

SENATE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 2/13/91
Referred: L&C and Finance

A BILL**FOR AN ACT ENTITLED****1 "An Act relating to public accountancy; and providing for an effective date."****2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:****3 * Section 1.** AS 08.04 is amended by adding a new section to read:

4 Sec. 08.04.005. **PURPOSE.** It is the policy of the state, and the purpose of this chapter,
5 to promote the reliability of information that is used for guidance in financial transactions or
6 assessing the financial status or performance of commercial, noncommercial, and governmental
7 enterprises. The public interest requires that

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

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

15 (3) a public authority competent to prescribe and assess the qualifications and to

1 regulate the professional conduct of practitioners of public accountancy should be established;
2 and

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

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

7 Sec. 08.04.020. APPOINTMENT AND QUALIFICATIONS OF BOARD. (a) The board
8 consists of seven members appointed by the governor. Each member shall be a resident of this
9 state for at least one year. Five members shall be certified public accountants or public
10 accountants and two members shall be public members [IN ACCORDANCE WITH
11 AS 08.01.025].

12 (b) Except for public members, no one may be appointed who does not hold a current
13 certificate or license and who is not eligible to receive permits under this chapter. Public
14 members may not be employed by a person licensed under this chapter or by a business entity
15 holding a permit under this chapter. Notwithstanding AS 08.01.025, an accountant who is not
16 certified or licensed under this chapter and is not engaged in the practice of public
17 accountancy in violation of this chapter is eligible for appointment as a public member
18 under this section.

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

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

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

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

25 (1) a baccalaureate degree or its equivalent conferred by a college or university
26 acceptable to the board, with an accounting concentration or equivalent as determined by the
27 board by regulation to be appropriate, and two years of accounting experience satisfactory to the
28 board; or

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

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

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

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

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

12 * Sec. 6. AS 08.04.130 is amended to read:

13 Sec. 08.04.130. EXAMINATION. An applicant shall pass a written examination in
14 accounting and reporting, in auditing, and in other related subjects that [THEORY OF
15 ACCOUNTS, IN ACCOUNTING PRACTICE, IN AUDITING AND IN OTHER RELATED
16 SUBJECTS WHICH] the board determines appropriate. The examination shall be designated in
17 advance by the board as an examination for the certificate of certified public accountant. The
18 board shall use the uniform certified public accountant [ACCOUNTANTS'] examination and
19 advisory grading service, if available.

20 * Sec. 7. AS 08.04.150 is amended to read:

21 Sec. 08.04.150. [EXPERIENCE] PREREQUISITE FOR CERTIFICATE. An applicant
22 who is within 18 semester hours of meeting or has met [MEETS] the
23 undergraduate educational requirements of AS 08.04.120 may take the examination whether or
24 not the applicant has met the other [EXPERIENCE] requirements of that section. However an
25 applicant shall meet the other [EXPERIENCE] requirements of AS 08.04.120 before the
26 applicant is entitled to receive a certificate.

27 * Sec. 8. AS 08.04.160 is amended to read:

28 Sec. 08.04.160. REEXAMINATION. An applicant who fails an examination may take
29 as many examinations as the applicant chooses. An applicant who receives a passing grade in
30 at least two subjects or who has received a passing grade in accounting practice before
31 May 1, 1994, [OR IN AT LEAST TWO OF THE OTHER SUBJECTS] has the right to be

1 reexamined in only the remaining subjects at succeeding examinations within five years after the
2 first examination if the applicant takes an examination in the remaining subjects at least once
3 each calendar year unless excused by the board for good cause. An applicant who receives a
4 passing grade in the remaining subjects has passed the entire examination. **An applicant must**
5 **attain a minimum grade of 50 percent on each subject required to be written but not passed**
6 **at an examination sitting to receive credit for passing subjects on which a grade of at least**
7 **75 percent was attained at that sitting.**

8 * **Sec. 9.** AS 08.04.170 is amended to read:

9 Sec. 08.04.170. EXAMINATION STANDARDS. An applicant passes the examination
10 by attaining a grade of at least 75 **percent** in each subject in which the applicant is examined.
11 The board may give credit to an applicant who has passed all or part of the examination in
12 another state if the board determines that the standards under which the examination was held
13 are as high as the standards established for the examination in this state.

14 * **Sec. 10.** AS 08.04.170 is amended by adding new subsections to read:

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

17 (c) The board may in particular cases waive or defer any of the requirements of
18 AS 08.04.160 - 08.04.170 regarding the circumstances in which the various subjects of the
19 examination must be passed upon a showing that, by reason of circumstances beyond the
20 applicant's control, the applicant was unable to meet the requirement.

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

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

25 Sec. 08.04.426. QUALITY REVIEW. (a) The board may by regulation require, on
26 either a uniform or a random basis, as a condition to issuance and renewal of permits under this
27 section, that applicants undergo a quality review conducted in a manner the board may specify.
28 The regulations must

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

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

1 (3) include a provision that allows an applicant to show that the applicant has
2 satisfied the requirement of this section by undergoing a satisfactory quality review performed
3 for other purposes that was substantially equivalent to quality reviews generally required under
4 this section; the board may not require that a copy of the review report for a review found to be
5 substantially equivalent under this paragraph be submitted to the board if the organization that
6 administered the review requires termination of the person's firm from its quality review program
7 if the firm refuses to cooperate with required remedial or corrective actions, fails to correct
8 material deficiencies, or is found to be so seriously deficient in its performance that education
9 and remedial corrective actions are not adequate; the board shall by regulation require an
10 organization that performs reviews that are substantially equivalent under this paragraph to report
11 to the board concerning which firms are in its quality review program, their most recent report
12 dates, and whether they have been terminated from the program.

13 (b) The board may by regulation establish criteria for determining when the results of
14 a quality review under this section are satisfactory to the board. The board may renew a permit
15 to practice when the results of a quality review under this section are unsatisfactory to the board
16 if the applicant agrees to follow a particular education or remedial program prescribed by the
17 board.

18 (c) Failure by an applicant for renewal of a permit to practice to undergo a quality review
19 under this section constitutes grounds for revocation, suspension, or refusal to renew the permit
20 under AS 08.04.450 unless the board determines that failure to have been due to reasonable cause
21 or excusable neglect.

22 (d) The board may relax or suspend the quality review requirement for applicants who
23 certify that they have not issued a report on audited or reviewed financial statements during the
24 two years immediately preceding the application.

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

28 * **Sec. 12.** AS 08.04.450 is amended to read:

29 Sec. 08.04.450. REVOCATION OR SUSPENSION OF CERTIFICATE, LICENSE,
30 REGISTRATION, OR PERMIT. In addition to its powers under AS 08.01.075, the [THE]
31 board may revoke or suspend a certificate or license, or may revoke, suspend, or refuse to renew

1 any permit, or may censure any certificate holder, licensee, registrant, or permit holder for

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

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

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

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

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

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

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

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

17 (9) [REPEALED

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

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

24 * Sec. 13. AS 08.04 is amended by adding a new section to read:

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

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

1 (2) an act of a public official or employee in the performance of official duties;
2 (3) the performance by persons of other services involving the use of accounting
3 skills, including the preparation of tax returns, management advisory services, and the preparation
4 of financial statements without the issuance of reports on them.

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

8 (c) This section does not preclude the use of the following language or substantially
9 similar language:

10 "I (we) have compiled the accompanying (specify statement type)
11 as of (time period) for the (period) then ended. A compilation is limited
12 to presenting, in the form of financial statements, information that is the
13 representation of the management (owners). I (we) have not audited or
14 reviewed the accompanying financial statements and, accordingly, do not
15 express an opinion or any other form of assurance on them. Management
16 has elected to omit substantially all (or certain) required disclosures (and
17 the statement of cash flows). If the omitted disclosures were included in
18 the financial statements, they might influence the user's conclusions about
19 the (entity's) financial position, results of operations, and cash flows.
20 Accordingly, these financial statements are not designed for those who are
21 not informed about these matters."

22 * Sec. 14. AS 08.04.580 is amended to read:

23 Sec. 08.04.580. PARTNERSHIP POSING AS ACCOUNTANTS OR AUDITORS. A
24 person may not sign or affix a partnership name to any accounting or financial statement, or
25 opinion or report on any accounting or financial statement with any wording indicating that
26 it is a partnership composed of certified public accountants or public accountants or with
27 any wording indicating that the [IT IS A] partnership has [COMPOSED OF ACCOUNTANTS
28 OR AUDITORS OR PERSONS HAVING] expert knowledge in accounting or auditing [TO ANY
29 ACCOUNTING OR FINANCIAL STATEMENT, OR TO ANY OPINION ON, REPORT ON,
30 OR CERTIFICATE TO ANY ACCOUNTING OR FINANCIAL STATEMENT] unless the
31 partnership holds a live permit, is practicing under its registered name, and its offices in this state

1 for the practice of public accounting are maintained as required by AS 08.04.360 - 08.04.380.

2 * **Sec. 15.** AS 08.04.590 is amended to read:

3 Sec. 08.04.590. **USE OF TITLE WITH CORPORATE NAME.** A person may not sign
4 or affix a corporate name to any accounting or financial statement, or opinion or report on
5 any accounting or financial statement with any wording indicating that it is a corporation
6 composed of certified public accountants or public accountants or with any wording
7 indicating that the [IT IS A] corporation has [PERFORMING SERVICES AS ACCOUNTANTS
8 OR AUDITORS, OR COMPOSED OF ACCOUNTANTS OR AUDITORS OR PERSONS
9 HAVING] expert knowledge in accounting or auditing [TO ANY ACCOUNTING OR
10 FINANCIAL STATEMENT, OR TO ANY OPINION OR REPORT ON OR CERTIFICATE TO
11 ANY ACCOUNTING OR FINANCIAL STATEMENT] unless the corporation holds a live
12 permit, is practicing under its registered name, and its offices in this state for the practice of
13 public accounting are maintained as required by AS 08.04.360 - 08.04.380.

14 * **Sec. 16.** AS 08.04 is amended by adding a new section to read:

15 Sec. 08.04.662. **CONFIDENTIAL COMMUNICATIONS.** (a) A licensee, or a partner,
16 officer, shareholder, or employee of a licensee, may not reveal information communicated to the
17 licensee by a client about a matter concerning which the client has employed the licensee in a
18 professional capacity. This section does not apply to

19 (1) information required to be disclosed by the standards of the public
20 accountancy profession in reporting on the examination of financial statements;

21 (2) the release of information the client has authorized the licensee to reveal;

22 (3) information revealed as part of the discovery of evidence related to a court
23 or administrative proceeding or introduced in evidence in a court or administrative proceeding;

24 (4) information revealed in ethical investigations conducted by private professional
25 organizations; or

26 (5) information revealed in the course of a quality review under AS 08.04.426.

27 (b) Client information obtained by the board under (a)(3) - (5) of this section is
28 confidential and is not a public record for purposes of AS 09.25.110 - 09.25.140.

29 * **Sec. 17.** AS 08.04.680 is amended by adding new paragraphs to read:

30 (5) "quality review" means a study, appraisal, or review of one or more aspects
31 of the professional work of a person or firm in the practice of public accountancy, by a person

1 or persons who hold certificates and who are not affiliated with the person or firm being
2 reviewed;

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

14 * Sec. 18. Section 4 of this Act takes effect January 1, 1992.

15 * Sec. 19. Section 5 of this Act takes effect January 1, 2004.

16 * Sec. 20. Section 8 of this Act and AS 08.04.170(d), enacted by sec. 10 of this Act, take effect
17 January 1, 1994.