

Original sponsor(s): REP. BOYER, Boucher

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 353 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public accountancy; and providing
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08.04 is amended by adding a new section to read:

10 Sec. 08.04.005. PURPOSE. It is the policy of the state, and the
11 purpose of this chapter, to promote the reliability of information
12 that is used for guidance in financial transactions or assessing the
13 financial status or performance of commercial, noncommercial, and
14 governmental enterprises. The public interest requires that

15 (1) persons professing special competence in accountancy or
16 who offer assurance as to the reliability or fairness of presentation
17 of financial information should demonstrate their qualifications to do
18 so, and that persons who have not demonstrated and maintained adequate
19 qualifications should not be permitted to hold themselves out as
20 having special competence or to offer assurance about their actions;

21 (2) the professional conduct of persons licensed as having
22 special competence in accountancy should be regulated in all aspects
23 of the practice of public accountancy;

24 (3) a public authority competent to prescribe and assess
25 the qualifications and to regulate the professional conduct of practi-
26 tioners of public accountancy should be established; and

27 (4) the use of titles relating to the practice of public
28 accountancy that are likely to mislead the public as to the status or
29 competence of the persons using these titles should be prohibited.

1 * Sec. 2. AS 08.04.020 is amended to read:

2 Sec. 08.04.020. APPOINTMENT AND QUALIFICATIONS OF BOARD. The
3 board consists of seven members appointed by the governor. Each
4 member shall be a resident of this state for at least one year. Five
5 members shall be certified public accountants or public accountants,
6 one member shall be an accountant who is not certified, and one mem-
7 ber [TWO MEMBERS] shall be a public member [MEMBERS] in accordance
8 with AS 08.01.025. Except for the public member and the noncertified
9 accountant [MEMBERS], no one may be appointed who does not hold a
10 current certificate or license and who is not eligible to receive
11 permits under this chapter. The public member [PUBLIC MEMBERS] may
12 not be employed by a person licensed under this chapter or by a busi-
13 ness entity holding a permit under this chapter.

14 * Sec. 3. AS 08.04 is amended by adding a new section to read:

15 Sec. 08.04.025. MEETINGS OF BOARD. The board shall hold a
16 minimum of four meetings a year.

17 * Sec. 4. AS 08.04.120 is repealed and reenacted to read:

18 Sec. 08.04.120. EDUCATIONAL AND EXPERIENCE REQUIREMENTS. The
19 education and experience requirements for an applicant are as follows:

20 (1) a baccalaureate degree or its equivalent conferred by a
21 college or university acceptable to the board, with an accounting
22 concentration or equivalent as determined by the board by regulation
23 to be appropriate, and two years of accounting experience satisfactory
24 to the board; or

25 (2) a baccalaureate degree or its equivalent conferred by a
26 college or university acceptable to the board and three years of
27 accounting experience satisfactory to the board.

28 * Sec. 5. AS 08.04.120 is repealed and reenacted to read:

29 Sec. 08.04.120. EDUCATIONAL AND EXPERIENCE REQUIREMENTS. The

1 education and experience requirements for an applicant are as follows:

2 (1) a baccalaureate degree or its equivalent conferred by a
3 college or university acceptable to the board and additional semester
4 hours of post-baccalaureate study so that the total educational pro-
5 gram includes at least 150 hours, with an accounting concentration or
6 equivalent as determined by the board by regulation to be appropriate,
7 and two years of accounting experience satisfactory to the board; or

8 (2) a baccalaureate degree or its equivalent conferred by a
9 college or university acceptable to the board and additional semester
10 hours of post-baccalaureate study so that the total educational pro-
11 gram includes at least 150 hours, and three years of accounting expe-
12 rience satisfactory to the board.

13 * Sec. 6. AS 08.04.150 is amended to read:

14 Sec. 08.04.150. [EXPERIENCE] PREREQUISITE FOR CERTIFICATE. An
15 applicant who is within 18 semester hours of meeting [MEETS] the
16 undergraduate educational requirements of AS 08.04.120 may take the
17 examination whether or not the applicant has met the other [EXPERI-
18 ENCE] requirements of that section. However an applicant shall meet
19 the other [EXPERIENCE] requirements of AS 08.04.120 before the appli-
20 cant is entitled to receive a certificate.

21 * Sec. 7. AS 08.04.160 is amended to read:

22 Sec. 08.04.160. REEXAMINATION. An applicant who fails an exam-
23 ination may take as many examinations as the applicant chooses. An
24 applicant who receives a passing grade in accounting practice or in at
25 least two of the other subjects has the right to be reexamined in only
26 the remaining subjects at succeeding examinations within five years
27 after the first examination if the applicant takes an examination in
28 the remaining subjects at least once each calendar year unless excused
29 by the board for good cause. An applicant who receives a passing

1 grade in the remaining subjects has passed the entire examination. In
2 order to receive credit for passing additional parts in any subsequent
3 examination, the applicant must in the subsequent examination attain a
4 minimum grade of 50 on parts written but not previously passed.

5 * Sec. 8. AS 08.04.170 is amended by adding new subsections to read:

6 (b) A candidate must, at each examination taken, be examined or
7 reexamined in all subjects for which conditional credit has not been
8 given.

9 (c) The board may in particular cases waive or defer any of the
10 requirements of AS 08.04.160 - 08.04.170 regarding the circumstances
11 in which the various parts of the examination must be passed upon a
12 showing that, by reason of circumstances beyond the applicant's con-
13 trol, the applicant was unable to meet the requirement.

14 (d) The applicant must attain a minimum grade of 50 on each part
15 not passed at that examination sitting to receive credit for passing
16 subjects on which a grade of at least 75 was attained at that sitting.

17 * Sec. 9. AS 08.04 is amended by adding a new section to read:

18 Sec. 08.04.426. QUALITY REVIEW. (a) The board may by regula-
19 tion require, on either a uniform or a random basis, as a condition to
20 issuance and renewal of permits under this section, that applicants
21 undergo a quality review conducted in a manner the board may specify.
22 The regulations must

23 (1) be adopted reasonably in advance of the time when they
24 are first required to be met;

25 (2) provide that the cost of a quality review is borne by
26 the applicant;

27 (3) include a provision that allows an applicant to show
28 that the applicant has satisfied the requirement of this section by
29 undergoing a satisfactory quality review performed for other purposes

1 that was substantially equivalent to quality reviews generally re-
2 quired under this section; the board may not require that a copy of
3 the review report for a review found to be substantially equivalent
4 under this paragraph be submitted to the board if the organization
5 that administered the review requires termination of the person's firm
6 from its quality review program if the firm refuses to cooperate with
7 required remedial or corrective actions, fails to correct material
8 deficiencies, or is found to be so seriously deficient in its perfor-
9 mance that education and remedial corrective actions are not adequate;
10 the board shall by regulation require an organization that performs
11 reviews that are substantially equivalent under this paragraph to
12 report to the board concerning which firms are in its quality review
13 program, their most recent report dates, and whether they have been
14 terminated from the program.

15 (b) The board may by regulation establish criteria for deter-
16 mining when the results of a quality review under this section are
17 satisfactory to the board. The board may renew a permit to practice
18 when the results of a quality review under this section are unsatis-
19 factory to the board if the applicant agrees to follow a particular
20 education or remedial program prescribed by the board.

21 (c) Failure by an applicant for renewal of a permit to practice
22 to undergo a quality review under this section constitutes grounds for
23 revocation, suspension, or refusal to renew the permit under AS 08.-
24 04.450 unless the board determines that failure to have been due to
25 reasonable cause or excusable neglect.

26 (d) The board may relax or suspend the quality review require-
27 ment for applicants who certify that they have not issued a report on
28 audited or reviewed financial statements during the two years immedi-
29 ately preceding the application.

1 (e) A report received by the board for a quality review under
2 this section is confidential and not subject to public inspection or
3 copying under AS 09.25.110 - 09.25.120 unless the report becomes part
4 of the record of a disciplinary hearing.

5 * Sec. 10. AS 08.04.450 is amended to read:

6 Sec. 08.04.450. REVOCATION OR SUSPENSION OF CERTIFICATE, LI-
7 CENSE, REGISTRATION OR PERMIT. The board may revoke or suspend a
8 certificate or license, or may revoke, suspend, or refuse to renew any
9 permit, or may censure any certificate holder, licensee, registrant,
10 or permit holder for

11 (1) fraud or deceit in obtaining any certificate, license,
12 registration, or permit required by this chapter;

13 (2) dishonesty or gross negligence in the practice of
14 public accounting, or other acts discreditable to the accounting
15 profession;

16 (3) violation of any provision of AS 08.04.500 - 08.04.610;

17 (4) violation of a rule of professional conduct or other
18 regulation adopted by the board;

19 (5) conviction of a felony under the laws of any state or
20 of the United States;

21 (6) conviction of any crime, an essential element of which
22 is dishonesty or fraud, under the laws of any state or of the United
23 States;

24 (7) cancellation, revocation, suspension, or refusal to
25 renew authority to practice as a certified public accountant or public
26 accountant in any other state for any cause other than failure to pay
27 an annual registration fee;

28 (8) suspension or revocation of the right to practice
29 before any state or federal agency; [OR]

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(9) [REPEALED

(10)] failure of a certified public accountant to satisfy the continuing education requirements prescribed by the board under AS 08.04.425, except as conditioned, relaxed or suspended by the board under AS 08.04.425(c) and (d); or

(10) failure of a certified public accountant to satisfactorily complete a quality review under AS 08.04.426 except as conditioned, relaxed, or suspended by the board under AS 08.04.426(b) - (d).

* Sec. 11. AS 08.04 is amended by adding a new section to read:

Sec. 08.04.505. ISSUANCE OF REPORTS. (a) A person or firm that does not hold a valid permit issued under this chapter may not issue a report on financial statements of another person, firm, organization, or governmental unit. This prohibition does not apply to

(1) an officer, partner, or employee of a firm or organization affixing that person's signature to a statement or report in reference to the financial affairs of the firm or organization with wording designating the position, title, or office that the person holds in the firm or organization;

(2) an act of a public official or employee in the performance of official duties;

(3) the performance by persons of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports on them.

(b) The prohibition in (a) of this section is applicable to issuance, by a person or firm not holding a valid permit, of a report using the form of language conventionally used by licensees with respect to compilation of financial statements.

1 (c) The board shall by regulation adopt a form of language not
2 conventionally used by licensees for compilation reports that would be
3 considered acceptable for use by unlicensed persons or firms under
4 this section.

5 * Sec. 12. AS 08.04.580 is amended to read:

6 Sec. 08.04.580. PARTNERSHIP POSING AS ACCOUNTANTS OR AUDITORS.
7 A person may not sign or affix a partnership name to any accounting or
8 financial statement, or opinion or report on any accounting or finan-
9 cial statement with any wording indicating that it is a partnership
10 composed of certified public accountants or public accountants or with
11 any wording indicating that the [IT IS A] partnership has [COMPOSED OF
12 ACCOUNTANTS OR AUDITORS OR PERSONS HAVING] expert knowledge in ac-
13 counting or auditing [TO ANY ACCOUNTING OR FINANCIAL STATEMENT, OR TO
14 ANY OPINION ON, REPORT ON, OR CERTIFICATE TO ANY ACCOUNTING OR FINAN-
15 CIAL STATEMENT] unless the partnership holds a live permit, is prac-
16 ticing under its registered name, and its offices in this state for
17 the practice of public accounting are maintained as required by
18 AS 08.04.360 - 08.04.380.

19 * Sec. 13. AS 08.04.590 is amended to read:

20 Sec. 08.04.590. USE OF TITLE WITH CORPORATE NAME. A person may
21 not sign or affix a corporate name to any accounting or financial
22 statement, or opinion or report on any accounting or financial state-
23 ment with any wording indicating that it is a corporation composed of
24 certified public accountants or public accountants or with any wording
25 indicating that the [IT IS A] corporation has [PERFORMING SERVICES AS
26 ACCOUNTANTS OR AUDITORS, OR COMPOSED OF ACCOUNTANTS OR AUDITORS OR
27 PERSONS HAVING] expert knowledge in accounting or auditing [TO ANY
28 ACCOUNTING OR FINANCIAL STATEMENT, OR TO ANY OPINION OR REPORT ON OR
29 CERTIFICATE TO ANY ACCOUNTING OR FINANCIAL STATEMENT] unless the

1 corporation holds a live permit, is practicing under its registered
2 name, and its offices in this state for the practice of public ac-
3 counting are maintained as required by AS 08.04.360 - 08.04.380.

4 * Sec. 14. AS 08.04 is amended by adding a new section to read:

5 Sec. 08.04.662. CONFIDENTIAL COMMUNICATIONS. Except by permis-
6 sion of the client engaging a licensee under this chapter, or the
7 heirs, successors, or personal representatives of the client, a li-
8 censee or a partner, officer, shareholder, or employee of a licensee
9 may not voluntarily disclose information communicated to the licensee
10 by the client relating to and in connection with services rendered to
11 the client by the licensee in the practice of public accountancy.
12 This information is confidential. However, this section may not be
13 construed as prohibiting the disclosure of information required to be
14 disclosed by the standards of the public accounting profession in
15 reporting on the examination of financial statements or as prohibiting
16 disclosures in court proceedings, in administrative investigations or
17 proceedings, in ethical investigations conducted by private profes-
18 sional organizations, or in the course of a quality review under
19 AS 08.04.426.

20 * Sec. 15. AS 08.04.680 is amended by adding new subsections to read:

21 (5) "quality review" means a study, appraisal, or review of
22 one or more aspects of the professional work of a person or firm in
23 the practice of public accountancy, by a person or persons who hold
24 certificates and who are not affiliated with the person or firm being
25 reviewed;

26 (6) "report," when used with reference to financial state-
27 ments, means an opinion, report, or other form of language that states
28 or implies assurance as to the reliability of financial statements and
29 that also includes or is accompanied by a statement or implication

1 that the person or firm issuing it has special knowledge or competency
2 in accounting or auditing; a statement or implication of special
3 knowledge or competence may arise from use by the issuer of the report
4 of names or titles indicating that the issuer is an accountant or
5 auditor, or from the language of the report itself; "report" includes
6 any form of language that disclaims an opinion when the form of the
7 language is conventionally understood to imply a positive assurance as
8 to the reliability of the financial statements referred to or special
9 competence on the part of the person or firm issuing the language; and
10 "report" includes any other form of language that is conventionally
11 understood to imply such assurance or such special knowledge or compe-
12 tence.

13 * Sec. 16. Section 4 of this Act takes effect April 26, 1991.

14 * Sec. 17. Section 5 of this Act takes effect April 26, 2004.

15 * Sec. 18. Section 7 of this Act and AS 08.04.170(d), enacted by sec. 8
16 of this Act, take effect April 26, 1994.