

Act No. 81
Public Acts of 2018
Approved by the Governor
March 19, 2018
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EFFECTIVE DATE: June 17, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Iden, Afendoulis, Howrylak, Moss, Whiteford, Lasinski and Theis

ENROLLED HOUSE BILL No. 5236

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 720, 721, 724, 727a, 728, 729, and 734a (MCL 339.720, 339.721, 339.724, 339.727a, 339.728, 339.729, and 339.734a), sections 720 and 728 as amended by 2016 PA 76, section 721 as amended by 2012 PA 566, section 724 as amended and sections 727a and 734a as added by 2008 PA 161, and section 729 as amended by 2010 PA 215.

The People of the State of Michigan enact:

Sec. 720. (1) As used in this article:

(a) “Attest” means providing any of the following services, but does not include providing a compilation:

(i) An audit or other engagement to be performed in accordance with the statements on auditing standards.

(ii) A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(iii) An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(iv) An engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(v) An examination, review, or agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements, other than an examination described in subparagraph (iii).

(b) “Certified public accountant” means an individual who is either of the following:

(i) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) “Client” means an individual or entity that engages a licensee or licensee’s employer to receive any service in the practice of public accounting.

(d) “Compilation” means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) "Firm" means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) "License cycle" means the term of a license issued under this article.

(g) "Nonresident licensee" means an individual licensee whose principal place of business is not located in this state.

(h) Subject to subsection (2), "practice of public accounting" means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that 1 or more of the following types of information concerning the entity that is the subject of the opinion present fairly the condition of the entity:

(i) Financial or other information about which the opinion is given.

(ii) Facts respecting the entity's compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(iii) The scope of the accounting procedures rendered in connection with the presentation of the entity's financial statement.

(i) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(j) "Report", when used with reference to an attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of attested information or compiled financial statements and that also includes, or is accompanied by, any statement or implication that the individual or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the individual or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language that disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competence on the part of the individual or firm issuing that language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(k) "Uniform CPA exam" means the Uniform CPA Examination developed and scored by the American Institute of Certified Public Accountants or a successor organization.

(2) In addition to the definition set forth in subsection (1)(h), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by an individual who is holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports in connection with any attest or compilation services.

(b) One or more kinds of management advisory, financial advisory, or consulting services, including, but not limited to, business valuation, forensic accounting, and fraud examination services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

Sec. 721. (1) The state board of accountancy is created.

(2) Subject to subsection (3), the board shall consist of 9 members as follows:

(a) Six members who are certified public accountants who hold a certificate as a certified public accountant, who are licensed under section 727, and who have practiced in this state as certified public accountants for not less than 5 years.

(b) Three members who represent the general public, 1 of whom shall be an attorney who is a member in good standing in the bar of this state.

(3) One of the 9 members of the board shall be a full-time instructor of accounting above the elementary level at an accredited college or university.

(4) The director may promulgate the following rules:

(a) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the practice of public accounting.

(b) Rules governing corporations practicing public accounting, consistent with former 1962 PA 192 or chapter 2A of the business corporation act, 1972 PA 284, MCL 450.1281 to 450.1289, as applicable.

(c) Rules governing educational requirements that qualify an applicant to sit for the uniform CPA exam.

(d) Rules governing educational and experience requirements for the issuance of a certificate as a certified public accountant.

(e) Rules of procedure governing the conduct of matters before the board.

(f) Rules governing the recognition of educational institutions by the board.

(g) Rules governing continuing education required under section 729.

(h) Any other rules considered necessary by the director to implement and enforce this article.

Sec. 724. This article does not prohibit the following:

(a) An individual who is not a certified public accountant from serving as an employee of, or an assistant to, a certified public accountant or firm composed of certified public accountants who are licensed to practice under this article if the individual does not issue an accounting or financial statement over his or her name.

(b) A licensed certified public accountant of another licensing jurisdiction who does not meet the requirements of section 727a, or an accountant who is licensed in a foreign country for the practice of public accounting in that country, from temporarily and periodically engaging in the practice of public accounting in this state if all of the following requirements are met:

(i) The individual is conducting a regular practice of public accounting in another licensing jurisdiction or foreign country.

(ii) The temporary practice is conducted in conformity with section 736 and applicable rules promulgated by the director, if any.

(iii) The individual secures a temporary permit from the department to conduct the practice in this state.

(c) A practicing attorney from preparing reports or presenting records customarily prepared by an attorney in connection with the attorney's professional work.

(d) A person from preparing a financial report or tax return, not requiring the expression of an opinion on the report or return, for filing with a federal, state, or local governmental unit.

(e) An officer, employee, partner, or principal of an organization from signing a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which the officer, employee, partner, or principal of an organization holds in that organization.

(f) An act of a public official or public employee in the performance of that individual's official duties.

(g) An individual who may be employed by more than 1 individual or firm from keeping books, making trial balances or statements, and preparing audits or reports, if the audits or reports are not used or issued by the employer as having been prepared by a certified public accountant.

(h) A firm that does not hold a valid license under section 728 and that does not have an office in this state from providing its professional services in this state in the practice of public accountancy and from using the certified public accountant designation so long as it complies with the requirements of section 728(4) or (5), whichever is applicable.

Sec. 727a. (1) An individual whose principal place of business is not in this state is considered to have qualifications substantially equivalent to this state's requirements, has all the privileges of licensees of this state, and may practice public accountancy without the need to obtain a certificate, license, or temporary practice permit under this article, if the individual meets either or both of the following:

(a) Holds a valid license as a certified public accountant from another licensing jurisdiction that requires, as a condition of licensure, that the individual meets all of the following:

(i) Has at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university.

(ii) Achieves a passing grade on the uniform CPA exam.

(iii) Possesses at least 1 year of experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which may be obtained through government, industry, academic, or public practice as verified by a licensee.

(b) Holds a valid license as a certified public accountant from another licensing jurisdiction that does not meet the requirements of subdivision (a), but has certified public accountant qualifications that are substantially equivalent to those requirements. Any individual who passed the uniform CPA exam and holds a valid license issued by another licensing jurisdiction before January 1, 2012 is exempt from the education requirement in subdivision (a)(i) for purposes of this subdivision.

(2) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means under this section shall be granted practice privileges in this state, and no notice, fee, or other submission is required of that individual. An individual described in this subsection is subject to the requirements of section 734a.

Sec. 728. (1) A firm that establishes or maintains an office in this state must apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state.

(2) A firm that is applying for licensure under this article shall meet both of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this state or another state or the equivalent in another licensing jurisdiction acceptable to the board. Each owner who is not a certified public accountant must be an active individual participant in the firm or 1 or more of its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm license is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) All attest and compilation services provided by the firm in this state are performed under the supervision of an individual who is licensed and in good standing as a certified public accountant in this state or another state or holds an equivalent authorization to practice public accounting from another licensing jurisdiction acceptable to the board.

(3) A firm shall notify the department of any change in address within 30 days of the change.

(4) A firm that is not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services, perform an examination, a review, or agreed-upon procedures engagement in accordance with the statements on standards for attestation engagements, or perform a compilation for a client in this state, only if it meets each of the following conditions:

(a) It has met the requirements in subsection (2)(a) and (b) and section 729(2).

(b) It performs those services through an individual who has practice privileges under section 727a.

(c) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (b) has his or her principal place of business.

(5) A firm that is not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (4) may perform attest services, or any other professional services within the practice of public accountancy, while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets all of the following conditions:

(a) It performs those services through an individual with practice privileges under section 727a.

(b) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (a) has his or her principal place of business.

(c) It meets the requirements in subsection (2)(a) and (b) and section 729(2).

Sec. 729. (1) As a condition of license renewal, an individual licensee must successfully complete at least 40 hours of continuing education for each year of a license cycle. All of the following apply to the continuing education requirement described in this subsection:

(a) A licensee is not required to meet the continuing education requirements for a period of 12 months, beginning on the date of his or her original license.

(b) At least 8 of the 40 hours of continuing education for each year of a license cycle must be in the areas of auditing and accounting. However, the board shall not require completion of more than 8 hours of education in the areas of auditing and accounting in 1 year of a license cycle.

(c) Subject to subdivision (d), at least 2 of the 40 hours of continuing education for each year of a license cycle must be in the area of professional ethics. However, the board shall not require completion of more than 2 hours of education in the area of professional ethics in 1 year of a license cycle.

(d) The content of 1 hour of the 4 hours of continuing education in professional ethics required in a 2-year license cycle must be the statutes and administrative rules of this state applicable to public accountancy. A statewide professional association of certified public accountants approved by the department shall create the content for this 1 hour of professional ethics education.

(e) A licensee who earns more than the required 40 hours of continuing education in a year may carry over those excess hours to the next year, but not to any subsequent year, subject to all of the following:

(i) The maximum number of excess hours a licensee may carry over into the next year is 40 hours.

(ii) A licensee may not carry over more than 8 hours to meet the minimum accounting and auditing education requirements described in subdivision (b) for the next year.

(iii) A licensee may not carry over more than 2 hours to meet the minimum professional ethics requirement described in subdivision (c) for the next year.

(iv) A licensee may not carry over more than 1 hour of education in public accountancy described in subdivision (d) to meet the minimum ethics requirements for the next license cycle.

(f) Except as provided in subdivision (g), a nonresident licensee must certify in his or her renewal application that he or she has met the continuing education requirements under this subsection.

(g) A nonresident licensee who is applying for renewal of his or her license is considered to have met the continuing education requirements under this subsection if he or she meets the continuing education requirements for renewal of an individual license in the state in which his or her principal place of business is located. If the state in which a nonresident licensee's principal place of business is located does not have continuing education requirements for renewal of a license, the nonresident licensee must comply with all continuing education requirements for renewal of a license under this subsection.

(h) On request, a licensee must provide the department with 1 of the following, as applicable:

(i) For a licensee with a principal place of business located in this state, proof acceptable to the department that the licensee meets the continuing education requirements for license renewal in this state.

(ii) For a nonresident licensee, proof acceptable to the department, from the state board or other licensing authority in the licensing jurisdiction in which his or her principal place of business is located, that the nonresident licensee meets the continuing education requirements for license renewal in that licensing jurisdiction.

(2) Each licensed firm and sole practitioner that performs any of the following services shall participate in a peer review program established by rule of the department and approved by the board:

- (a) Audit.
- (b) Review.
- (c) Compilations that are relied upon by third parties.

(3) An applicant for renewal shall submit to the department, on a form prescribed by the department and at the time of renewal, proof of peer review obtained within the 3 years immediately preceding the application.

(4) A firm or sole practitioner required to participate in a peer review program under this subsection shall notify the department within 30 days after receipt of a fail rating or second consecutive pass with deficiencies rating. Verbal testimony or documents, or both, pertaining to a peer review shall be considered confidential and shall be exempt from disclosure to the department, except in the case of a fail or second consecutive pass with deficiencies rating.

Sec. 734a. (1) An individual who meets the requirements of, and is exercising the practice privilege granted by, section 727a, and the firm that employs that individual, each agree to all of the following as a condition of the exercise of that privilege:

- (a) To the personal and subject matter jurisdiction and disciplinary authority of the board and the department.
- (b) To comply with this act and the applicable rules.

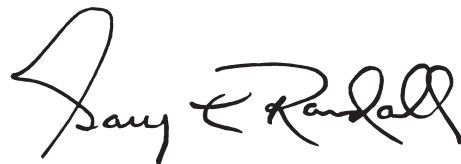
(c) If the license from the licensing jurisdiction of the individual's principal place of business is no longer valid, that the individual will cease offering or rendering professional services in this state individually and on behalf of a firm.

(d) To the appointment of the state board or other licensing authority that issued his or her license as the agent on which process may be served in any action or proceeding by this board against the individual or the firm that employs that individual.

(2) A licensee under this article who offers or renders public accounting services or uses the certified public accountant title in another licensing jurisdiction or before a state or federal agency is subject to disciplinary action under this article for an act committed in another licensing jurisdiction or before a state or federal agency for which the licensee would be subject to discipline for an act committed in another licensing jurisdiction or before a state or federal agency. The department is required to examine any complaint made by a state licensing board or other licensing jurisdictional authority and may accept, as prima facie evidence of a violation of this act, a final order of violation issued by another state licensing board or other licensing jurisdictional authority.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor