

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Public Accounting Act is amended by changing Sections 0.03, 6.1, 9.01, 14.3, 16, 20.01, 20.1, and 27 and by adding Section 9.3 as follows:

(225 ILCS 450/0.03) (from Ch. 111, par. 5500.03)

(Section scheduled to be repealed on January 1, 2014)

Sec. 0.03. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Registered Certified Public Accountant" means any person who has been issued a registration under this Act as a Registered Certified Public Accountant.

(b) "Licensed Certified Public Accountant" means any person licensed under this Act as a Licensed Certified Public Accountant.

(c) "Committee" means the Public Accountant Registration Committee appointed by the Director.

(d) "Department" means the Department of Professional Regulation.

(e) "Director" means the Director of Professional Regulation.

(f) "License", "licensee" and "licensure" refers to the authorization to practice under the provisions of this Act.

(g) "Peer review program" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm or sole practitioner in the practice of public accounting to determine the degree of compliance by the firm or sole practitioner with professional standards and practices, conducted by persons who hold current licenses to practice public accounting under the laws of this or another state and who are not affiliated with the firm or sole practitioner being

~~reviewed certified or licensed under this Act, including quality review, peer review, practice monitoring, quality assurance, and similar programs undertaken voluntarily or as a prerequisite to the providing of professional services under government requirements, or any similar internal review or inspection that is required by professional standards.~~

(h) "Review committee" means any person or persons conducting, reviewing, administering, or supervising a peer review program.

(i) "University" means the University of Illinois.

(j) "Board" means the Board of Examiners established under Section 2.

(k) "Registration", "registrant", and "registered" refer to the authorization to hold oneself out as or use the title "Registered Certified Public Accountant" or "Certified Public Accountant", unless the context otherwise requires.

(l) "Peer Review Administrator" means an organization designated by the Department that meets the requirements of subsection (f) of Section 16 of this Act and other rules that the Department may adopt.

(Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

(225 ILCS 450/6.1)

(Section scheduled to be repealed on January 1, 2014)

Sec. 6.1. Examinations.

(a) The examination shall test the applicant's knowledge of accounting, auditing, and other related subjects, if any, as the Board may deem advisable. A candidate shall be required to pass all sections of the examination in order to qualify for a certificate. A candidate may take the required test sections individually and in any order, as long as the examination is taken within a timeframe established by Board rule.

(b) On and after January 1, 2005, applicants shall also be required to pass an examination on the rules of professional conduct, as determined by Board rule to be appropriate, before they may be awarded a certificate as a Certified Public

Accountant.

(c) Pursuant to compliance with the Americans with Disabilities Act, the Board may provide alternative test administration arrangements that are reasonable in the context of the Certified Public Accountant examination for applicants who are unable to take the examination under standard conditions upon an applicant's submission of evidence as the Board may require, which may include a signed statement from a medical or other licensed medical professional, identifying the applicant's disabilities and the specific alternative accommodations the applicant may need. Any alteration in test administration arrangements does not waive the requirement of sitting for and passing the examination. ~~The Board may in certain cases waive or defer any of the requirements of this Section regarding the circumstances in which the various Sections of the examination must be passed upon a showing that, by reasons of circumstances beyond the applicant's control, the applicant was unable to meet the requirement.~~

(d) Any application, document, or other information filed by or concerning an applicant and any examination grades of an applicant shall be deemed confidential and shall not be disclosed to anyone without the prior written permission of the applicant, except that the names and addresses only of all applicants shall be a public record and be released as public information. Nothing in this subsection shall prevent the Board from making public announcement of the names of persons receiving certificates under this Act.

(Source: P.A. 93-683, eff. 7-2-04.)

(225 ILCS 450/9.01)

(Section scheduled to be repealed on January 1, 2014)

Sec. 9.01. Unlicensed practice; violation; civil penalty.

(a) Any person or firm that ~~who~~ practices, offers to practice, attempts to practice, or holds oneself out to practice as a licensed certified public accountant without being licensed under this Act shall, in addition to any other

penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$5,000 for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

(225 ILCS 450/9.3 new)

(Section scheduled to be repealed on January 1, 2014)

Sec. 9.3. Sharing of information. Notwithstanding any other provision of this Act, for the purpose of carrying out their respective duties and responsibilities under this Act and to effectuate the purpose of this Act, both the Board of Examiners and the Department of Financial and Professional Regulation are authorized and directed to share information with each other regarding those individuals and entities licensed or certified or applying for licensure or certification under this Act.

(225 ILCS 450/14.3)

(Section scheduled to be repealed on January 1, 2014)

Sec. 14.3. Additional requirements for firms. In addition to the ownership requirements set forth in subsection (b) of Section 14, all firms licensed under this Act shall meet the following requirements:

(a) All owners of the firm, whether licensed or not, shall be active participants in the firm or its affiliated entities.

(b) An individual who supervises services for which a

license is required under Section 8 of this Act or who signs or authorizes another to sign any report for which a license is required under Section 8 of this Act shall hold a valid, active ~~unrevoked~~ Licensed Certified Public Accountant license from this State or another state and shall comply with such additional experience requirements as may be required by rule of the Board.

(c) The firm shall require that all owners of the firm, whether or not certified or licensed under this Act, comply with rules promulgated under this Act.

(d) The firm shall designate to the Department in writing an individual licensed under this Act who shall be responsible for the proper registration of the firm.

(e) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

(225 ILCS 450/16) (from Ch. 111, par. 5517)

(Section scheduled to be repealed on January 1, 2014)

Sec. 16. Expiration and renewal of licenses; renewal of registration; continuing education.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule.

(b) Every holder of a license or registration under this Act may renew such license or registration before the expiration date upon payment of the required renewal fee as set by rule.

(c) Every application for renewal of a license by a licensed certified public accountant who has been licensed under this Act for 3 years or more shall be accompanied or supported by any evidence the Department shall prescribe, in satisfaction of completing, each 3 years, not less than 120 hours of continuing professional education programs in

subjects given by continuing education sponsors registered by the Department upon recommendation of the Committee. Of the 120 hours, not less than 4 hours shall be courses covering the subject of professional ethics. All continuing education sponsors applying to the Department for registration shall be required to submit an initial nonrefundable application fee set by Department rule. Each registered continuing education sponsor shall be required to pay an annual renewal fee set by Department rule. Publicly supported colleges, universities, and governmental agencies located in Illinois are exempt from payment of any fees required for continuing education sponsor registration. Failure by a continuing education sponsor to be licensed or pay the fees prescribed in this Act, or to comply with the rules and regulations established by the Department under this Section regarding requirements for continuing education courses or sponsors, shall constitute grounds for revocation or denial of renewal of the sponsor's registration.

(d) Licensed Certified Public Accountants are exempt from the continuing professional education requirement for the first renewal period following the original issuance of the license.

Notwithstanding the provisions of ~~this~~ subsection (c), the Department may accept courses and sponsors approved by other states, by the American Institute of Certified Public Accountants, by other state CPA societies, or by national accrediting organizations such as the National Association of State Boards of Accountancy.

Failure by an applicant for renewal of a license as a licensed certified public accountant to furnish the evidence shall constitute grounds for disciplinary action, unless the Department in its discretion shall determine the failure to have been due to reasonable cause. The Department, in its discretion, may renew a license despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education. In issuing rules

and individual orders in respect of requirements of continuing education, the Department in its discretion may, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations; may prescribe rules for the content, duration, and organization of courses; shall take into account the accessibility to applicants of such continuing education as it may require, and any impediments to interstate practice of public accounting that may result from differences in requirements in other states; and may provide for relaxation or suspension of requirements in regard to applicants who certify that they do not intend to engage in the practice of public accounting, and for instances of individual hardship.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification may be accomplished through audits of records maintained by licensees; by requiring the filing of continuing education certificates with the Department; or by other means established by the Department.

The Department may establish, by rule, guidelines for acceptance of continuing education on behalf of licensed certified public accountants taking continuing education courses in other jurisdictions.

(e) For renewals on and after July 1, 2012, as a condition for granting a renewal license to firms and sole practitioners who provide services requiring a license under this Act, the Department shall require that the firm or sole practitioner satisfactorily complete a peer review during the immediately preceding 3-year period, accepted by a Peer Review Administrator in accordance with established standards for performing and reporting on peer reviews, unless the firm or sole practitioner is exempted under the provisions of subsection (i) of this Section. A firm or sole practitioner shall, at the request of the Department, submit to the Department a letter from the Peer Review Administrator stating the date on which the peer review was satisfactorily completed.

A new firm or sole practitioner not subject to subsection (1) of this Section shall undergo its first peer review during the first full renewal cycle after it is granted its initial license.

The requirements of this subsection (e) shall not apply to any person providing services requiring a license under this Act to the extent that such services are provided in the capacity of an employee of the Office of the Auditor General or to a nonprofit cooperative association engaged in the rendering of licensed service to its members only under paragraph (3) of subsection (b) of Section 14 of this Act or any of its employees to the extent that such services are provided in the capacity of an employee of the association.

(f) The Department shall approve only Peer Review Administrators that the Department finds comply with established standards for performing and reporting on peer reviews. The Department may adopt rules establishing guidelines for peer reviews, which shall do all of the following:

(1) Require that a peer review be conducted by a reviewer that is independent of the firm reviewed and approved by the Peer Review Administrator under established standards.

(2) Other than in the peer review process, prohibit the use or public disclosure of information obtained by the reviewer, the Peer Review Administrator, or the Department during or in connection with the peer review process. The requirement that information not be publicly disclosed shall not apply to a hearing before the Department that the firm or sole practitioner requests be public or to the information described in paragraph (3) of subsection (i) of this Section.

(g) If a firm or sole practitioner fails to satisfactorily complete a peer review as required by subsection (e) of this Section or does not comply with any remedial actions determined necessary by the Peer Review Administrator, the Peer Review

Administrator shall notify the Department of the failure and shall submit a record with specific references to the rule, statutory provision, professional standards, or other applicable authority upon which the Peer Review Administrator made its determination and the specific actions taken or failed to be taken by the licensee that in the opinion of the Peer Review Administrator constitutes a failure to comply. The Department may at its discretion or shall upon submission of a written application by the firm or sole practitioner hold a hearing under Section 20.1 of this Act to determine whether the firm or sole practitioner has complied with subsection (e) of this Section. The hearing shall be confidential and shall not be open to the public unless requested by the firm or sole practitioner.

(h) The firm or sole practitioner reviewed shall pay for any peer review performed. The Peer Review Administrator may charge a fee to each firm and sole practitioner sufficient to cover costs of administering the peer review program.

(i) A firm or sole practitioner shall be exempt from the requirement to undergo a peer review if:

(1) Within 3 years before the date of application for renewal licensure, the sole practitioner or firm has undergone a peer review conducted in another state or foreign jurisdiction that meets the requirements of paragraphs (1) and (2) of subsection (f) of this Section. The sole practitioner or firm shall submit to the Department a letter from the organization administering the most recent peer review stating the date on which the peer review was completed; or

(2) The sole practitioner or firm satisfies all of the following conditions:

(A) during the preceding 2 years, the firm or sole practitioner has not accepted or performed any services requiring a license under this Act;

(B) the firm or sole practitioner agrees to notify the Department within 30 days of accepting an

engagement for services requiring a license under this Act and to undergo a peer review within 18 months after the end of the period covered by the engagement; or

(3) For reasons of personal health, military service, or other good cause, the Department determines that the sole practitioner or firm is entitled to an exemption, which may be granted for a period of time not to exceed 12 months.

(j) If a peer review report indicates that a firm or sole practitioner complies with the appropriate professional standards and practices set forth in the rules of the Department and no further remedial action is required, the Peer Review Administrator shall destroy all working papers and documents, other than report-related documents, related to the peer review within 90 days after issuance of the letter of acceptance by the Peer Review Administrator. If a peer review letter of acceptance indicates that corrective action is required, the Peer Review Administrator may retain documents and reports related to the peer review until completion of the next peer review or other agreed-to corrective actions.

(k) In the event the practices of 2 or more firms or sole practitioners are merged or otherwise combined, the surviving firm shall retain the peer review year of the largest firm, as determined by the number of accounting and auditing hours of each of the practices. In the event that the practice of a firm is divided or a portion of its practice is sold or otherwise transferred, any firm or sole practitioner acquiring some or all of the practice that does not already have its own review year shall retain the review year of the former firm. In the event that the first peer review of a firm that would otherwise be required by this subsection (k) would be less than 12 months after its previous review, a review year shall be assigned by a Peer Review Administrator so that the firm's next peer review occurs after not less than 12 months of operation, but not later than 18 months of operation.

(Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04; revised

10-11-05.)

(225 ILCS 450/20.01) (from Ch. 111, par. 5521.01)

(Section scheduled to be repealed on January 1, 2014)

Sec. 20.01. Grounds for discipline; license or registration.

(a) The Department may refuse to issue or renew, or may revoke, suspend, or reprimand any registration or registrant, any license or licensee, place a licensee or registrant on probation for a period of time subject to any conditions the Department may specify including requiring the licensee or registrant to attend continuing education courses or to work under the supervision of another licensee or registrant, impose a fine not to exceed \$5,000 for each violation, restrict the authorized scope of practice, or require a licensee or registrant to undergo a peer review program, for any one or more of the following:

(1) Violation of any provision of this Act.

(2) Attempting to procure a license or registration to practice under this Act by bribery or fraudulent misrepresentations.

(3) Having a license to practice public accounting or registration revoked, suspended, or otherwise acted against, including the denial of licensure or registration, by the licensing or registering authority of another state, territory, or country, including but not limited to the District of Columbia, or any United States territory. No disciplinary action shall be taken in Illinois if the action taken in another jurisdiction was based upon failure to meet the continuing professional education requirements of that jurisdiction and the applicable Illinois continuing professional education requirements are met.

(4) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of public accounting or the ability

to practice public accounting or as a Registered Certified Public Accountant.

(5) Making or filing a report or record which the registrant or licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing, or inducing another person to impede or obstruct the filing. The reports or records shall include only those that are signed in the capacity of a licensed certified public accountant or a registered certified public accountant.

(6) Conviction in this or another State or the District of Columbia, or any United States Territory, of any crime that is punishable by one year or more in prison or conviction of a crime in a federal court that is punishable by one year or more in prison.

(7) Proof that the licensee or registrant is guilty of fraud or deceit, or of gross negligence, incompetency, or misconduct, in the practice of public accounting.

(8) Violation of any rule adopted under this Act.

(9) Practicing on a revoked, suspended, or inactive license or registration.

(10) Suspension or revocation of the right to practice before any state or federal agency.

(11) Conviction of any crime under the laws of the United States or any state or territory of the United States that is a felony or misdemeanor and has dishonesty as an essential element, or of any crime that is directly related to the practice of the profession.

(12) Making any misrepresentation for the purpose of obtaining a license, or registration or material misstatement in furnishing information to the Department.

(13) Aiding or assisting another person in violating any provision of this Act or rules promulgated hereunder.

(14) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public ~~and violating the rules of~~

~~professional conduct adopted by the Department.~~

(15) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable skill, judgment, or safety.

(16) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional service not actually rendered.

(17) Physical or mental disability, including deterioration through the aging process or loss of abilities and skills that results in the inability to practice the profession with reasonable judgment, skill or safety.

(18) Solicitation of professional services by using false or misleading advertising.

(19) Failure to file a return, or pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue or any successor agency or the Internal Revenue Service or any successor agency.

(20) Practicing or attempting to practice under a name other than the full name as shown on the license or registration or any other legally authorized name.

(21) A finding by the Department that a licensee or registrant has not complied with a provision of any lawful order issued by the Department.

(22) Making a false statement to the Department regarding compliance with continuing professional education or peer review requirements.

(23) Failing to make a substantive response to a request for information by the Department within 30 days of the request.

(b) (Blank).

(c) In rendering an order, the Department shall take into

consideration the facts and circumstances involving the type of acts or omissions in subsection (a) including, but not limited to:

(1) the extent to which public confidence in the public accounting profession was, might have been, or may be injured;

(2) the degree of trust and dependence among the involved parties;

(3) the character and degree of financial or economic harm which did or might have resulted; and

(4) the intent or mental state of the person charged at the time of the acts or omissions.

(d) The Department shall reissue the license or registration upon a showing that the disciplined licensee or registrant has complied with all of the terms and conditions set forth in the final order.

(e) The Department shall deny any application for a license, registration, or renewal, without hearing, to any person who has defaulted on an educational loan guaranteed by the Illinois Student Assistance Commission; however, the Department may issue a license, registration, or renewal if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission.

(f) The determination by a court that a licensee or registrant is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in the automatic suspension of his or her license or registration. The licensee or registrant shall be responsible for notifying the Department of the determination by the court that the licensee or registrant is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code. The licensee or registrant shall also notify the Department upon discharge so that a determination may be made under item (17) of subsection (a) whether the licensee or

registrant may resume practice.

(Source: P.A. 92-457, eff. 7-1-04; 93-629, eff. 12-23-03; 93-683, eff. 7-2-04.)

(225 ILCS 450/20.1) (from Ch. 111, par. 5522)

(Section scheduled to be repealed on January 1, 2014)

Sec. 20.1. Investigations; notice; hearing. The Department may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for disciplinary action as set forth in Section 20.01, investigate the actions of any person or entity. The Department may refer complaints and investigations to a disciplinary body of the accounting profession for technical assistance. The results of an investigation and recommendations of the disciplinary body may be considered by the Department, but shall not be considered determinative and the Department shall not in any way be obligated to take any action or be bound by the results of the accounting profession's disciplinary proceedings. The Department, before taking disciplinary action, shall afford the concerned party or parties an opportunity to request a hearing and if so requested shall set a time and place for a hearing of the complaint. With respect to determinations by a Peer Review Administrator duly appointed by the Department under subsection (f) of Section 16 of this Act that a licensee has failed to satisfactorily complete a peer review as required under subsection (e) of Section 16, the Department may consider the Peer Review Administrator's findings of fact as prima facie evidence, and upon request by a licensee for a hearing the Department shall review the record presented and hear arguments by the licensee or the licensee's counsel but need not conduct a trial or hearing de novo or accept additional evidence. The Department shall notify the applicant or the licensed or registered person or entity of any charges made and the date and place of the hearing of those charges by mailing notice thereof to that person or entity by registered or certified

mail to the place last specified by the accused person or entity in the last notification to the Department, at least 30 days prior to the date set for the hearing or by serving a written notice by delivery of the notice to the accused person or entity at least 15 days prior to the date set for the hearing, and shall direct the applicant or licensee or registrant to file a written answer to the Department under oath within 20 days after the service of the notice and inform the applicant or licensee or registrant that failure to file an answer will result in default being taken against the applicant or licensee or registrant and that the license or registration may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Director may deem proper. In case the person fails to file an answer after receiving notice, his or her license or registration may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The Department shall afford the accused person or entity an opportunity to be heard in person or by counsel at the hearing. At the conclusion of the hearing the Committee shall present to the Director a written report setting forth its finding of facts, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. If the Director disagrees in any regard with the report, he or she may issue an order in contravention of the report. The Director shall provide a written explanation to the Committee of any such deviations and shall specify with particularity the reasons for the deviations.

The finding is not admissible in evidence against the

person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

(225 ILCS 450/27) (from Ch. 111, par. 5533)

(Section scheduled to be repealed on January 1, 2014)

Sec. 27. A licensed or registered certified public accountant shall not be required by any court to divulge information or evidence which has been obtained by him in his confidential capacity as a licensed or registered certified public accountant. This Section shall not apply to any investigation or hearing undertaken pursuant to this Act.

(Source: P.A. 92-457, eff. 7-1-04.)

Section 99. Effective date. This Act takes effect upon becoming law.