

2016 Regular Session

HOUSE BILL NO. 870

BY REPRESENTATIVE STOKES

ACCOUNTANTS/CPA: Provides for revisions relative to the Louisiana Accountancy Act

1 AN ACT

2 To amend and reenact R.S. 37:73(introductory paragraph), (1)(a)(ii) through (iv) and (b), (3)
3 and (6) through (17), 74(D), (E)(4), (F), (G)(2) and (J)(introductory paragraph),
4 74.1(introductory paragraph); 75(A), (C), (D) and (G), 76(D), (F), and (G)(5), 77(A),
5 (B), (C)(2)(introductory paragraph) and (b), (3) and (4) and (D) through (H),
6 77.1(A)(introductory paragraph), (1) and (2) and (B), 79(A)(introductory paragraph)
7 and (3) and (4), (B)(3) and (C), 83(A) and (K)(2) and (3), 84(B), 85, 86(C), and
8 91(B)(1), to enact R.S. 37:73(18) and (19), 79(B)(5), 87(D), and 94(A)(4), and to
9 repeal R.S. 37:74.1(1) through (17), relative to revisions of the Louisiana
10 Accountancy Act; to provide for definitions; to clarify and further define existing
11 definitions; to increase compensation of board officers not to exceed a certain dollar
12 amount; to retain the board's authorization to provide for fees by rule; to eliminate
13 the statutory fee schedule; to provide with respect to the age requirement of
14 applicants for licensing; to remove certain provisions with respect to an applicant's
15 eligibility for examination; to provide with respect to certain education requirements
16 and the time frame for completion; to provide certain requirements for a retired
17 licensee; to modify provisions with respect to the performance of attest services in
18 this state; to require good moral character of nonlicensee owners of firms; to clarify
19 the requirement for firms providing attest services to be enrolled in a board-approved
20 peer review program; to approve certain permanent inspection processes of peer

1 review programs; to provide with respect to the operation of firms; to modify the
2 time frame that a firm may operate following the death of the firm's sole owner; to
3 authorize the board to require licensees and certain persons to submit work products
4 for certain review; to provide for revisions with respect to the preparation of
5 financial statement engagements; to remove provisions requiring licensees to provide
6 certain written disclosure to clients with respect to received commission and referral
7 fees; to provide relative to fines and fees; to increase fines for licensees and certain
8 persons with respect to certain willful violations; to provide with respect to a
9 licensee's working papers and client records; to provide privity of contract with
10 respect to the preparation of financial statement engagements; to require certain
11 individuals to perform attest services through firms meeting certain state
12 requirements; to provide for other clarification; to provide for technical corrections;
13 and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 37:73(introductory paragraph), (1)(a)(ii) through (iv) and (b), (3) and
16 (6) through (17), 74(D), (E)(4), (F), (G)(2) and (J)(introductory paragraph),
17 74.1(introductory paragraph); 75(A), (C)(3), (D)(1), (3) and (4) and (G), 76(D), (F), and
18 (G)(5), 77(A), (B), (C)(2)(introductory paragraph) and (b), (3) and (4) and (D) through
19 (H)(1), 77.1(A)(introductory paragraph) and (1) and (2) and (B), 79(A)(introductory
20 paragraph) and (3) and (4), (B)(3) and (C), 83(A) and (K)(2) and (3), 84(B), 85, 86(C), and
21 91(B)(1)) are hereby amended and reenacted and R.S. 37:73(18) and (19), 79(B)(5), 87(D),
22 and 94(A)(4) are hereby enacted to read as follows:

23 §73. Definitions

24 When used in this Part, the following terms ~~shall~~ have the following
25 meanings ascribed to them:

26 (1)(a) "Attest" means providing the following services, subject to the
27 exceptions provided for in R.S. 37:83:

28 * * *

(ii) Any review or compilation to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS).

(iii) Any examination, review, or agreed upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE).

(iv) ~~Issuance of any report or performance of any engagement, including compilations, prescribed by the Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, Statements on Standards for Attestation Engagements, or Government Auditing Standards, or on any services to which those statements on standards apply, indicating that the service was performed in accordance with standards established by the American Institute of Certified Public Accountants~~ Any engagement to be performed in accordance with the Standards of the Public Company Accounting Oversight Board (PCAOB).

(b) Such statements on standards shall be adopted by reference by the board in accordance with the Administrative Procedure Act and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants (AICPA) and the Public Company Accounting Oversight Board (PCAOB).

* * *

(3) "Certificate" means a certificate as a certified public accountant issued pursuant to the provisions of this Part, as follows:

(a) An "active certificate" is granted to; or renewed by; ~~a person~~ an individual who has met all requirements pursuant to the provisions of this Part, including the experience requirement. A holder of a valid active certificate is licensed to use the certified public accountant or CPA title in Louisiana. Such a person is referenced in this Part as a licensee.

(b) An "inactive certificate" is one held by ~~a person~~ an individual who registers with the board in inactive status. This applies to (i) persons grandfathered by R.S. 37:75(I), who held an unlicensed certificate under the prior accountancy act,

or (ii) persons granted an exemption from continuing education pursuant to R.S. 37:76(D)(2). Such a person may use the designation "CPA Inactive" in accordance with the provisions of this Part.

* * *

(6) "CPA-Retired" means either of the following:

(a) A licensee holding an active certificate for a minimum of twenty consecutive years, who has reached the age of fifty-five years, and is no longer an owner, partner, shareholder, member, contractor, contractee, or employee of a CPA firm.

(b) A licensee holding an active certificate for which the board has granted CPA-Retired status based on a medical disability.

(2) A CPA-Retired may not perform any services set forth in the Louisiana Accountancy Act, but this status does not preclude uncompensated volunteer services so long as the individual does not sign any documents related to such services as a CPA. If a CPA-Retired wishes to return to active or CPA-Inactive status, he or she shall comply with provisions prescribed by board rule.

~~(6)(7)~~ "Good moral character" means a the propensity to provide professional services in a fair, honest and open manner and the lack of history of any dishonest or felonious act acts.

~~(7)(8)~~ "License" means an active certificate of certified public accountant, pursuant to R.S. 37:73(3)(a), or a CPA firm's permit to practice issued in accordance with the provisions of this Part.

~~(8)(9)~~ "Licensee" means the holder of a license.

~~(9)(10)~~ "Manager" means a manager of a limited liability company or a limited liability partnership.

~~(10)(11)~~ "Member" means a member of a limited liability company or a limited liability partnership.

~~(11)(12)~~ "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a CPA firm that performs attest services by a

1 person or persons who hold licenses and who are not affiliated with the CPA firm
2 being reviewed.

3 ~~(12)~~(13) "Permit" means a permit to practice as a CPA firm issued pursuant
4 to the provisions of this Part or pursuant to corresponding provisions of law of
5 another state.

6 (14) "Preparation of Financial Statement" means an engagement by a licensee
7 to prepare financial statements for an entity but not to perform a compilation, review,
8 or audit with respect to those financial statements and as provided in the AICPA's
9 Statement on Standards for Accounting and Review Services.

10 ~~(13)~~(15) "Professional" means arising out of or related to the specialized
11 knowledge or skills associated with CPAs.

12 ~~(14)~~(16) "Report" means, when used with reference to any attest services,
13 an opinion, report, or other form of language that states or implies ~~assurances~~ an
14 assurance as to the reliability of any financial statement or assertion. "Report" also
15 means any statement or implication that the person or firm issuing it has special
16 knowledge or competence in accounting or auditing and that the service reported
17 upon was performed under standards for such services established by the American
18 Institute of Certified Public Accountants. Such a statement or implication of special
19 knowledge or competence may arise from use by the issuer of the report of names
20 or titles indicating that the person or firm is an accountant or auditor, or from the
21 language of the report itself. "Report" also means any form of language which
22 disclaims an opinion when such form of language is conventionally understood to
23 imply any positive assurance as to the reliability of the financial statements referred
24 to or special competence on the part of the person or firm issuing such language.
25 "Report" also means any other form of language that is conventionally understood
26 to imply such assurance or such special knowledge or competence.

27 ~~(15)~~(17) "Rule" means any rule, regulation, or other written directive of
28 general application adopted by the board in accordance with the Administrative
29 Procedure Act.

(16)(18) "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, ~~and~~ Guam, and the Commonwealth of the Northern Mariana Islands. "This state" or "the state" means the state of Louisiana.

(19) "Substantial equivalency" or "substantially equivalent" means a determination by the board, or its designee, that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements of this state or that an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements of this state.

12 §74. State Board of Certified Public Accountants of Louisiana; powers and duties

13 * * *

14 D. The governor shall designate a ~~chairman~~ chair of the board. The board
15 shall annually elect from its members such other officers as the board may determine
16 to be appropriate.

17 E.

18 * * *

(4) The board shall retain or arrange for the retention of such applications and documents under oath that are filed with the board, as well as all records of its proceedings as required by law or regulation. The board shall maintain a registry of the names and addresses of all licensees, certificates, and permits. In any civil or criminal court proceeding arising out of or founded upon any provision of this Part, copies of any records certified as true copies under the seal of the board shall be admissible in evidence as tending to prove the contents of said records.

26 * * *

F. The members of the board shall receive monthly compensation in an amount to be fixed by the board for the time expended by such members in the discharge of their official duties. The compensation of the board officers shall not

1 exceed the sum of ~~one~~ two hundred fifty dollars per month per officer. The
 2 compensation of other members of the board shall not exceed the sum of ~~one~~ two
 3 hundred dollars per month per member. Such expenses shall be paid out of the
 4 treasury of the board. No expenses incurred by the board shall be charged to or
 5 against the funds of this state.

6 G.

7 * * *

8 (2) The board may appoint or employ such committees or persons to advise
 9 or assist it in such administration and enforcement as it may see fit.

10 * * *

11 J. The board may adopt rules in accordance with the Administrative
 12 Procedure Act, governing its administration and enforcement of the provisions of this
 13 Part and the conduct of holders of a certificate, license, ~~and permits~~ permit, or a
 14 firm, including but not limited to rules governing:

15 * * *

16 §74.1. Fees

17 The board is authorized to adopt rules in accordance with the Administrative
 18 Procedure Act to impose and collect fees ~~which shall not exceed the following:~~ in an
 19 amount prescribed by rule.

20 * * *

21 §75. Qualifications for a certificate as a certified public accountant

22 A. A certificate of certified public accountant shall be granted to persons of
 23 good moral character who have attained the age of 18 years and meet the education,
 24 experience, and examination requirements of this Section and who make application
 25 to the board.

26 * * *

27 C.(1) An applicant is eligible to apply for the examination provided for in
 28 this Section upon meeting the educational requirement of ~~at least one hundred fifty~~
 29 ~~semester hours of college education including~~ a baccalaureate or higher degree

1 conferred by a college or university acceptable to the board, the total educational
2 program to include an accounting concentration or equivalent as determined by the
3 board to be appropriate. In addition, the applicant shall have maintained continuous
4 residence in this state for a period of not less than one hundred twenty days
5 preceding the date of one's application to sit for the ~~board's next scheduled~~
6 examination.

7 ~~(2) Any applicant who has taken the examination prior to December 31,~~
8 ~~1996, shall remain eligible to take any examination administered by the board prior~~
9 ~~to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and~~
10 ~~regulations of the board, to take components of the examination in order to pass all~~
11 ~~portions of the examination. If the required degree or aggregate educational hours~~
12 ~~of such applicant do not reflect concentration in the area of accounting sufficient to~~
13 ~~satisfy the educational standards and regulations prescribed by the board, the board~~
14 ~~may require an applicant to successfully complete a course in higher accountancy~~
15 ~~prescribed by the board.~~

16 ~~(3)~~(2) Any applicant who has attained a baccalaureate degree prior to
17 January 1, 1992, shall not be subject to any of the requirements of this Subsection,
18 except that such degree must be conferred by a Louisiana college or university
19 approved by the board and must have such adequate concentration in the area of
20 accounting as the board may prescribe. If the required baccalaureate degree received
21 by the applicant prior to January 1, 1992, does not reflect concentration in the area
22 of accounting sufficient to satisfy the educational standards and regulations
23 prescribed by the board, the board may require an applicant to successfully complete
24 additional course work as prescribed by the board.

25 D.(1) The examination required to be passed as a condition for the granting
26 of a certificate shall be held ~~at least twice a year~~ regularly throughout the year and
27 shall test the applicant's knowledge of the subjects of accounting and auditing and
28 such other related subjects as the board may specify including but not limited to
29 business law and taxation.

~~(2) The time for holding such examination shall be determined by the board and may be changed from time to time.~~

(3)(2) The board shall prescribe the methods for applying for and conducting the examination including methods for grading examinations and determining a passing grade required of an applicant for a certificate. However, the board shall to the extent possible see to it that the examination itself, grading of the examination, and the passing grades are uniform with those applicable in all other states.

~~(4)~~(3) The board may make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties.

* * *

G.(1) An applicant for initial issuance of a certificate ~~under~~ pursuant to the provisions of this Section shall show that he has completed at least one hundred fifty semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by the board to be appropriate. The applicant shall meet all education requirements by December 31st of the fifth calendar year following successful completion of the examination, or the examination scores will be voided.

(2) An applicant for initial issuance of a certificate pursuant to the provisions of this Section shall show that he has completed ~~had~~ one year of experience. Such experience shall include providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills. All such experience shall be obtained within the four-year period preceding the board's receipt of the application and be verified by a licensee. Experience gained through employment in government, industry, academia, or public practice is acceptable.

* * *

§76. Issuance and renewal of certificates and maintenance of competency

* * *

D.(1) For renewal of an active certificate, each licensee shall participate in a program of learning designed to maintain professional competency with regard to the current or anticipated job duties of the licensee. Such program of learning must comply with rules adopted by the board, which rules shall broadly provide for programs of learning related to any type of accounting, attest, management advisory, financial advisory, tax, or consulting skills, or the licensee's current employment.

(2) The board may create an exception to such continuing education requirement for certificate holders who do not perform or offer to perform for the public one or more kinds of service involving the use of accounting or auditing skills, including issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Certificate holders granted such an exception by the board must place either the word "inactive" or "retired" adjacent to their CPA title on any business card, letterhead, or any printed, electronic, or other form or communication, document or device, with the exception of their CPA certificate on which their CPA title appears.

* * *

F. Applicants for initial issuance, renewal, or reinstatement of certificates shall list in their applications all reasonable and relevant information required by the board, which may include but not be limited to all states in which they have applied for or hold certificates, licenses, or permits current investigation, and any past denial, revocation, or suspension of a certificate, license, or permit. Each holder of or applicant for a certificate shall notify the board in writing within thirty days after the occurrence of any ~~issuance~~, denial, revocation, or suspension of a certificate, license, or permit by another state.

1 G. The board may issue a certificate to a holder of a substantially equivalent
2 foreign designation provided that:

3 * * *

4 (5) Each holder of a certificate issued under this Subsection shall notify the
5 board in writing within thirty days after the occurrence of any ~~issuance~~, denial,
6 revocation, or suspension of a designation or commencement of a disciplinary or
7 enforcement action by any jurisdiction.

8 * * *

9 §77. Firm permits to practice; attest experience; peer review

10 A. The board shall grant or renew permits to practice as a CPA firm to
11 entities that make application and demonstrate their qualifications in accordance with
12 this Section ~~or to CPA firms originally licensed in another state that establish an~~
13 ~~office in this state.~~ Any firm which has or establishes an office or a place of business
14 in Louisiana from which to offer or perform professional services must hold a permit
15 issued pursuant to this Section in order to provide attest services or to use the title
16 "CPA", "CPAs", "CPA firm", or "firm of Certified Public Accountants". A CPA
17 firm that does not have an office or a place of business in Louisiana, ~~shall apply for~~
18 ~~and hold a permit issued pursuant to this Part in accordance with rules promulgated~~
19 ~~by the board.~~ but provides attest services in this state shall hold a permit issued
20 pursuant to this Section unless it meets each of the following requirements:

21 (1) Compliance with the qualifications described in R.S. 37:77(C).

22 (2) Compliance with the qualifications described in R.S. 37:77(H).

23 (3) It performs such services through an individual with practice privileges
24 as provided in R.S. 37:94.

25 (4) It can lawfully perform such services in the state where the individuals
26 with practice privileges have their respective principal place of business.

27 B.(1) Permits shall be initially issued and renewed annually. Applications
28 for such permits shall be made in such form, and in the case of applications for
29 renewal between such dates, as the board may specify. The board shall grant or deny

1 any application for initial issuance of a permit no later than one hundred twenty days
 2 after the application is filed in proper form. Issuance or renewal of a permit shall not
 3 preclude the board from any further investigation and action against such permit or
 4 permit holder. Any permit which is not timely renewed with all required information
 5 shall expire on the date specified by the board. Any permit which has expired
 6 because of nonrenewal may be reinstated by the board upon payment of the renewal
 7 fee and any ~~penalty~~ additional fees as may be prescribed by the board provided that
 8 the applicant is otherwise qualified for the issuance of a permit under this Part.

9 (2) Where an applicant seeks the opportunity to show that issuance or
 10 renewal of a permit was mistakenly denied or where the board is not able to
 11 determine whether the application should be granted or denied, the board may issue
 12 a provisional permit to the applicant. Such provisional permit shall expire ~~ninety~~ at
 13 the end of one hundred twenty days after its issuance or when the board determines
 14 whether or not to issue or renew the permit for which application was made,
 15 whichever occurs first.

16 C.

17 * * *

18 (2) Any CPA firm may include nonlicensee owners provided that:

19 * * *

20 (b) All nonlicensee owners are of good moral character and active individual
 21 participants in the CPA firm or affiliated entities.

22 * * *

23 (3) Any individual licensee or individual granted practice privileges under
 24 this Part who is responsible for supervising attest services and who signs or
 25 authorizes someone to sign the accountant's report ~~on the financial statements~~ on
 26 behalf of the firm shall meet the experience requirements set out in the professional
 27 standards for such services promulgated by the American Institute of Certified Public
 28 Accountants. In the absence of professional standards concerning such experience
 29 requirements ~~promulgated by the American Institute of Certified Public Accountants,~~

1 the board shall adopt ~~a rule~~ rules specifying the requisite experience requirements.

2 ~~Such board rule shall be in effect only until such time as the American Institute of~~
3 ~~Certified Public Accountants promulgates professional standards concerning such~~
4 ~~experience requirements.~~

5 (4) Any individual licensee or ~~any~~ individual granted practice privileges
6 under this Part who signs or authorizes someone to sign the accountant's report ~~on~~
7 ~~the financial statement~~ on behalf of the firm shall meet the experience requirements
8 promulgated by the American Institute of Certified Public Accountants. In the
9 absence of professional standards concerning such experience requirements
10 ~~promulgated by the American Institute of Certified Public Accountants~~, the board
11 shall adopt rules specifying the requisite experience requirements. ~~Such board rule~~
12 ~~shall be in effect only until such time as the American Institute of Certified Public~~
13 ~~Accountants promulgates professional standards concerning such experience~~
14 ~~requirements.~~

15 ~~D. An applicant for initial issuance or renewal of a permit to practice shall~~
16 ~~be required to register each office of the firm within this state with the board and to~~
17 ~~show that all attest services rendered in this state are under the charge of a person~~
18 ~~holding a valid active certificate.~~

19 ~~E.D.~~ The board shall charge a fee in an amount prescribed by the board for
20 each application for initial issuance or renewal of a permit.

21 ~~F.E.~~ Applicants for initial issuance, renewal, or reinstatement of permits
22 shall list in their applications all reasonable and relevant information required by the
23 board which may include but not be limited to all states in which they have applied
24 for or hold permits as CPA firms and list any current investigation, past denial,
25 revocation, or suspension of a certificate, license, or permit by any other state or the
26 federal government. Each holder of or applicant for a permit shall notify the board
27 in writing within thirty days after the occurrence of any change in the identities of
28 partners, officers, shareholders, members, or managers whose principal place of
29 business is in this state, any change in the number or location of offices within the

1 state, any change in the identity of those persons in charge of such offices, and any
2 ~~issuance~~, denial, revocation, or suspension of a permit by any other state.

3 G.F. Firms which fall out of compliance with the provisions of this Section
4 due to changes in firm ownership or personnel after receiving or renewing a permit
5 shall take corrective action to bring the firm back into compliance as quickly as
6 possible. The board may grant a reasonable period of time for a firm to take such
7 corrective action. Failure to bring the firm back into compliance within a reasonable
8 period as determined by the board ~~shall~~ may result in the action by the board
9 including the possibility of suspension or revocation of the firm permit.

10 ~~H.(1)(G)(1)(a)~~ The board shall provide for the regular periodic review of the
11 reports issued by licensees registered with the board for compliance with applicable
12 generally accepted standards. The board shall during such period exempt from the
13 requirements of such review of reports licensees who during such period have been
14 subjected to a professional peer review, the report of which shall be available to the
15 board, approved by and acceptable to the board and conducted pursuant to standards
16 not less stringent than peer review standards applied by the American Institute of
17 Certified Public Accountants and administered by the Society of Louisiana Certified
18 Public Accountants or another state-certified public accountant society. If the
19 professional peer review report is not made available to the board, the licensee shall
20 submit the report to the board in accordance with rules and regulations adopted and
21 promulgated by the board in accordance with the Administrative Procedure Act
22 Firms that provide attest services shall enroll in a board-approved peer review
23 program and comply with the applicable requirements of that program.

24 (b) The board approves the American Institute of Certified Public
25 Accountants (AICPA) peer review program (Program) and other peer review
26 programs administered by organizations fully involved in the administration of the
27 AICPA Program that utilize the Standards for Performing and Reporting on Peer
28 Reviews (peer review standards) promulgated by the AICPA. The board may

1 approve other nationally recognized peer review programs and peer review standards
2 that are not less stringent than the AICPA Program and peer review standards.

3 (c) The board approves the Society of Louisiana Certified Public
4 Accountants, other state CPA societies fully involved in the administration of the
5 AICPA Program, and the AICPA to administer peer review.

6 (d) The board approves the PCAOB's permanent inspection process for
7 reviewing practices subject to its permanent inspection process (which are not
8 included in the scope of peer review programs) and firms only performing such
9 engagements are exempt from the peer review requirement in Section (G)(1)(a).
10 Firms subject to PCAOB permanent inspections are also required to meet the peer
11 review requirements in Section (G)(1) (a) that covers the portion of the firm's attest
12 practice not subject to the PCAOB permanent inspection process, should the firm
13 have such a practice.

14 (2) Firms shall make peer review and PCAOB inspection results available to
15 the board in accordance with rules and regulations adopted by the board.

16 (3) The peer review process shall be conducted in a manner pursuant to this
17 Section in accordance with rules and regulations adopted by the board.

18 * * *

19 ~~(4)(a) Except as provided in Subparagraph (b) of this Paragraph, the~~ The
20 proceedings, records, reports, letters of comment, letters of response, or working
21 papers related to a peer review shall be privileged and shall not be subject to
22 discovery, subpoena, or other means of legal process or introduction into evidence
23 in any civil proceeding. No person, firm, or governmental entity in possession of
24 information or documents related to any proceedings, records, reports, letters of
25 comments, letters of response, or working papers on a peer review shall disclose
26 such information or records to any person, firm, or governmental entity either
27 voluntarily or pursuant to discovery, subpoena, or other means of legal process. No
28 member of a peer review committee or person who was involved in a peer review
29 shall be permitted or required to testify in any civil proceeding as to any matters

1 produced, presented, disclosed, or discussed during or in connection with the peer
2 review, or as to any findings, recommendations, evaluations, opinions, or other
3 actions of any person involved in the peer review.

4 * * *

5 §77.1. Firm permits to practice; single-owner firms; death of owner

6 A. Notwithstanding the provisions of this Chapter to the contrary, upon
7 written authorization from the board, a firm that is a sole proprietorship, a
8 single-member limited liability company, a single-shareholder professional
9 accounting corporation, or any other single-owner business entity licensed to practice
10 public accounting by the state of Louisiana may continue to operate for a period of
11 up to ~~twelve~~ twenty-four months following the date of death of the owner.
12 Authorization of the continuation of the firm shall be granted by the board when the
13 following documents have been provided to the board:

14 (1) A certified copy of the owner's death certificate or a notarized affidavit
15 of evidence of the owner's death, acceptable to the board.

16 (2) A copy of a power of attorney or similarly enforceable document
17 executed by the owner's executor, administrator, or heir designating a licensee in
18 good standing with the board to manage the firm on behalf of the heirs of the owner
19 for the ~~twelve-month~~ twenty-four month period.

20 * * *

21 B. ~~If the~~ The firm's permit to practice as a certified public accountant firm
22 ~~will expire prior to the twelve-month period, the board, upon granting the right to~~
23 ~~continue business, shall renew the firm's permit for~~ shall be renewed annually during
24 the period of continuance of the firm. The board may charge a fee for applying for
25 the continuation of business, not to exceed the annual filing fee for firm permits
26 ~~charged in R.S. 37:74.1(16).~~

27 * * *

28 §79. Enforcement against holders of certificates, permits, and privileges

1 A. After notice and a hearing as provided for in R.S. 37:81, the board may
2 revoke any certificate, permit, or privileges granted under R.S. 37:94, or suspend for
3 a period of not more than five years, or refuse to issue or renew any certificate or
4 permit, reprimand, censure, or limit the scope of practice of any licensee or
5 individual granted privileges under R.S. 37:94, impose an administrative fine not to
6 exceed two thousand dollars per violation, or place any licensee or individual granted
7 privileges under R.S. 37:94 on probation, all with or without terms, conditions, and
8 limitations, for any one or more of the following reasons:

9 * * *

10 (3) Revocation or suspension of, or a voluntary consent decree concerning,
11 the right to practice before any state or federal agency or the PCAOB.

12 (4) Dishonesty, fraud, or gross negligence in the performance of services
13 while holding a certificate, license, ~~or privilege,~~ or in the filing or failure to file that
14 individual's own income tax returns.

15 * * *

16 B. In lieu of or in addition to any remedy provided for in Subsection A of
17 this Section, the board may require a licensee or privilege holder to:

18 * * *

19 (3) Pay all costs of board proceedings, including but not limited to
20 investigation fees, stenographer fees, witness fees or reimbursements, and attorney
21 fees involved in the imposition of a remedy pursuant to this Section.

22 * * *

23 (5) Subject its work product to pre-issuance review by a licensee acceptable
24 to the board.

25 C.(1) If a person or firm against whom costs, fees, or a fine are imposed by
26 the board fails to pay in full within thirty days of the effective date of the order
27 imposing such costs, fees, or fines or on or before a later date as the board may
28 specify, the board may enforce its order by bringing an action in a court of competent
29 jurisdiction and proper venue as to such person or firm.

(2) The proceeding shall be summarily tried by the judge without a jury, and the court may receive evidence by form of affidavit. Upon proof that the respondent has failed to pay timely all costs, fees, or fines imposed by the board, the court shall enter judgment in favor of the board. The court shall order the respondent to pay the board, within a reasonable time fixed by the court, the costs, fees, and fines imposed by the board, the costs and reasonable attorney fees incurred by the board in bringing the action, plus a civil penalty of not less than five hundred dollars nor more than one thousand dollars as may be determined by the court. The failure of a respondent to comply with the order of the court shall constitute and be punishable as contempt of court for which the board may seek relief in accordance with law.

* * *

§83. Unlawful acts

A. Only licensees or individuals granted privileges ~~under~~ pursuant to the provisions of R.S. 37:94 may perform preparation of financial statement engagements, which purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS), or issue a report on financial statements of any other person, firm, organization, or governmental unit, which purports to be in compliance with standards applicable to attest services, or otherwise offer to render or render any attest service. This restriction does not apply to nonlicensees who use accounting skills in the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon. This restriction also does not apply to nonlicensees who may prepare financial statements which do not purport to be in compliance with (SSARS) ~~the Statements on Standards for Accounting and Review Services.~~

* * *

K.

* * *

(2) A licensee who is not prohibited by this Section from performing services for or receiving a commission and who expects to be paid a commission

1 shall disclose that fact in writing to any person or entity to whom the licensee
2 recommends or refers a product or service to which the commission relates, ~~prior to~~
3 ~~receipt of any commission.~~

4 (3) Any licensee who expects to accept a referral fee for recommending or
5 referring any service of a licensee to any person or entity, or who expects to pay a
6 referral fee to obtain a client shall disclose such acceptance ~~of or~~ payment in writing
7 to the client ~~prior to the acceptance or payment of such referral fee.~~

8 * * *

9 §84. Injunctions against unlawful acts; criminal penalties

10 * * *

11 B. Any person or firm who knowingly violates any provision of R.S. 37:83
12 shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not
13 more than ~~five hundred~~ two thousand dollars for each violation or imprisonment for
14 not more than one year, or both.

15 §85. Single act evidence of practice

16 Evidence of the commission of a single act prohibited by this Part or any
17 rules or regulations adopted pursuant to this Part is sufficient to justify a fine,
18 additional fees, assessment of reasonable costs, penalty, injunction, restraining order,
19 or conviction without evidence of a general course of conduct.

20 §86. Confidential communications

21 * * *

22 C. No licensee furnishing information, data, reports, or records of a client to
23 a person, firm, committee, or organization established for the purpose of a peer
24 review shall, by reason of furnishing such information, be liable in damages to any
25 person, partnership, corporation, or firm. The records and proceedings of any such
26 person, firm, committee, or organization shall be confidential, shall be used only by
27 such person, firm, committee, or organization solely in the exercise of the proper
28 functions of a peer review, and shall not be disclosed to any third party except as
29 provided in ~~R.S. 37:77(H)(4)(b)~~ R.S. 37:77(G)(4)(b). However, peer review reports

1 on participation by a licensee in the Public Corporation Practice Section Peer Review
2 program may be disclosed.

3 * * *

4 §87. Licensee's working papers; client records

5 * * *

6 D. This Section shall apply to all formats of documents including paper and
7 electronic and regardless of storage location.

8 * * *

9 §91. Privity of contract

10 * * *

11 B. No action based on negligence brought against any licensee, or any
12 employee or principal of a licensee by any person or entity claiming to have been
13 injured as a result of their justifiable reliance upon financial statements or other
14 information examined, prepared pursuant to a preparation of financial statement
15 engagement, compiled, reviewed, certified, audited, or otherwise prepared, reported,
16 or opined on by the defendant licensee or in the course of an engagement to provide
17 other services may be brought unless either of the following conditions exist:

18 (1) The plaintiff is the issuer or successor of the issuer of the financial
19 statements or other information examined, prepared pursuant to a preparation of
20 financial statement engagement, compiled, reviewed, certified, audited, or otherwise
21 reported or opined on by the defendant, and has engaged the defendant licensee to
22 examine, prepare pursuant to a preparation of financial statement engagement,
23 compile, review, certify, audit, or otherwise report or render an opinion on such
24 financial statements or to provide other services.

25 * * *

26 §94. Substantial equivalency

27 A.

28 * * *

1 (4) An individual who has been granted practice privileges under this Section
2 who performs any attest service may only do so through a firm which meets the
3 requirements of this Part.

4 * *

5 Section 2. R.S. 37:74.1(1) through (17) are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 870 Original

2016 Regular Session

Stokes

Abstract: Makes revisions to the La. Accountancy Act.

Proposed law clarifies and simplifies the present law definition of "attest". Updates definition to specifically include engagements performed in accordance with Standards of the Public Company Accounting Oversight Board (PCAOB).

Proposed law adds a definition of "CPA-Retired" for those professionally licensed individuals who retire, meet certain criteria, and wish to perform uncompensated volunteer services.

Proposed law changes present law by further defining "good moral character" to include the propensity to provide professional services in a fair, honest and open manner.

Proposed law defines "preparation of financial statement" as an engagement by a licensee to prepare financial statements for an entity, but not to perform a compilation, review, or audit with respect to those financial statements and as provided in the AICPA's Statement on Standards for Accounting and Review Services.

Proposed law changes present law to allow compensation of board officers not to exceed \$250 and of other board members not to exceed \$200, up from \$150 and \$100 respectively, per month per member.

Proposed law retains present law that the board is authorized to adopt rules in accordance with the Administrative Procedure Act to impose and collect fees.

Proposed law eliminates the fee schedule provided in this statute and also found in the board rules.

Proposed law adds a requirement that an applicant for licensure must attain the age of 18 years.

Proposed law changes present law by eliminating the education requirement for an applicant to complete at least 150 semester hours of college education to apply for the CPA examination.

Proposed law removes a provision that is no longer applicable regarding applicants eligible to take the examination prior to December 31, 1999.

Proposed law provides that an applicant for licensure must have completed at least 150 semester hours of college education. Further provides for the applicant to meet the education requirement by December 31st of the 5th calendar year following successful completion of the examination, or the examination scores will be voided.

Proposed law retains present law with respect to the privileges of retired CPAs. Proposed law adds that the retired CPA granted the privilege must place the word "retired" adjacent to their CPA title on various forms of communication similar to the inactive CPA.

Proposed law modifies the requirement for a CPA firm that does not have an office or place of business in the state of La. to allow the firm to perform attest serves in this state provided that the firm meets the ownership, peer review, and individual licensee requirements as provided in present law.

Proposed law adds that nonlicensee owners of a CPA firm be of good moral character.

Proposed law removes the requirement to register each office within the state and to show that attest services rendered in the state are under the charge of a person holding a valid active certificate.

Proposed law provides clarity that firms providing attest services shall be enrolled in a board-approved peer review program. Further provides recognition and approval of the AICPA peer review program, as well as allowing for approval of other nationally recognized peer review programs and peer review standards that are not less stringent than the AICPA peer review program.

Proposed law provides reworded approval of administration of the AICPA program by the Society of La. Certified Public Accountants, and other state CPA societies fully involved in the administration of the AICPA program.

Proposed law provides recognition and approval of the PCAOB's permanent inspection process for reviewing practices subject to the permanent inspection process and not included in the scope of peer review programs.

Proposed law provides reworded language requiring firms to make peer review and PCAOB inspection results available to the board.

Proposed law changes present law to a firm 24 months, instead of 12 months, following the date of the death of a firm's sole owner to continue to operate. Further provides that a notarized affidavit of evidence of a CPA firm owner's death is acceptable. Provides for the firm permit to be renewed annually for the continuance of the firm.

Proposed law adds that the board may require a licensee or privilege holder to subject its work product to pre-issuance review by a licensee acceptable to the board.

Proposed law adds that preparation of financial statement engagements purported to be in compliance with professional standards (SSARS) can only be performed by licensees or individuals granted privileges pursuant to present law (R.S. 37:94) and proposed law.

Proposed law retains present law requiring licensees receiving a commission or referral fee, or expecting to pay a referral fee, to disclose such payment to the client which is relates. Proposed law removes the present law requirement for licensees to disclose the fact in writing prior to the receipt or payment of such commission or referral fee.

Proposed law increases present law potential fine for a licensee's knowing violation of any provision of present law (R.S. 37:83) from \$500 to \$2000 for each violation or imprisonment, or both.

Proposed law defines additional specific types of fines and fees that can be justified in the case of a single violation of an act prohibited in present law.

Proposed law provides that all formats of the licensee's working papers and client records including paper and electronic, regardless of storage location, are subject to the provisions of this present law.

Proposed law provides that information prepared pursuant to a preparation of financial statement engagement is included in the scope of engagements under the privity of contract.

Proposed law provides that those individuals granted practice privileges under substantial equivalency provisions can only perform attest services through a firm meeting the requirements provided in present law and proposed law.

(Amends R.S. 37:73(intro. para), (1)(a)(ii) through (iv) and (b), (3) and (6) through (17), 74(D), (E)(4), (F), (G)(2) and (J)(intro. para.), 74.1(intro. para.); 75(A), (C), (D) and (G), 76(D), (F), and (G)(5), 77(A), (B), (C)(2)(introductory paragraph) and (b), (3) and (4) and (D) through (H), 77.1(A)(intro. para.), (1) and (2) and (B), 79(A)(intro. para.) and (3) and (4), (B)(3) and (C), 83(A) and (K)(2) and (3), 84(B), 85, 86(C), and 91(B)(1); Adds R.S. 37:73(18) and (19), 79(B)(5), 87(D), and 94(A)(4); Repeals R.S. 37:74.1(1) - (17))