

(b) ~~Any~~ A person who has passed an examination under the laws of another state and who possesses the qualifications prescribed in section 12-2-108 at the time ~~he~~ THE PERSON applies for a certificate in this state or possesses substantially equivalent qualifications; or

SECTION 20. Repeal. 12-2-114, Colorado Revised Statutes, is repealed as follows:

12-2-114. Existing certificates confirmed. ~~(1) No person who, on or before August 1, 1959, holds a certified public accountant certificate previously issued under the laws of this state shall be required to secure an additional certificate under this article but shall otherwise be subject to all the provisions of this article. Such certificate previously issued shall, for all purposes, be considered a certificate issued under this article.~~

~~(2) and (3) Repealed.~~

SECTION 21. Repeal. 12-2-116, Colorado Revised Statutes, is repealed as follows:

12-2-116. Registered accountants. ~~Any person who holds a certificate of registered accountant issued under the laws of this state shall be subject to all the provisions of this article. For the purposes of this article, certified public accountant and registered accountant shall be deemed synonymous and all references in this article to certified public accountants shall likewise refer and pertain to registered accountants.~~

SECTION 22. 12-2-121 (2) (a), Colorado Revised Statutes, is amended to read:

12-2-121. Exceptions - acts not prohibited - rules.
(2) (a) Nothing in this article shall prohibit a certified public accountant ~~or a registered public accountant~~ whose principal place of business is located

in another state or jurisdiction of the United States, from practicing in this state on professional business, as defined by rules promulgated by the board. Such practice shall be conducted in conformity with rules promulgated by the board. Notwithstanding the requirements of section 12-2-117, a foreign partnership, corporation, limited partnership, limited liability limited partnership, or limited liability company may engage in the practice of accountancy in this state without registering with the board.

SECTION 23. 12-2-122.5, Colorado Revised Statutes, is amended to read:

12-2-122.5. Inactive certificant. (1) The holder of a certificate of certified public accountant, upon written notice by first class mail to the board, shall have his or her name transferred to an inactive list and shall not be required to comply with the continuing education requirements for certificate renewal pursuant to section 12-2-119 so long as he or she remains inactive. Each inactive certificant shall register ~~once every two years with the board~~ in the same manner as active certificate holders and pay a fee pursuant to section 12-2-108 (3). At such time as an inactive certificant wishes to resume the practice of public accounting as a certified public accountant, he or she shall file an application therefor, meet any education requirements imposed by the board, and pay a fee as established by the ~~board~~ DIRECTOR OF THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES.

(2) During such time as a certified public accountant remains in an inactive status, ~~he~~ THE CERTIFIED PUBLIC ACCOUNTANT shall not perform those acts restricted to active certified public accountants pursuant to section 12-2-120 (6) (a). The board shall retain jurisdiction over inactive certified public accountants for the purposes of disciplinary action pursuant to section 12-2-123.

SECTION 24. 12-2-123.5, Colorado Revised Statutes, is amended to read:

12-2-123.5. Response to board communication. ~~Except as otherwise provided in section 12-2-123 (3),~~ A certificant shall, at the request of the board, respond to communications from the board within thirty days ~~of~~ AFTER the mailing of any communication. ~~by registered or certified mail.~~

SECTION 25. 12-2-125 (3) and (5), Colorado Revised Statutes, are amended to read:

12-2-125. Hearings before board - notice - procedure - review.

(3) If, after having been served with the notice of hearing as provided for in this section, the accused fails to appear at ~~said~~ THE hearing and defend, the board may proceed to hear evidence against ~~him~~ THE ACCUSED and may enter such order as is justified by the evidence, which order shall be final unless ~~he~~ THE ACCUSED petitions for a review thereof as provided in this section. Within thirty days after the date of any order, upon a showing of good cause for failing to appear and defend, the board may reopen ~~said~~ THE proceedings and may permit the accused to submit evidence in his OR HER behalf.

(5) At all hearings, the attorney general of this state or one of ~~his~~ THE ATTORNEY GENERAL'S DESIGNATED assistants ~~designated by him~~ shall appear and represent the board.

SECTION 26. 12-2-126 (1) (b) (II), Colorado Revised Statutes, is amended, and the said 12-2-126 (1) (b) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

12-2-126. Investigations, examinations, and cease-and-desist orders against unlawful act. (1) (b) (II) ~~If the investigation discloses an instance of conduct which, in the opinion of the board, does not warrant formal action but in which the board has noticed indications of possible errant conduct by the certificate holder that could lead to serious consequences if not corrected, a confidential letter of concern shall be sent to the certificate holder against whom a complaint was made. If the board learns of second or subsequent actions of the same or similar nature by the certificate holder, the board shall not issue a confidential letter of concern but shall take such other course of action as it deems appropriate. UPON COMPLETING AN INVESTIGATION, THE BOARD SHALL MAKE ONE OF THE FOLLOWING FINDINGS:~~

(A) THE COMPLAINT IS WITHOUT MERIT AND NO FURTHER ACTION NEED BE TAKEN.

(B) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER ACTION.

(C) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION AND SHOULD BE DISMISSED, BUT THE INVESTIGATION DISCLOSES INDICATIONS OF POSSIBLE ERRANT CONDUCT THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED. IF THIS FINDING IS MADE, THE BOARD SHALL SEND A CONFIDENTIAL LETTER OF CONCERN TO THE LICENSEE OR REGISTRANT.

(D) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT. IF THIS FINDING IS MADE, THE BOARD MAY SEND A LETTER OF ADMONITION TO THE LICENSEE OR REGISTRANT BY CERTIFIED MAIL.

(E) THE INVESTIGATION DISCLOSES FACTS THAT WARRANT FURTHER PROCEEDINGS BY FORMAL COMPLAINT. IF THIS FINDING IS MADE, THE BOARD SHALL REFER THE COMPLAINT TO THE ATTORNEY GENERAL FOR PREPARATION AND FILING OF A FORMAL COMPLAINT.

(III) (A) WHEN A LETTER OF ADMONITION IS SENT TO A LICENSEE OR REGISTRANT, THE BOARD SHALL INCLUDE IN THE LETTER A NOTICE THAT THE LICENSEE OR REGISTRANT HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED.

(B) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE LETTER OF ADMONITION IS VACATED AND THE BOARD SHALL PROCEED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(IV) THE BOARD SHALL CONDUCT ALL PROCEEDINGS PURSUANT TO THIS SUBSECTION (1) EXPEDITIOUSLY AND INFORMALLY SO THAT NO LICENSEE OR REGISTRANT IS SUBJECTED TO UNFAIR AND UNJUST CHARGES AND THAT NO COMPLAINANT IS DEPRIVED OF THE RIGHT TO A TIMELY, FAIR, AND PROPER INVESTIGATION OF A COMPLAINT.

SECTION 27. 12-2-130, Colorado Revised Statutes, is amended to read:

12-2-130. Ownership of accountant's working papers. All statements, records, schedules, working papers, and memoranda made by

a certified public accountant ~~or registered accountant~~ incident to or in the course of professional service to a client by ~~such~~ THE certified public accountant, ~~or registered accountant~~; except reports FINANCIAL STATEMENTS submitted by a certified public accountant ~~or registered accountant~~ to a client and books and records prepared for the use of the client, shall be and remain the property of ~~such certified public~~ THE CERTIFIED PUBLIC accountant ~~or registered accountant~~ in the absence of an express agreement to the contrary between the certified public accountant ~~or registered accountant~~ and the client.

SECTION 28. 12-2-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-2-102. Definitions. As used in this article, unless the context otherwise requires:

(2.9) "PEER REVIEW" MEANS A STUDY, APPRAISAL, OR REVIEW BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OF ONE OR MORE ASPECTS OF THE PROFESSIONAL WORK OF ANOTHER CERTIFIED PUBLIC ACCOUNTANT OR OF A REGISTERED PARTNERSHIP, CORPORATION, OR LIMITED LIABILITY COMPANY THAT ISSUES ATTEST OR COMPILATION REPORTS.

SECTION 29. 12-2-108 (6), Colorado Revised Statutes, is amended, and the said 12-2-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-2-108. Certificate of certified public accountant - issuance - renewal - reinstatement. (6) Any person who practices CERTIFIED public accounting after the expiration of his OR HER certificate shall be practicing in violation of this article. The board may refuse to reactivate or reinstate any expired certificate for conduct ~~which~~ THAT constitutes a violation of ~~any provision of~~ this article.

(7) EFFECTIVE ON THE FIRST RENEWAL PERIOD ESTABLISHED BY THE BOARD AFTER MAY 31, 2011, THE BOARD SHALL NOT RENEW THE CERTIFICATE OF A HOLDER WHO ISSUES ATTEST OR COMPILATION REPORTS UNLESS THE CERTIFICATE HOLDER PERFORMS PUBLIC ACCOUNTING WITHIN A PARTNERSHIP, PROFESSIONAL CORPORATION, OR LIMITED LIABILITY COMPANY OR THE CERTIFICATE HOLDER HAS UNDERGONE A PEER REVIEW CONDUCTED ACCORDING TO RULES PROMULGATED BY THE BOARD THAT

MEET THE STANDARDS FOR PERFORMING AND REPORTING ON A PEER REVIEW OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OR AN EQUIVALENT STANDARD.

SECTION 30. Specified effective date. This act shall take effect July 1, 2010.

SECTION 31. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO