

HB

315

<target><bill>HB 315</bill><subject>HB
315</subject><comm>HFIN26</comm></target>

2-23-10

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Chair, Labor and Commerce
- Member: Rules, Resources

Session: January – April
 State Capitol
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Official Business

Sponsor Statement
HB 315 – Public Accounting

Today's businesses often have locations in multiple states and compliance responsibilities in multiple jurisdictions. Forty-five states recognize this fact and allow Certified Public Accountants (CPAs) the mobility necessary to operate in such a climate. Alaska does not. Certified Public Accountants licensed and located in another state are barred from serving clients in Alaska without obtaining a license and registering with the Alaska State Board of Public Accountancy.

House Bill 315 would change this fact, updating Alaska's uniform accountancy statutes to allow for CPA mobility. Mobility is the ability of a licensee to gain a practice privilege outside his principle place of business without additional licensing or fees. It allows licensed CPAs and CPA firms to practice across state jurisdictions with greater ease and is key to keeping Alaska's CPAs and CPA firms nationally competitive.

In addition to allowing for greater mobility, HB 315 alters the ownership requirements for public accounting firms. The accounting profession consists of more than just CPAs, non-CPA professionals often provide vital services for accounting firms. While these non-accountants enhance the firm's ability to serve their clients, Alaska law bars them from having any ownership in a CPA firm. Under current state law, public accounting firms can only be owned by CPAs. Alaska is one of only five states with such stringent requirements; most states allow non-CPAs to own a minority interest. House Bill 315 brings Alaska into line with the vast majority of states which allow non CPAs to have minority ownership in CPA firms. Such a change puts Alaskan CPA firms on equal footing with those firms practicing in Alaska under out-of- state permits.

Passage of HB 315 will allow consumers to receive timely services from CPAs best suited for the job, regardless of location and without the hindrance of filings, forms, and increased costs that currently typify the system. The bill will ensure that CPA firms in the state are able to provide the best services to their clients and remain competitive with non-Alaskan firms operating in the state under out-of- state permits.

I respectfully ask for your consideration of this bill and look forward to hearing your questions and concerns.

Email: Representative_Kurt_Olson@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 315
(H) Publish Date: 2/17/10

Identifier (file name): HB315-CED-CBPL-2-11-10 Dept. Affected: DCCED
Title: Public Accounting RDU: Corp. Bus. & Prof Licensing (117)
Component: Corp. Bus. & Prof Licensing
Sponsor: House Labor and Commerce Committee
Requester: House Labor and Commerce Committee Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

House Bill 315 amends the Public Accounting statutes, AS 08.04, providing for out-of-state exemption and practice privileges in Alaska. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Division Operations Manager
Division: Corporations, Business & Professional Licensing
Approved by: Emil Notti, Commissioner
Department of Commerce, Community, and Economic Development

Phone (907) 465-2144
Date/Time 2/11/2010 12:25PM
Date 2/11/2010

2-23-10

Alaska Society of Certified Public Accountants
Resolution 2-1-2010

WHEREAS, mobility of the certified public accountant's license provides for mobility between the 54 licensing jurisdictions in the United States of America, its territories and possessions, and serves to protect the public interest by providing a process for disciplinary procedures across the jurisdictions, and

WHEREAS, providing for simple majority firm ownership of CPA firms aligns firm-ownership requirements with the national standard set forth in the Uniform Accountancy Act and enhances fair competitive advantage between firms licensed within and outside of Alaska,

THEREFORE BE IT RESOLVED, that the Board of the Alaska Society of Certified Public Accountants supports SB 227 and HB 315.

2-23-10



SUMMARY OF STATE ACTIVITY on CPA MOBILITY
Updated June 2009

State	Enacted	Effective
Alabama	May 2009	October 2009
Alaska	Legislation anticipated in 2010	
Arizona	June 2008	September 2008
Arkansas	February 2009	July 2009
California	Legislation Anticipated in 2010	
Colorado	May 2008	August 2008
Commonwealth of Northern Marianas		
Connecticut	May 2008	May 2008
District of Columbia		
Delaware	August 2008	August 2008
Florida	May 2009	July 2009
Georgia*		July 2009
Guam		
Hawaii	Legislation anticipated in 2010	
Idaho	March 2008	July 2008
Illinois	August 2007	January 2008
Indiana	May 2007	July 2007
Iowa	April 2008	July 2009
Kansas	March 2009	November 2009
Kentucky	April 2008	July 2008
Louisiana	December 2007	December 2007
Maine	June 2007	September 2007
Maryland	May 2008	October 2008
Massachusetts	HB 80	Legislation Pending
Michigan	June 2008	June 2008
Minnesota	April 2008	April 2008
Mississippi	March 2008	July 2009
Missouri	2008	2008

AICPA State Regulation and Legislation Team

SUMMARY OF STATE ACTIVITY on CPA MOBILITY
Updated May 2009

State	Enacted	Effective
Montana	April 2009	October 2009
Nebraska	February 2009	September 2010
Nevada	April 2009	July 2009
New Hampshire	HB 256	
New Jersey	July 2008	July 2009
New Mexico	February 2008	May 2008
New York		
North Carolina	SB 647/HB 911	Legislation Pending
North Dakota	April 2008	August 2009
Ohio	1961	1961
Oklahoma	April 2009	April 2009
Oregon	SB 867	Awaiting Governor Signature
Pennsylvania		September 2008
Puerto Rico		
Rhode Island	July 2007	July 2007
South Carolina	June 2008	June 2008
South Dakota	March 2009	July 2009
Tennessee	April 2007	April 2007
Texas	June 2007	June 2007
Utah	March 2008	May 2008
Vermont	May 2009	July 2009
Virginia	January 1999	July 1999
Virgin Islands		
Washington	March 2008	June 2008
West Virginia	March 2008	June 2008
Wisconsin	April 2006	April 2006
Wyoming	March 2009	July 2009
<i>Currently Georgia and Pennsylvania law grants mobility privileges only for CPAs from states that have passed mobility.</i>		Currently in Effect 29 Effective at a Future Date 15 TOTAL 44

SUMMARY OF STATE ACTIVITY on CPA MOBILITY
Updated May 2009

AICPA State Regulation and Legislation Team

2-23-10



Mobility for CPAs Frequently Asked Questions

What is mobility?

- Practice mobility for CPAs is the ability of a licensee to gain a practice privilege outside of their home state without getting an additional license in another state where they will be serving a client.

Why is mobility important to CPAs and businesses in your state?

- Because the electronic age makes conducting business across state borders an everyday occurrence, there is a critical need for states to adopt a uniform mobility system that will allow licensed CPAs to provide services across state lines without unnecessary burdens that do not protect the public interest.

What is being done to correct the current system?

- Prior to this initiative, each state had its own rules, regulations and requirements to allow out-of-state CPAs to provide services in that state, resulting in a patchwork system that was inefficient and increasingly difficult to navigate.
- The American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) analyzed the system for gaining practice privileges across state lines and concluded it simply was not working.
- The AICPA along with NASBA have been working with the state boards of accountancy and the state CPA societies across the country to gain a uniform interstate mobility provision through the Uniform Accountancy Act since 2007. Since that date over half of the states have enacted a uniform provision.

What is the solution?

- Uniform adoption of the substantial equivalency provision included in the *Uniform Accountancy Act* (the model bill for CPA regulation written and endorsed jointly by AICPA and NASBA) will create a system similar to the nation's driver license that will provide CPAs with mobility while retaining and strengthening state boards' ability to protect the public interest.

Why is a uniform mobility provision important in your state and to other states across the country?

- Compliance and enforcement of the existing system was almost impossible, with multiple, cumbersome processes and disparities in requirements. Business realities, including an increase in interstate commerce and virtual technologies require a uniform system that allows fluid practice across state lines.
- Implementation of a uniform provision would allow consumers to receive timely services from the CPA best suited to the job, regardless of location, without the hindrances of unnecessary filings, forms and increased costs that do not protect the public interest.
- Businesses today are often located in multiple states and have compliance responsibilities in multiple jurisdictions and a uniform process will give CPAs the flexibility to better serve these clients.
- This initiative is only successful if it is passed in all states. It is the "good neighbor theory" we all have to do it for one another.

How will State Boards of Accountancy regulate CPAs operating in their state if mobility provisions are adopted?

- State Boards of Accountancy will gain automatic jurisdiction over all CPAs practicing in their state, enabling states to discipline out-of-state licenses, whether they are registered or licensed in the state.
- The substantial equivalency provision of the Uniform Accountancy Act was written jointly by NASBA and AICPA, and is strongly supported by both organizations as the best path to a uniform mobility system with enhanced public protection.

Are states taking action to implement mobility legislation?

- Over 40 states have adopted a CPA mobility provision.

For More Information:

- <http://www.aicpa.org/Legislative+Activities+and+State+Licensing+Issues/Mobility+and+State+Licensing+Issues/>.

Is your state addressing the mobility issue for CPAs?

- Nearly all remaining jurisdictions have indicated their support of moving towards mobility in the 2010.
- Please contact your state CPA society for additional information or AICPA's State Regulation and Legislation team:

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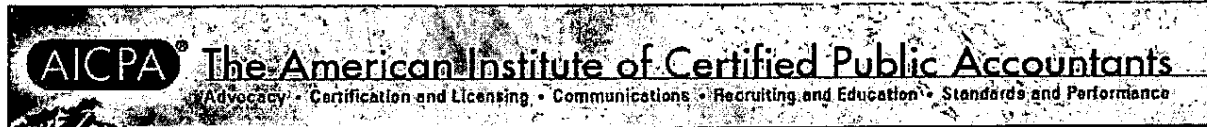
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*Updated May 11, 2009
AICPA State Regulation and Legislation Team*

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2-23-10



February 4, 2010

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Mobility and State Licensing Issues

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- [Summary of State Activity on CPA Mobility](#)
- [Mobility Legislation Frequently Asked Questions](#)
- [Mobility Reference Materials](#)
- [Uniform Accountancy Act](#)
- [State Licensing Issues](#)
- [Mobility Implementation](#)
- [Articles](#)

There is significant momentum across the country to enact a uniform practice mobility system for certified public accountants (CPAs) and CPA firms. A majority of states are in the process of considering this concept. [View an overview of the activity.](#)

Practice mobility for CPAs is the ability of a licensee to gain a practice privilege outside of his or her home jurisdiction without obtaining an additional license in another state where he or she will be serving a client or an employer.

Because the electronic age makes conducting business across state borders an everyday occurrence, a *national effort* is underway to adopt a uniform system that will allow licensed CPAs the ability to provide services across state lines without being subject to unnecessary burdens that do not protect the public interest.

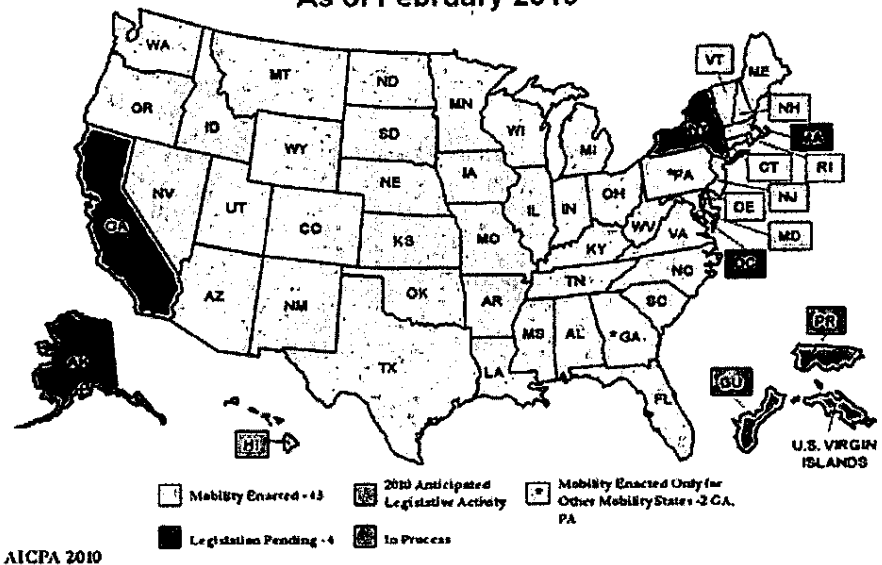
This uniform approach is endorsed by the AICPA and the National Association of State Boards of Accountancy (NASBA), the national organization of state boards of accountancy, through a provision in the AICPA/NASBA [Uniform Accountancy Act \(UAA\) – Fifth Edition](#). The provision specifically allows for interstate practice by CPAs whose home jurisdiction or who individually meets the UAA licensure standard.

This provision provides the right balance of trust and public protection. Removing notification is being coupled with automatic jurisdiction. By removing boundaries to practice in the U.S., CPAs will be able to more readily serve individuals and businesses in need of their expertise. At the same time, the state board of accountancy's ability to discipline under the provision is enhanced and is based on the CPA and the CPA firm's performance of public accounting services, either physically, electronically or otherwise within a state, rather than restricting the board's authority to only those holding a state's license.

Prior to 2007, when this national effort was undertaken, four states had already eliminated notification and added automatic consent to enforcement (Ohio, Missouri, Virginia, and Wisconsin). In both Ohio and Virginia, states that have the longest history with this concept, there is no documented lapse in public protection.

Mobility Update
As of February 2010

CPA Mobility Activity As of February 2010



Mobility Reference Materials

- For information about licensing requirements in other states, you can access the accountancy statutes and regulations directly from most states' board of accountancy Web sites. [Find information about a specific state](#) (simply locate the state on the map to link to the board of accountancy Web site in that state).
- For information about states that have enacted mobility, an additional clickable map is available to view individual state [mobility implementation](#).

[Mobility Implementation FAQs](#)

State Licensing Issues

For questions concerning the "Mobility Initiative" or any other legislative information please contact the following AICPA staff members:

[Sheri Bango Cavaney](#) - Vice President, Practice Mobility & State Regulatory & Legislative Affairs

[Ann Pallasch](#) - Manager, Mobility & State Regulation & Legislation

[Aaron Castelo](#) - Senior Manager, State Legislation

[Suzanne Jolicoeur](#) - Manager, State Regulatory Outreach

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LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 3, 2010

SUBJECT: Sectional summary of HB 315 relating to public accounting
(Work Order No. 26-LS1380A)

TO: Representative Kurt Olson
Attn: Jennifer Senette

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 08.04.020(b) of the section dealing with the appointment and qualifications of members of the Board of Public Accountancy to reflect the new out-of-state exemption category added by the bill.

Section 2. Amends AS 08.04.075 (substantial equivalency) to require the board to determine whether the education, examination, and experience qualifications of another state or an individual are substantially equivalent to the national standard or to a board-established standard. Replaces "applicant" with "individual." Directs that the order in which the education, examination, or experience requirements were attained be disregarded.

Section 3. Amends AS 08.04.100 (certificates) to add the out-of-state exemption added by the bill.

Section 4. Amends AS 08.04.200 (use of CPA title by individual) to cover individuals with licenses or practice privileges.

Section 5. Rewrites AS 08.04.240(a). Directs the board to grant a permit to engage in the practice of public accounting to a partnership if the partnership applies and meets the listed requirements.

Section 6. Rewrites AS 08.04.240(b). Directs the board to grant a permit to engage in the practice of public accounting to a corporation that is organized for the practice of public accounting, if the corporation applies and meets the listed requirements.

Section 7. Amends AS 08.04.240(c) to add an individual with a practice privilege to the individuals who may make an affidavit necessary for a permit application under the section.

Section 8. Rewrites AS 08.04.240(d). Directs the board to grant a permit to engage in the practice of public accounting to a limited liability company engaged in the state in the practice of public accounting, if the company applies and meets the listed requirements.

Section 9. Amends AS 08.04.240(g). In the subsection that indicates when the board must renew a permit or a renewal, amends the requirements for renewal to limit the office maintenance requirement to offices located in this state, to limit certain continuing education and quality review requirements to individuals required to be CPAs of this state, and to specify some of the requirements that must be complied with.

Section 10. Adds new subsections to AS 08.04.240.

Sec. 08.04.240(i) indicates, with regard to permit issuance under the section, under what conditions a partnership, limited liability company, corporation, or other legal entity may include owners who are not certified public accountants.

Sec. 08.04.240(j) directs a legal entity that does not comply with (i) after it has received or renewed a permit to take corrective action within a reasonable time. Directs the board to determine what is a "reasonable time."

Section 11. Amends AS 08.04.370 (use of CPA title by legal entity). In this section, which indicates when "certified public accountant" may be used by persons who are not individuals, substitutes "legal entity" for "organization" and covers holders of a permit or out-of-state exemption unless the supervision requirement of AS 08.04.360 is satisfied.

Section 12. Changes the cross references at the beginning of AS 08.04.380 (waiver of requirements) to reflect the rewriting of AS 08.04.240.

Section 13. Rewrites AS 08.04.420 so that it just covers practice privileges. Indicates when an individual who is licensed in another state but not licensed in this state may engage in the practice of public accounting in this state under a practice privilege. If the individual is not a sole practitioner, restricts how the individual may provide certain services. Indicates that an individual who may practice under a practice privilege is not required to provide a notice, a fee, or documentation to the board.

Section 14. Adds two new sections, sec. 08.04.421 and 08.04.422.

Sec. 08.04.421(a). Addresses out-of-state permits and exemptions. Prohibits a legal entity that does not have an office in this state, that is authorized to practice public accounting in another state, and that performs designated functions for a client whose home office is located in this state from engaging in the practice of public accounting in this state without an out-of-state permit. Describes what a legal entity must submit to the board to obtain the out-of-state permit.

Sec. 08.04.421(b). Allows a legal entity that performs designated services but not designated functions for a client whose home office is located in this state to engage in the practice of public accounting in this state under an out-of-state exemption if the legal entity meets certain requirements.

Sec. 08.04.421(c). Allows a legal entity that does not have an office in this state, that is authorized to practice public accounting in another state, and that does not perform designated functions or designated services for a client whose home office is located in this state to engage in the practice of public accounting in this state under an out-of-state exemption if the performance of the services meets certain requirements.

Sec. 08.04.421(d). Requires the board to give notice of the denial of an out-of-state permit under (a) to the applying legal entity.

Sec. 08.04.421(e). Requires the board to establish by regulation the period for which an out-of-state permit under (a) is valid, but the initial term may not exceed three years. Allows the board to renew an out-of-state permit and to set by regulation renewal terms and length.

Sec. 08.04.421(f). States that a legal entity who may operate under an out-of-state exemption is not required to provide a notice, a fee, or documentation to the board. Allows the person to practice by mail, by telephone, by electronic means, or in person.

Sec. 08.04.421(g). Defines "designated service" for the section.

Sec. 08.04.422 (conditions of practice privileges, out-of-state permits, and out-of-state exemptions). Indicates that persons with practice privileges, out-of-state permits, or out-of-state exemptions and legal entities that hire individuals with practice privileges consent to the jurisdiction and disciplinary authority of the board, agree to comply with AS 08.04, agree to stop engaging in the practice of public accounting if the license from the state of the person's principal place of business becomes invalid, and consent to the state board that issued the individual's license being the person's agent for the service of process.

Section 15. Amends AS 08.04.440 (effect of failure to obtain license or permit). Deletes practice privileges from the coverage of the section.

Section 16. Amends AS 08.04.450 (revocation, suspension, or refusal to renew). Adds out-of-state exemptions to the section. Deletes practice privileges from (1). In (3), adds a failure to take corrective action regarding ownership as a basis for board action. In (11), with regard to the reference state for discipline, changes to the state where the act was committed.

Section 17. Adds a new subsection to AS 08.04.450. Directs the board to investigate a complaint made by the accountancy regulatory body of another state.

Section 18. Makes a technical change to AS 08.04.490 (reinstatement).

Section 19. Amends AS 08.04.500(b) (individuals posing as CPAs). Clarifies that the subsection covers a sole practitioner acting as a sole practitioner in the individual's home state. Expands the subsection to cover other titles allowed under (a) of the section.

Section 20. Amends AS 08.04.505 (issuance of reports), to cover persons holding out-of-state exemptions.

Section 21. Amends AS 08.04.510 (legal entities posing as CPAs). Makes technical change to "legal entity" throughout. In (a), adds legal entities holding out-of-state exemptions to the coverage of the section. Amends (b) to cover legal entities holding permits under AS 08.04.421 or out-of-state exemptions. Expands (b) to cover other titles allowed under (a) of the section.

Section 22. Amends AS 08.04.520 (individual posing as public accountant). Removes permits (not applicable to individuals).

Section 23. Amends AS 08.04.530 (partnership, limited liability company, or corporation posing as public accountant). Adds holders of out-of-state exemptions to the coverage of the section and makes a related drafting change.

Section 24. Amends AS 08.04.540 (use of deceptive title or abbreviation). Makes a change to "legal entity" in the provision prohibiting the use of deceptive titles or abbreviations. Allows persons with licenses, permits, out-of-state exemptions, or practice privileges to hold themselves out as accountants or auditors under certain conditions.

Section 25. Clarifies that AS 08.04.560 (individual assumption of title) does not require that the individual have an office in this state.

Section 26. Amends AS 08.04.580 (partnership posing as accountants or auditors) to add a partnership that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 27. Amends AS 08.04.590 (use of title with corporate name) to add a partnership that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 28. Amends AS 08.04.595 (limited liability company use of title) to add a limited liability company that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 29. Amends AS 08.04.598 (other legal entity's use of title). Makes change to "legal entity." Adds a person who holds an out-of-state exemption to the persons who are not subject to the prohibition in the section.

Section 30. Amends AS 08.04.600 (disclosure of lack of license or permit) to add out-of-state exemption holders to the list of persons who are not subject to the prohibitions in the section.

Section 31. Amends AS 08.04.610 (deceptive use of title or designation) to make the shift to the term, "legal entity." Amends to add persons who hold out-of-state exemptions to the persons who are not subject to the section's prohibition.

Section 32. Amends AS 08.04.620 (exceptions) to add, in paragraph (1), persons holding out-of-state exemptions to the persons for whom an individual without a license or practice privilege may work under certain conditions. In paragraph (3), adds an out-of-state exemption to the list of state approvals that would allow certain persons holding certificates, licenses, or degrees from a foreign country to satisfy the requirements for indicating that their public accounting services are available to the public.

Section 33. Amends AS 08.04.662(a) (confidential communications) to cover persons who hold out-of-state exemptions.

Section 34. Amends AS 08.04.680(1) to rewrite the definition of the term, "attest function," for the chapter.

Section 35. Amends AS 08.04.680(9). Changes the cross references in the definition of "permit" to reflect changes made in the bill.

Section 36. Rewrites AS 08.04.680(12) to change the definition of "principal place of business."

Section 37. Amends AS 08.04.680(14) to change an exception from the definition of "report."

Section 38. Amends AS 08.04.680 to add definitions of "compilation service," "designated function," "home office," and "out-of-state exemption" for the chapter.

Section 39. Repeals AS 08.04.085 (regulations regarding attest functions).

Section 40. Provides transitional provisions authorizing the Board of Public Accountancy to adopt regulations to implement the bill.

Section 41. Provides transitional provisions to indicate the effect of the bill on current permittees and practice privilege holders.

Representative Kurt Olson
February 3, 2010
Page 6

Section 42. Gives sec. 40 an immediate effective date.

Section 43. Makes the bill, except sec. 40, effective January 1, 2011.

If I may be of further assistance, please advise.

TLB:ljw
10-056.ljw