

SECOND REGULAR SESSION

SENATE BILL NO. 829

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Pre-filed December 28, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5540S.02I

AN ACT

To repeal sections 326.271 and 326.289, RSMo, and to enact in lieu thereof two new sections relating to the Missouri state board of accountancy, with a delayed effective date.

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

Section A. Sections 326.271 and 326.289, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 326.271 and 326.289, to read as follows:

326.271. 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.

2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accounting.

3. In promulgating rules and regulations regarding the requirements of continuing education, the board:

(1) May use and rely upon guidelines and pronouncements of recognized educational and professional **accounting** associations **including, but not limited to, the American Institute of Certified Public Accountants;**

(2) May prescribe for content, duration, and organization of courses **in accordance with established nationally-recognized standards;**

(3) Shall consider applicant accessibility to continuing education as required by the board, and any impediments to the interstate practice of public accounting which may result from differences in requirements in states;

(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (5) [Shall not require the completion of more than one hundred twenty
19 hours of continuing education or its equivalent in any three-year period, not more
20 than one-third of which shall be required in any one year.]

21 (a) **Shall, beginning January 1, 2019, require the completion of**
22 **eighty hours of continuing education or its equivalent in a two-year**
23 **renewal period. A minimum of four hours of the required eighty hours**
24 **of continuing education shall be in the area of ethics.** The continuing
25 education requirements must be capable of being fulfilled in programs or courses
26 reasonably available to licensees within the state.

27 (b) **Shall, where the applicant or license holder reports**
28 **continuing education hours that are insufficient, or where the board,**
29 **by audit or investigation makes an initial determination that the**
30 **applicant or license holder has failed to comply with the continuing**
31 **education requirements, provide notice to the applicant or license**
32 **holder stating in detail the nature of the alleged failure to comply,**
33 **including specification of any course or program that the board asserts**
34 **is not a qualifying course or program.**

35 (c) **Shall, if the applicant or license holder has completed at least**
36 **sixty of the required eighty hours, provide the applicant or license**
37 **holder sixty days from the date of the notice to cure the alleged failure**
38 **by obtaining additional continuing education or to submit information**
39 **to the board contesting the board's assertion of failure to comply. The**
40 **board shall not have the authority to seek or impose disciplinary action**
41 **against any applicant or license holder unless that person fails to come**
42 **into compliance with the continuing education requirements during the**
43 **sixty day period after the applicant or license holder receives the**
44 **notice described in this section.**

45 4. The board may require by rule licensees to submit any continuing
46 education reporting as the board deems necessary. **In any such rule, the**
47 **board shall not unreasonably limit the method, means, or software used**
48 **for reporting continuing education, and shall permit reporting by a**
49 **commercially-viable reporting mechanism.**

50 5. Any rule or portion of a rule, as that term is defined in section 536.010,
51 that is created under the authority delegated in this chapter shall become
52 effective only if it complies with and is subject to all of the provisions of chapter
53 536 and, if applicable, section 536.028. This chapter and chapter 536 are
54 nonseverable and if any of the powers vested with the general assembly pursuant

55 to chapter 536 to review, to delay the effective date or to disapprove and annul
56 a rule are subsequently held unconstitutional, then the grant of rulemaking
57 authority and any rule proposed or adopted after August 28, 2001, shall be
58 invalid and void.

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

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

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

7 (b) Any firm with an office in this state that uses the title "CPA" or "CPA
8 firm".

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

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

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

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

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

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

24 (a) Performs such services through an individual with the privilege to
25 practice under section 326.283; and

26 (b) Can lawfully do so in the state where said individual with privilege to
27 practice has his or her principal place of business.

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

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

31 a. Sole proprietorships;

32 b. Trusts created pursuant to revocable trust agreements, of which the

33 trustee is a natural person who holds a license or privilege to practice as set forth
34 in section 326.280, 326.283, or 326.286;

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

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

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

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

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

50 (1) A simple majority of the ownership of the firm, in terms of financial
51 interests and voting rights of all partners, officers, principals, shareholders,
52 members or managers, belongs to licensees who are licensed in some state, and
53 the partners, officers, principals, shareholders, members or managers, whose
54 principal place of business is in this state and who perform professional services
55 in this state are licensees under section 326.280 or the corresponding provision
56 of prior law. Although firms may include nonlicensee owners, the firm and its
57 ownership shall comply with rules promulgated by the board;

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

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

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

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

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

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

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

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

82 (1) The legal form of the firm;

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

85 (3) Any other matter.

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

94 7. Applicants for initial issuance or renewal of permits shall list in their
95 application all states in which they have applied for or hold permits as certified
96 public accounting firms and list any past denial, revocation, suspension or any
97 discipline of a permit by any other state. Each holder of or applicant for a permit
98 under this section shall notify the board in writing within thirty days after its
99 occurrence of any change in the identities of partners, principals, officers,
100 shareholders, members or managers whose principal place of business is in this
101 state; any change in the number or location of offices within this state; any
102 change in the identity of the persons in charge of such offices; and any issuance,
103 denial, revocation, suspension or any discipline of a permit by any other state.

104 8. Firms which fall out of compliance with the provisions of this section

105 due to changes in firm ownership or personnel after receiving or renewing a
106 permit shall take corrective action to bring the firm back into compliance as
107 quickly as possible. The board may grant a reasonable period of time for a firm
108 to take such corrective action. Failure to bring the firm back into compliance
109 within a reasonable period as defined by the board may result in the suspension
110 or revocation of the firm permit.

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

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

122 (2) **[May] Shall** require, with respect to peer reviews, that peer reviews
123 be subject to oversight by an oversight body established or sanctioned by board
124 rule, which shall periodically report to the board on the effectiveness of the
125 review program under its charge and provide to the board a listing of firms that
126 have participated in a peer review program that is satisfactory to the board; and

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

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

136 11. **(1)** In connection with proceedings before the board or upon receipt
137 of a complaint involving the licensee performing peer reviews, the board shall not
138 have access to any documents furnished or generated in the course of the
139 performance of the peer reviews except for peer review reports, letters of comment
140 and summary review memoranda. The documents shall be furnished to the board

141 only in a redacted manner that does not specifically identify any firm or licensee
142 being peer reviewed or any of their clients.

143 **(2) (a) The administering entity shall annually provide to the**
144 **board the names and addresses of the firms enrolled in the**
145 **administering entities' peer review program, the date of acceptance**
146 **and the period covered by the firm's most recently accepted peer**
147 **review and, if applicable, whether the firm's enrollment in the program**
148 **has been dropped or terminated.**

149 **(b) In connection with disciplinary proceedings relating to attest**
150 **or compilation or, as applicable, preparation services, the board may**
151 **have access, from the permit holder that is the subject of the**
152 **disciplinary proceeding, to the firm's most recently accepted peer**
153 **review report.**

154 **(c) As long as a permit holder is enrolled in peer review, the**
155 **board shall have no authority to impose any discipline on any permit**
156 **holder or to deny a permit holder's renewal application solely on the**
157 **basis of the outcome of a peer review report.**

158 **12. Permit holders enrolled in peer review shall retain the peer**
159 **review report, as required by AICPA peer review standards.**

160 **13.** The peer review processes shall be operated and the documents
161 generated thereby be maintained in a manner designed to preserve their
162 confidentiality. No third party, other than the oversight body, the board, subject
163 to the provisions of subsection 11 of this section, or the organization performing
164 peer review shall have access to documents furnished or generated in the course
165 of the review. All documents shall be privileged and closed records for all
166 purposes and all meetings at which the documents are discussed shall be
167 considered closed meetings under subdivision (1) of section 610.021. The
168 proceedings, records and workpapers of the board and any peer review subjected
169 to the board process shall be privileged and shall not be subject to discovery,
170 subpoena or other means of legal process or introduction into evidence at any civil
171 action, arbitration, administrative proceeding or board proceeding. No member
172 of the board or person who is involved in the peer review process shall be
173 permitted or required to testify in any civil action, arbitration, administrative
174 proceeding or board proceeding as to any matters produced, presented, disclosed
175 or discussed during or in connection with the peer review process or as to any
176 findings, recommendations, evaluations, opinions or other actions of such

177 committees or any of its members; provided, however, that information,
178 documents or records that are publicly available shall not be subject to discovery
179 or use in any civil action, arbitration, administrative proceeding or board
180 proceeding merely because they were presented or considered in connection with
181 the peer review process.

Section B. Section A of this act shall become effective January 1, 2019.

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