

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 138

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE PRACTICE OF ACCOUNTANCY; AMENDING SECTION 54-206, IDAHO  
2 CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AND  
3 AMENDING SECTION 54-219, IDAHO CODE, TO CLARIFY ENFORCEMENT AUTHORITY  
4 FOR DISHONESTY OR FRAUD BY A LICENSEE AND TO MAKE A TECHNICAL CORREC-  
5 TION.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 54-206, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 54-206. DEFINITIONS. As used in this chapter:

11 (1) "AICPA" means the American institute of certified public accoun-  
12 tants.

13 (2) "Applicant" means any person having the requisite qualifications  
14 who makes application to the board for examination, or for initial issuance  
15 or renewal or reinstatement of a license under the provisions of this chap-  
16 ter.

17 (3) "Attest" means providing the following ~~financial statement~~  
18 professional services:

19 (a) Any audit or other engagement to be performed in accordance with the  
20 statements on auditing standards;

21 (b) Any review of a financial statement to be performed in accordance  
22 with the statements on standards for accounting and review services;  
23 and

24 (c) Any examination of prospective financial information to be per-  
25 formed in accordance with the statements on standards for attestation  
26 engagements;

27 (d) Any engagement to be performed in accordance with the standards of  
28 the PCAOB; and

29 (e) Any examination, review or agreed-upon procedures engagement to be  
30 performed in accordance with the statements on standards for attesta-  
31 tion engagements, other than an examination described in paragraph (c)  
32 of this subsection.

33 (4) "Board" means the Idaho state board of accountancy.

34 (5) "Certificate" means that document issued by the board upon original  
35 approval of licensure. The original certificate does not constitute licen-  
36 sure and a person cannot represent himself or herself as a licensee unless a  
37 current and valid annual license has been issued by the board.

38 (6) "Certified public accountant" or "CPA" means any person who holds a  
39 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
40 title 54, Idaho Code, or an equivalent provision of the laws of another state  
41 designating said person as a certified public accountant.

1 (7) "Client" means the person or entity that agrees with a licensee or  
2 licensee's employer to receive any professional services with or without  
3 compensation and shall include all affiliates and related entities in the  
4 financial statements of an attest or compilation engagement.

5 (8) "Compilation" means a service performed in accordance with state-  
6 ments on standards for accounting and review services ~~which~~ that presents,  
7 in the form of historical or prospective financial statements, information  
8 that is the representation of management or owners without undertaking to  
9 express any assurance on the statements. The term "compilation" does not in-  
10 clude financial statements accompanied by the language set forth in section  
11 54-226(3), Idaho Code, whether used by a licensee or by a person not licensed  
12 under this chapter, ~~so~~ as long as the financial statements are not accompa-  
13 nied by any other language of assurance or disclaimer.

14 (9) "Financial statements" means a presentation of historical or  
15 prospective financial data, which may include accompanying notes, intended  
16 to communicate an entity's economic resources or obligations at a point in  
17 time, or the changes therein for a period of time, in accordance with a com-  
18 prehensive basis of accounting.

19 (10) "Firm" means a proprietorship, partnership, professional corpora-  
20 tion, professional limited liability company, or any other form of profes-  
21 sional organization permitted by Idaho law, registered under the require-  
22 ments of section 54-214, Idaho Code.

23 (11) "Good moral character" means lack of a history of dishonest deal-  
24 ings or a felonious act.

25 (12) "License" means that authorization issued by the board upon origi-  
26 nal approval and on an annual basis permitting a qualified person to practice  
27 as a certified public accountant or licensed public accountant in the state  
28 of Idaho.

29 (13) "Licensed public accountant" or "LPA" means any person who holds a  
30 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
31 title 54, Idaho Code, designating said person as a licensed public accoun-  
32 tant.

33 (14) "Licensee" means the holder of a current valid license.

34 (15) "Member" means a person who has been admitted to membership in a  
35 firm ~~which~~ that is organized as a limited liability company.

36 (16) "PCAOB" means the public company accounting oversight board.

37 (17) "Peer review" means a board-approved study, appraisal or review of  
38 one (1) or more aspects of the professional work of a licensee or firm that  
39 performs attest services or issues compilation reports, by a person or per-  
40 sons licensed under this chapter or by another state and who are independent  
41 of the licensee or firm being reviewed.

42 (178) "Permit" means a permit to practice as a firm issued under corre-  
43 sponding provisions of the laws of other states.

44 (189) "Person" means any natural living person.

45 (1920) "Professional services" means services arising out of or related  
46 to the specialized knowledge or skills associated with certified public ac-  
47 countants or licensed public accountants.

48 (201) "Report," when used with reference to financial statements, means  
49 an opinion or other form of language that states or implies assurance as to  
50 the reliability of any financial statements and that also includes or is ac-

1    compared by any statement or implication that the person or firm issuing it  
 2    has special knowledge or competence in accounting or auditing. Such a state-  
 3    ment or implication of special knowledge or competence may arise from use by  
 4    the issuer of the report of names or titles indicating that the person or firm  
 5    is an accountant or auditor, or from the language of the report itself. The  
 6    term "report" includes any form of language ~~which~~ that disclaims an opinion  
 7    when such form of language is conventionally understood to imply any posi-  
 8    tive assurance as to the reliability of the financial statements referred  
 9    to or special competence on the part of the person or firm issuing such lan-  
 10    guage; and it includes any other form of language that is conventionally un-  
 11    derstood to imply such assurance or special knowledge or competence.

12       (212) "State" means any state of the United States, the District of Co-  
 13    lumbia, Puerto Rico, the U.S. Virgin Islands, Commonwealth of the Northern  
 14    Mariana Islands and Guam; except that "this state" means the state of Idaho.

15       (223) "Substantial equivalency" or "substantially equivalent" means a  
 16    determination by the board that the education, examination and experience  
 17    requirements contained in the statutes and administrative rules of another  
 18    jurisdiction are comparable to or exceed the education, examination and ex-  
 19    perience requirements for CPAs contained in this chapter or that an indi-  
 20    vidual licensee's education, examination and experience qualifications are  
 21    comparable to or exceed the education, examination and experience require-  
 22    ments for CPAs contained in this chapter.

23       SECTION 2. That Section 54-219, Idaho Code, be, and the same is hereby  
 24    amended to read as follows:

25       54-219. LICENSE -- RESTRICTION, REVOCATION, SUSPENSION OR DENIAL --  
 26    CAUSES -- COST RECOVERY -- ADMINISTRATIVE PENALTIES. (1) After notice and  
 27    opportunity for hearing in accordance with the provisions of chapter 52, ti-  
 28    tle 67, Idaho Code, for cause shown, the board may revoke, suspend, refuse to  
 29    renew, administratively penalize, reprimand, restrict or place on probation  
 30    the holder of a certificate or license, or refuse to issue any certificate or  
 31    any license to an applicant, for any one (1) of the following causes:

32       (a) Any false statement with the intent to mislead or deceive the board  
 33       or its members in connection with any application; or, cheating or any  
 34       attempt to cheat in an examination.

35       (b) Fraud or deceit in obtaining or renewing a certificate or license to  
 36       practice as a certified public accountant or licensed public accountant  
 37       under the provisions of this chapter.

38       (c) Dishonesty, fraud or gross negligence in the performance of pro-  
 39       fessional services as a licensee or individual granted privileges under  
 40       section 54-227, Idaho Code, or in the filing or failure to file his own  
 41       income tax returns.

42       (d) Violation of any provision of this chapter, or any rule adopted by  
 43       the board under authority granted by this chapter, or an order of the  
 44       board directed specifically to the licensee.

45       (e) Conviction of or a guilty plea to a felony under the laws of any  
 46       state or country.

47       (f) Conviction of or a guilty plea to any crime involving moral turpi-  
 48       tude, an element of which is dishonesty or fraud, under the laws of any

1 state or country, notwithstanding the form of the judgment or withheld  
2 judgment.

3 (g) Representing oneself as a certified public accountant or licensed  
4 public accountant during any period in which the license of the person  
5 so practicing has been suspended or revoked by the board.

6 (h) Cancellation, revocation, suspension or refusal to renew or grant  
7 a license or privileges under section 54-227, Idaho Code, for disci-  
8 plinary reasons by any other state for any cause.

9 (i) Practicing as a certified public accountant or licensed public  
10 accountant under a false or assumed name; provided, however, this  
11 ~~subsection~~ paragraph shall have no application to practicing as a cer-  
12 tified public accountant or licensed public accountant under the name  
13 of a firm, when such style or name is in conformity with a type or form  
14 approved by the rules of the board.

15 (j) Habitual use of drugs or intoxicants to such a degree as to render  
16 the licensee unreliable and unfit to practice as a certified public ac-  
17 countant or licensed public accountant.

18 (k) Suspension or revocation of the right to practice before any agency  
19 of the United States government or of the state of Idaho, for any cause  
20 other than failure to pay a registration or similar fee.

21 (l) Having been declared mentally incompetent by a court of competent  
22 jurisdiction; provided, however, that when a person's license shall  
23 have been revoked or suspended for this cause, such license shall be  
24 reinstated by the board when said disability is judicially removed.

25 (m) Representing oneself as qualified or authorized to practice as a  
26 certified public accountant or licensed public accountant in this state  
27 without holding a current, valid, unrevoked and unsuspended certifi-  
28 cate and license or privileges under section 54-227, Idaho Code.

29 (n) Performance of any fraudulent act while holding a certificate, li-  
30 cense, permit or privileges under this chapter.

31 (o) Any conduct reflecting adversely upon the licensee's fitness to  
32 perform services while a licensee, or individual granted privileges  
33 under section 54-227, Idaho Code.

34 (2) The expenses, including attorney's fees, incurred by the board for  
35 any or all proceedings initiated against a person for violation of any of the  
36 provisions of this chapter may be charged against such person by the board,  
37 upon the finding of a violation of this chapter, in addition to any admin-  
38 istrative penalties which may be levied by the board against such person.  
39 Administrative penalties levied by the board shall not exceed two thousand  
40 five hundred dollars (\$2,500) per violation.

41 (3) In lieu of or in addition to any remedy specifically provided, the  
42 board may require of a licensee or a firm:

43 (a) A peer review conducted in such fashion as the board may specify;

44 (b) Preissuance review;

45 (c) Satisfactory completion of such continuing professional education  
46 programs or examinations as the board may specify; and

47 (d) Other similar remedies.

48 (4) In any action brought under the provisions of this chapter, ev-  
49 idence of the commission of a single act prohibited in this chapter shall  
50 be sufficient to justify a suspension, revocation, fine, administrative

1 penalty, restriction, reprimand, injunction, restraining order, conviction  
2 or any other remedy authorized in this chapter. Evidence of a general course  
3 of conduct shall not be required.