

1 HB134

2 52795-6

3 By Representatives Boothe, Spicer and Black (M)

4 RFD: Boards and Commissions

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ACT No. 2003-393

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ENROLLED, An Act,

To adopt selected provisions of the Uniform Accountancy Act and make certain technical changes to the Public Accountancy Act of 1973 by amending Sections 34-1-1, 34-1-2, 34-1-3, 34-1-4, 34-1-6, 34-1-9, 34-1-11, 34-1-12, 34-1-16, 34-1-21, and 34-1-22, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-1-1, 34-1-2, 34-1-3, 34-1-4, 34-1-6, 34-1-9, 34-1-11, 34-1-12, 34-1-16, 34-1-21, and 34-1-22, Code of Alabama 1975, are amended to read as follows:

"§34-1-1.

"This chapter may be cited as the Public Accountancy Act of ~~1973~~ 2003.

"§34-1-2.

"For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed in this section:

"(1) AICPA. The American Institute of Certified Public Accountants.

"(2) ATTEST. Providing the following financial statement services:

"a. Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS).

1 "b. Any review of a financial statement to be
2 performed in accordance with the Statements on Standards for
3 Accounting and Review Services (SSARS).

4 "c. Any examination of prospective financial
5 information to be performed in accordance with the Statements
6 on Standards for Attestation Engagements (SSAE).

7 "d. The statements on standards specified in this
8 definition shall be adopted by reference by the board pursuant
9 to rule making and shall be those developed for general
10 application by recognized national accountancy organizations
11 such as the AICPA.

12 ~~"(1) Board.~~ (3) BOARD. The Alabama State Board of
13 Public Accountancy created by Section 34-1-3, except the
14 special meaning applicable only to Section 34-1-4.

15 "(4) COMPILATION. Providing a service to be
16 performed in accordance with Statements on Standards for
17 Accounting and Review Services (SSARS) that is presenting in
18 the form of financial statements, information that is the
19 representation of management (owners) without undertaking to
20 express any assurance on the statements.

21 ~~"(2) Firm.~~ (5) FIRM. A sole proprietorship,
22 partnership, professional corporation, professional
23 association, limited liability company, limited liability
24 partnership, or any other form of business entity now or
25 hereafter recognized by Alabama law.

1 "~~(3) License.~~ (6) LICENSE. A certificate issued
2 pursuant to Section 34-1-4, a permit issued pursuant to
3 Section 34-1-11, or registration pursuant to Section 34-1-8;
4 or, in each case, a certificate or permit issued pursuant to
5 corresponding provisions of prior law.

6 "~~(4) Licensee.~~ (7) LICENSEE. The holder of a license.

7 "~~(5) Owner.~~ (8) OWNER. Any person who holds an
8 ownership interest in a firm, ~~engages in the practice of~~
9 ~~public accountancy through that firm, and holds a license.~~

10 "(9) PEER REVIEW. The study, appraisal, or review of
11 one or more aspects of the professional work of a licensee or
12 firm that performs attest or compilation services, by a person
13 or persons who hold licenses and who are not affiliated with
14 the licensee or firm being reviewed.

15 "~~(6) State.~~ (10) STATE. Any state, territory, or
16 insular possession of the United States or the District of
17 Columbia.

18 "§34-1-3.

19 "(a) There is created a board of public accountancy
20 in and for the State of Alabama, to be known as the Alabama
21 State Board of Public Accountancy. The board shall consist of
22 seven members appointed by the Governor and effective October
23 1, 1988, confirmed by the Senate, ~~as provided in subsection~~
24 ~~(g)~~. Members of the board shall be citizens of the United
25 States and residents of the state. Five members of the Alabama

1 State Board of Public Accountancy shall be certified public
2 accountants in good standing with the board and shall be
3 appointed by the Governor to the board. The Governor shall, in
4 addition, appoint two other members to the board one being a
5 public accountant who holds an active license to practice
6 public accountancy issued under the laws of this state and who
7 is in active practice as a public accountant and a seventh
8 member of the board who shall ~~not~~ be a public ~~accountant~~
9 ~~holding an active license to practice public accountancy,~~
10 member who is not under the jurisdiction of the board, but
11 shall at the time of his or her appointment be an active and
12 reputable member of the Alabama business community who
13 possesses a knowledge and understanding of financial
14 transactions and financial statements. The persons and their
15 successors shall constitute the Board of Public Accountancy
16 and shall have and exercise all the powers and authority
17 vested by law in said board.

18 "(b) ~~All members serving as of May 1, 1995, shall~~
19 ~~continue until their respective terms expire. All subsequent~~
20 All appointments shall be effective on October 1 for four-year
21 terms, unless an appointment is made for an unexpired term.

22 "(c) The Alabama Society of Certified Public
23 Accountants shall, at least 30 days prior to the beginning of
24 any term or within 30 days after any position on the board
25 becomes vacant, submit to the Governor the names of five

1 persons qualified for membership on the board for the
 2 certified public accountant position and public member
 3 position to be filled, and the Governor shall appoint one of
 4 the five nominees. Upon the failure of the Alabama Society of
 5 Certified Public Accountants to submit timely nominations for
 6 a position on the Board of Public Accountancy, the Board of
 7 Public Accountancy may submit nominations for the position to
 8 the Governor, who shall appoint one of the five nominees.

9 "(d) The Alabama Association of ~~Public~~ Accountants
 10 shall, at least 30 days prior to the beginning of any term or
 11 within 30 days after any position on the board becomes vacant,
 12 submit the names of five persons qualified for membership on
 13 the board for the public accountant position to be filled, and
 14 the Governor shall appoint one of the five nominees. Upon the
 15 failure of the Alabama Association of ~~Public~~ Accountants to
 16 submit timely nominations for a position on the Board of
 17 Public Accountancy, the Board of Public Accountancy may submit
 18 nominations for the position to the Governor, who shall
 19 appoint one of the five nominees.

20 "(e) No person who has served two successive
 21 complete terms on the board shall be eligible for
 22 reappointment until after the lapse of one year. An
 23 appointment to fill an unexpired term shall not be considered
 24 a complete term. Vacancies occurring during a term shall be
 25 filled by appointment for the unexpired term. Upon the

1 expiration of his or her term of office, a member shall
 2 continue to serve until his or her successor is appointed and
 3 confirmed by the Senate ~~qualified~~. Within 15 days after their
 4 ~~appointment~~ confirmation by the Senate, the members of the
 5 board shall take an oath before any person lawfully authorized
 6 to administer oaths in this state to faithfully and
 7 impartially perform their duties as members of the board, and
 8 the same shall be filed with the Secretary of State. The
 9 Governor shall remove from the board any accountant-member
 10 whose permit to practice has become void, has been revoked, or
 11 suspended, or may, after a hearing, remove any member of the
 12 board for neglect of duty or just cause.

13 "(f) The board shall elect annually a chair, a
 14 vice-chair, and a secretary-~~treasurer~~ from its members.

15 "(g) The board may adopt and amend rules and
 16 regulations pursuant to the Administrative Procedure Act for
 17 the orderly conduct of its affairs and for the administration
 18 of this chapter.

19 "(h) A majority of the board shall constitute a
 20 quorum for the transaction of business.

21 "(i) The board shall have a seal which shall be
 22 judicially noticed.

23 "(j) The board shall keep records of its proceedings
 24 and of any proceeding in court, civil or criminal, arising out
 25 of or founded upon this chapter. Copies of the records

1 certified as correct under the seal of the board shall be
2 admissible in evidence to prove the content of the records.

3 "(k) The board shall ~~have printed and published for~~
4 ~~distribution~~ maintain an annual register which shall contain
5 the names, arranged alphabetically by classification, of all
6 ~~practitioners holding permits to practice~~ licensees under this
7 chapter; the names of the members of the board; and all other
8 information deemed proper by the board. The board may charge a
9 fee in an amount set by it for furnishing the annual register
10 to persons who request it.

11 "(l) The board ~~may~~ shall employ an executive
12 director and such other personnel as may be needed and arrange
13 for such assistance, services, ~~and~~ supplies, and equipment as
14 it requires for the performance of its duties. The number of
15 employees, their compensation, and all other expenses of the
16 board shall be paid at such rates and in such amounts as the
17 board shall approve. The executive director and other
18 employees of the board shall not be subject to or governed by
19 the provisions of the state Merit System law but shall be
20 entitled to all benefits accruing to Merit System employees
21 including, but not limited to, the right to accumulate leave,
22 participate in the Employees' Retirement System, and
23 participate in the State Employees' Health Insurance Plan.

24 "(m) The board may promulgate and amend rules of
25 professional conduct appropriate to establish and maintain a

1 high standard of integrity in the profession of public
 2 accountancy. At least 60 days prior to the promulgation of any
 3 rule or amendment, the board shall mail copies of the proposed
 4 rule or amendment to each holder of a permit issued under
 5 Section 34-1-11, with a notice advising him or her of the
 6 proposed effective date of the rule or amendment and
 7 requesting that he or she submit comments thereon at least 15
 8 days prior to the effective date; the comments shall be
 9 advisory only. Failure to receive by mail the rule, amendment,
 10 or notice by all permit holders shall not affect the validity
 11 of any rule or amendment.

12 "(n) Each member of the board shall be paid the same
 13 per diem and travel allowance paid to state employees for each
 14 day the member is actively engaged in the official business of
 15 the board out of the funds of the board.

16 "(o) Any records, information, or writings obtained
 17 or kept by the Board of Public Accountancy in connection with
 18 a practice peer review program which the board is authorized
 19 to establish by rules and regulations, or obtained or kept by
 20 the board in connection with a disciplinary investigation
 21 shall be held in confidence. If, pursuant to a disciplinary
 22 investigation, probable cause for a hearing is found by the
 23 board, records, information, or writings upon which the
 24 finding is based shall be available to the licensee under
 25 investigation. Records, information, and writings held in

1 confidence shall not be disclosed to any person except to the
2 extent necessary to carry out the purposes of the ~~practice~~
3 peer review program, the investigation, or the provisions of
4 Title 34, Chapter 1, as amended; pursuant to a court order for
5 the production of evidence or the discovery thereof; or
6 pursuant to litigation involving the Board of Public
7 Accountancy wherein the records, information, or writings are
8 relevant to the issue in litigation. Notwithstanding the
9 foregoing, with respect to peer ~~or quality~~ review programs
10 deemed acceptable to the board which are performed by other
11 organizations, the board shall require that the peer ~~or~~
12 ~~quality~~ review processes be operated and documents maintained
13 in a manner designed to preserve confidentiality, and that
14 neither the board nor any third party, other than an oversight
15 body, shall have access to documents furnished or generated in
16 the course of the review.

17 "§34-1-4.

18 "(a) If each of the following qualifications is met,
19 the certificate of certified public accountant shall be
20 granted by the board to any person:

21 "(1) Who is a citizen of the United States or has
22 duly declared his or her intent to become a citizen.

23 "(2) Who has attained the age of 19 years.

24 "(3) Who is of good moral character.

1 "(4) Who meets the following educational
2 requirements:

3 "a. A person shall have earned a college degree from
4 a four-year college or university accredited by a regional
5 accreditation board such as the Southern Association of
6 Colleges and Universities, with a concentration in accounting
7 or what the board determines to be substantially the
8 equivalent of a concentration in accounting. Persons who, on
9 May 16, 1989, have previously taken the uniform written CPA
10 examination shall be considered to meet these qualifications.

11 "b. After January 1, 1995, any person who has not
12 previously sat for the uniform ~~written~~ CPA examination shall
13 have completed a total of 150 semester hours or 225 quarter
14 hours of postsecondary education, including a baccalaureate
15 degree at a college or university accredited by a regional
16 accreditation board such as the Southern Association of
17 Colleges and Universities. The total education program shall
18 include an accounting concentration as defined by the board
19 and other course work as the board may require by regulation.

20 "(5)a. Who has successfully passed a uniform ~~written~~
21 examination, administered by the board or its designee, in
22 accounting, and auditing, ~~business law~~, and in any other
23 related subjects as the board deems necessary, including, but
24 not limited to, business law and taxation, to maintain the

1 highest standard of proficiency in the profession of public
2 accounting.

3 "b. After January 1, 1995, in order to be eligible
4 for an initial sitting for the uniform ~~written~~ CPA
5 examination, a person shall have completed a total of 150
6 semester hours or 225 quarter hours of education, including a
7 baccalaureate degree at a college or university accredited by
8 a regional accreditation board such as the Southern
9 Association of Colleges and Universities.

10 "(b)(1) Examinations provided for in this chapter
11 shall be given by the board as often as necessary, but not
12 less frequently than twice each year. The board shall, after
13 each examination, notify applicants of the results.

14 "(2) The board may issue certificates under the
15 signature and the official seal of the board, pursuant to this
16 chapter.

17 "(c) The board shall charge each person certified
18 under subsection (e) and each candidate an application fee for
19 the uniform ~~written~~ CPA examination ~~not in excess of \$100.00~~
20 in an amount determined by the board. Examination and
21 reexamination fees shall be charged by the board, or its
22 designee, in amounts determined by ~~it~~ the board for each
23 subject in which a candidate is examined. The applicable fees
24 shall be paid to the board, or its designee, by the candidate

1 at the time he or she applies for examination or
 2 reexamination.

3 "(d) Persons who, on May 16, 1989, held certified
 4 public accountant certificates issued under the laws of this
 5 state shall not be required to obtain additional certificates
 6 under this chapter, but shall otherwise be subject to this
 7 chapter. The certificates issued shall, for all purposes, be
 8 considered certificates issued under this chapter and subject
 9 to this chapter.

10 "(e) The board may waive the examination under
 11 subdivision (a)(5), and may issue a certificate as a certified
 12 public accountant to any person paying the application fee
 13 provided in subsection (c) who possesses the qualifications
 14 specified in subdivisions (a)(1) through (a)(3), and what the
 15 board determines to be substantially the equivalent of the
 16 applicable qualifications under subdivision (a)(4), and who is
 17 the holder of a certificate as a certified public accountant,
 18 then in full force and effect, issued under the laws of any
 19 state.

20 "(f) The board may make appropriate regulations to
 21 govern the issuance of a certificate as a certified public
 22 accountant to the holder of a certificate, license, or degree
 23 which is then in full force and effect in any foreign country
 24 constituting a recognized qualification for the practice of

1 public accounting in the country, comparable to that of a
2 certified public accountant of this state.

3 "§34-1-6.

4 "(a) A firm engaged in this state in the practice of
5 public accounting may register with the board as a firm of
6 certified public accountants provided it meets all of the
7 following requirements:

8 "~~(1) At least one owner shall be a certified public~~
9 ~~accountant of this state in good standing. 51 percent of the~~
10 ~~ownership of the firm, in terms of financial interests and~~
11 ~~voting rights of all partners, officers, shareholders,~~
12 ~~members, or managers, belongs to holders of a certificate who~~
13 ~~are licensed in some state, and such partners, officers,~~
14 ~~shareholders, members, or managers, whose principal place of~~
15 ~~business is in this state, and who perform professional~~
16 ~~services in this state hold a valid certificate issued under~~
17 ~~Section 34-1-4 of this chapter. Although firms may include~~
18 ~~nonlicensee owners, the firm and its ownership must comply~~
19 ~~with rules promulgated by the board.~~

20 "(2) Each certified public accountant owner
21 regularly engaged within this state in the practice of public
22 accounting as a member of the firm shall be a certified public
23 accountant of this state in good standing except as provided
24 in subdivision (4) of this subsection.

1 "(3) Each resident manager in charge of an office of
2 a firm in this state whose main office is outside this state
3 shall be a certified public accountant of this state in good
4 standing except as provided in subdivision (4) of this
5 subsection.

6 "(4) Certified public accountants (CPA's) from other
7 jurisdictions transferring into Alabama shall be required to
8 obtain an Alabama reciprocal certificate within 24 months from
9 the date of transfer.

10 "(5) Any CPA firm as defined in this chapter may
11 include nonlicensee owners provided that:

12 "a. The firm designates a licensee of this state who
13 is responsible for the proper registration of the firm and
14 identifies that individual to the board.

15 "b. All nonlicensee owners are active individual
16 participants in the CPA firm or affiliated entities.

17 "c. A nonlicensee is prohibited from being an owner
18 if he or she has previously held a license.

19 "d. All nonlicensee owners shall register annually
20 with the board, pay an annual registration fee in an amount
21 determined by the board, and report the satisfaction of any
22 annual continuing education requirements that the board may
23 impose by rule on nonlicensee owners.

24 e. The firm complies with such other requirements as
25 the board may impose by rule.

1 "(6) Firms which fall out of compliance with the
 2 provisions of this section due to changes in firm ownership or
 3 personnel, after receiving or renewing a permit, shall take
 4 corrective action to bring the firm back into compliance as
 5 quickly as possible. The board may grant a reasonable period
 6 of time to take such corrective action. Failure to bring the
 7 firm back into compliance within a reasonable period of time
 8 as defined by the board will result in the suspension or
 9 revocation of the firm permit.

10 "(b) Application for registration shall be made upon
 11 the affidavit of an owner of the firm who is a certified
 12 public accountant of this state in good standing. The board
 13 shall in each case determine whether the firm is eligible for
 14 registration. A firm which is registered and which holds a
 15 permit issued under Section 34-1-11 may use the words
 16 "certified public accountants" or the abbreviation "C.P.A.'s"
 17 in connection with the name of the firm. Notification shall be
 18 given the board, within one month, after the admission to or
 19 withdrawal of an owner from any firm registered.

20 "§34-1-9.

21 "(a) A firm engaged in this state in the practice of
 22 public accounting may register with the board as a firm and
 23 ~~each owner shall be a Certified Public Accountant or public~~
 24 ~~accountant of this state in good standing.~~ of public

1 accountants provided it meets all of the following
2 requirements:

3 "(1) At least 51 percent of the ownership of the
4 firm, in terms of financial interests and voting rights of all
5 partners, officers, shareholders, members, or managers,
6 belongs to certified public accountants or public accountants
7 of this state in good standing with a valid permit to
8 practice. Although public accountant firms may include
9 nonlicensee owners, the firm and its ownership must comply
10 with rules promulgated by the board.

11 "(2) Any public accountant firm as defined in this
12 chapter may include nonlicensee owners provided that:

13 "a. The firm designates a licensee of this state who
14 is responsible for the proper registration of the firm and
15 identifies that individual to the board.

16 "b. All nonlicensee owners are active individual
17 participants in the public accountant firm or affiliated
18 entities.

19 "c. A nonlicensee is prohibited from being an owner
20 if they have previously held a license.

21 "d. All nonlicensee owners shall register annually
22 with the board, pay an annual registration fee in an amount
23 determined by the board, and report the satisfaction of any
24 annual continuing education requirements that the board may
25 impose by rule on nonlicensee owners.

1 e. The firm complies with such other requirements as
2 the board may impose by rule.

3 "(3) Firms which fall out of compliance with the
4 provisions of this section due to changes in firm ownership or
5 personnel, after receiving or renewing a permit, shall take
6 corrective action to bring the firm back into compliance as
7 quickly as possible. The board may grant a reasonable period
8 of time to take such corrective action. Failure to bring the
9 firm back into compliance within a reasonable period of time
10 as defined by the board will result in the suspension or
11 revocation of the firm permit.

12 "(b) Application for registration shall be made upon
13 the affidavit of an owner of the firm who is a certified
14 public accountant or public accountant of this state in good
15 standing. The board shall in each case determine whether the
16 firm is eligible for registration. A firm which is registered
17 and which holds a permit issued under Section 34-1-11 may use
18 the words "public accountants" or the abbreviation "P.A.'s" in
19 connection with the name of the firm. Notification shall be
20 given the board, within one month, after the admission to or
21 withdrawal of an owner from any firm registered.

22 "§34-1-11.

23 "(a) (1) Permits to engage in the practice of public
24 accounting in this state shall be issued by the board to a
25 holder of a certificate of certified public accountant issued

1 under Section 34-1-4 and to a person registered under Section
2 34-1-8 who furnishes evidence satisfactory to the board of
3 compliance with the requirements of subsection (c) of this
4 section, and who: (1) is a citizen of the United States or has
5 declared his intent to become a citizen; and (2) has attained
6 the age of 19 years; and (3) is of good moral character; and
7 (4) meets the experience requirements set forth in subsection
8 (e) of this section. Permits to engage in the practice of
9 public accounting in this state also shall be issued by the
10 board to persons, ~~partnerships, professional associations, or~~
11 ~~professional corporations registered~~ or firms under Sections
12 34-1-5, 34-1-6, and 34-1-9, if all offices of those
13 certificate holders or registrants are maintained and
14 registered as required under Section 34-1-10. There shall be
15 an annual permit fee for each certificate holder under Section
16 34-1-4, and each registrant under Section 34-1-8, and each
17 firm in an amount to be determined by the board. All permits
18 shall expire on September 30 of each year and may be renewed
19 annually for a period of one year. The application for renewal
20 and annual renewal fee shall be filed with this board no later
21 than December 31 following the expiration date. The board may
22 also charge a late renewal penalty on or after January 1
23 following the expiration date in an amount set by the board
24 which is graduated depending on the length of time the renewal
25 is delinquent.

1 "(2) The board shall by rule require as a condition
 2 for renewal of a permit under this section, by any permit
 3 holder who performs compilation services for the public other
 4 than through a CPA or PA firm, that such individual undergo,
 5 no more frequently than once every three years, a peer review
 6 conducted in such manner as the board shall by rule specify.

7 "(b) (1) Notwithstanding the provisions of preceding
 8 subsection (a), a certified public accountant or public
 9 accountant registered under this chapter who is not engaged in
 10 the practice of public accounting may request the board, in
 11 writing, to place his or her name on the board's inactive
 12 roll, thereby granting him or her inactive status and
 13 protecting his or her right to obtain a permit to practice
 14 pursuant to preceding subsection (a) at a later time as he or
 15 she wishes to become actively engaged in the practice of
 16 public accounting.

17 "(2) If, upon receipt of the notification, the board
 18 determines that the certified public accountant or public
 19 accountant is not engaged in public accounting, the certified
 20 public accountant or public accountant shall be permitted to
 21 retain his or her initial registration or certificate by
 22 paying an annual registration fee in an amount as the board
 23 shall, from time to time, determine. Effective October 1,
 24 2007, certified public accountants or public accountants
 25 granted inactive status by the board must place the word

1 "inactive" adjacent to their CPA title or PA title on any
2 business card, letterhead, or any other document or device,
3 with the exception of their CPA certificate or PA
4 registration, on which their CPA or PA title appears. If a
5 certified public accountant or public accountant who has
6 elected inactive status wishes to reenter the active practice
7 of public accountancy, he or she shall make application to the
8 board for an annual permit to practice. The board, in its
9 rules and regulations, shall specify the number of hours of
10 continuing education the applicant shall obtain before he or
11 she regains active status to ensure his or her competency to
12 practice public accounting.

13 "(c) Every application for renewal of an annual
14 permit to practice by any person who holds a certificate as a
15 certified public accountant or who is a registrant under
16 Section 34-1-8 shall be accompanied or supported by any
17 evidence the board prescribes of satisfaction of its
18 continuing education requirements during the preceding year.
19 Failure by an applicant for renewal of an annual permit to
20 furnish the evidence shall constitute grounds for revocation,
21 suspension, or refusal to renew the permit in a proceeding
22 under Section 34-1-12, unless the board determines the failure
23 to have been due to reasonable cause. The board may renew an
24 annual permit to practice despite failure to furnish evidence
25 of satisfaction of requirements of continuing education upon

1 the condition that the applicant follows a particular program
2 or schedule of continuing education. In issuing rules,
3 regulations, and individual orders in respect of requirements
4 of continuing education, the board may, among other things,
5 use and rely upon guidelines and pronouncements of recognized
6 educational and professional associations; may prescribe for
7 content, duration, and organization of courses; shall take
8 into account the accessibility by applicants to the continuing
9 education required and any impediments to interstate practice
10 of public accountancy which result from the difference in the
11 requirements in other states; and may provide for relaxation
12 or suspension of those requirements in regard to applicants
13 who certify that they do not intend to engage in the practice
14 of public accountancy, and for instances of individual
15 hardships.

16 "(d) In the event a certified public accountant or
17 public accountant fails to apply for an annual permit to
18 practice or to be placed on the board's inactive roll within:
19 (1) one year from the expiration date of the permit to
20 practice last obtained or renewed pursuant to subsection (a);
21 (2) one year from the expiration date of the last annual
22 renewal of his or her certificate pursuant to subsection (b);
23 or (3) one year from the date upon which the certificate
24 holder or registrant was granted his or her certificate or
25 registration, if no permit was ever issued to him or her under

1 subsection (a) or his or her name was never placed on the
 2 board's inactive roll under subsection (b), it shall deprive
 3 him or her of the right to apply for a permit or inactive
 4 status, and shall constitute grounds for revocation or
 5 suspension of the holder's certificate, unless the board
 6 determines the failure to have been due to reasonable cause.
 7 In that case, the board may impose a reinstatement fee not to
 8 exceed ~~100.00~~ one hundred dollars (\$100), plus the total
 9 annual registration fees and late renewal penalties which the
 10 certified public accountant or public accountant would have
 11 paid under this chapter during the period when neither a
 12 permit nor inactive status was maintained. The board may also
 13 charge an inactive status penalty in an amount set by the
 14 board which is graduated for the time of the inactivity.

15 " (e) The experience requirement shall be ~~two years~~
 16 one year of experience in the practice of public accounting as
 17 defined by the board's rules and regulations.

18 "§34-1-12.

19 " (a) After notice and hearing as provided in Section
 20 34-1-14, the board may ~~revoke, or~~ suspend for a period not to
 21 exceed three years, or revoke any certificate issued under
 22 Section 34-1-4, or any registration granted under Sections
 23 34-1-5, 34-1-7, or 34-1-8, may revoke, suspend, or refuse to
 24 renew any permit issued under Section 34-1-11, or may censure

1 the holder of any permit for any one or any combination of the
2 following causes:

3 "(1) Fraud or deceit in obtaining a certificate as a
4 certified public accountant or in obtaining registration under
5 this chapter or in obtaining a permit to practice public
6 accounting under this chapter.

7 "(2) Dishonesty, fraud, or gross negligence in the
8 practice of public accounting.

9 "(3) Any violation of Section 34-1-16.

10 "(4) Any violation of a rule of professional conduct
11 promulgated by the board under the authority granted by this
12 chapter.

13 "(5) Conviction of any crime, an element of which is
14 dishonesty or fraud, under the laws of any state or of the
15 United States.

16 "(6) Conviction of a felony under the laws of any
17 state or of the United States.

18 "(7) Cancellation, revocation, suspension, or
19 refusal to renew authority to practice as a certified public
20 accountant or a public accountant by any other state for any
21 cause other than failure to pay an annual registration fee in
22 the other state.

23 "(8) Suspension or revocation of the right to
24 practice before any state or federal agency.

1 "(9) Failure to become a citizen of the United
2 States within six years by any person not a citizen of the
3 United States when he or she received a certificate as a
4 certified public accountant or was registered as a public
5 accountant under this chapter.

6 "(10) Failure to apply for an annual permit to
7 practice or to be placed on the board's inactive roll within
8 any of the following time periods:

9 "a. One year from the expiration date of the permit
10 to practice last obtained or renewed pursuant to Section
11 34-1-11(a).

12 "b. One year from the expiration date of the last
13 annual renewal of his or her certificate pursuant to Section
14 34-1-11(b).

15 "c. One year from the date upon which the
16 certificate holder or registrant was granted his or her
17 certificate or registration, if no permit was ever issued
18 under Section 34-1-11(a) or his or her name was never placed
19 on the board's inactive roll under Section 34-1-11(b), unless
20 the failure is excused by the board pursuant to Section
21 34-1-11.

22 "(11) Conduct discreditable to the public accounting
23 profession.

24 "(12) Failure of a certificate holder or registrant
25 to furnish evidence of satisfaction of requirements of

1 continuing education as required by the board pursuant to
2 Section 34-1-11 or to meet any conditions in respect of
3 continuing education which the board may have ordered with
4 respect to the certificate holder under that section.

5 "(13) Failure to comply with the provisions and
6 requirements of the board's ~~practice~~ peer review program.

7 "(14) Failure to comply with the provisions of this
8 chapter or rules promulgated by the board under this chapter
9 or failure to comply with professional standards.

10 "(15) Making any false or misleading statement or
11 verification in support of an application for a certificate,
12 registration, or permit filed by another.

13 "(b) In addition to the disciplinary powers granted
14 pursuant to subsection (a), the board may singly, or in
15 combination with any other disciplinary action, levy and
16 collect administrative fines for ~~serious~~ violations of this
17 chapter or the rules and regulations of the board of not more
18 than ~~\$1,000.00~~ one thousand dollars (\$1,000) for each
19 violation.

20 "\$34-1-16.

21 "No person shall assume or use the title or
22 designation "certified public accountant," the abbreviation
23 "C.P.A." or any other title, designation, words, letters,
24 abbreviation, sign, card, or device tending to indicate that
25 the person is a certified public accountant, unless the person

1 has received a certificate as a certified public accountant
2 under Section 34-1-4 and if in public practice, holds a permit
3 issued under Section 34-1-11, which is not revoked or
4 suspended, hereinafter referred to as a live permit, and all
5 of the offices of the person in this state for the practice of
6 public accounting are maintained and registered as required
7 under Section 34-1-10; provided, however:

8 "(1) A foreign accountant who has registered under
9 Section 34-1-5 and who holds a live permit issued under
10 Section 34-1-11 may use the title under which he or she is
11 generally known in his or her country, followed by the name of
12 the country from which the certificate, license, or degree was
13 received.

14 "(2) No firm shall provide attest services or assume
15 or use the title or designation "certified public accountants"
16 or the abbreviation "CPA's" or any other title, designation,
17 words, letters, signs, abbreviation, card, or device tending
18 to indicate that the firm is composed of certified public
19 accountants, unless the firm is registered as a firm of
20 certified public accountants under Section 34-1-6, holds a
21 live permit issued under Section 34-1-11, and all of the
22 offices of the firm in this state for the practice of public
23 accounting are maintained and registered as required under
24 Section 34-1-10, and ownership of the firm is in accord with
25 this chapter and rules promulgated by the board.

1 "(3) No person shall assume or use the title or
 2 designation "public accountant," the abbreviation thereof, or
 3 any other title, designation, words, letters, abbreviation,
 4 sign, card, or device tending to indicate that the person is a
 5 public accountant, unless the person is registered as a public
 6 accountant under Section 34-1-8, holds a live permit issued
 7 under Section 34-1-11, and all of the offices of the person in
 8 this state for the practice of public accounting are
 9 maintained and registered as required under Section 34-1-10 or
 10 unless the person has received a certificate as a certified
 11 public accountant under Section 34-1-4, holds a live permit
 12 issued under Section 34-1-11, and all of the offices of the
 13 person in this state for the practice of public accounting are
 14 maintained and registered as required under Section 34-1-10.

15 "(4) No firm shall provide attest services or assume
 16 or use the title or designation "public accountant" or any
 17 other title, designation, words, letters, abbreviation, sign,
 18 card, or device tending to indicate that the firm is composed
 19 of public accountants, unless the firm is registered as a firm
 20 of public accountants under Section 34-1-9, or as a firm of
 21 certified public accountants under Section 34-1-5, holds a
 22 live permit issued under Section 34-1-11, and all of the
 23 offices of the firm in this state for the practice of public
 24 accounting are maintained and registered as required under
 25 Section 34-1-10.

1 "(5) No person or firm shall assume or use the title
2 or designation "accredited accountant," "certified
3 accountant," "chartered accountant," "enrolled accountant,"
4 "licensed accountant," "registered accountant," or any other
5 title or designation likely to be confused with "certified
6 public accountant" or "public accountant," or any of the
7 abbreviations "AA," "CA," "LA," "RA," "~~EA,~~" or "~~LA,~~" or
8 similar abbreviations likely to be confused with "CPA" or
9 "PA." The title "enrolled agent" or "EA" may be used by only
10 individuals so designated by the Internal Revenue Service.

11 Notwithstanding the foregoing, any person who holds a live
12 permit issued under Section 34-1-11, and all of whose offices
13 in this state for the practice of public accounting are
14 maintained and registered as required under Section 34-1-10,
15 may hold himself or herself out to the public as an
16 "accountant" or "auditor." A foreign accountant registered
17 under Section 34-1-5 who holds a live permit issued under
18 Section 34-1-11 and all of whose offices in this state for the
19 practice of public accounting are maintained and registered as
20 required under Section 34-1-10 may use the title under which
21 he or she is generally known in his or her country, followed
22 by the name of the country from which he or she received the
23 certificate, license, or degree.

24 "(6) No person shall sign or affix his or her name
25 or any trade or assumed name used in the person's profession

1 or business, with any wording indicating that he or she has
2 expert knowledge in accounting or auditing, to any opinion or
3 certificate attesting in any way to the reliability of any
4 representation or estimate in regard to any person or
5 organization embracing financial information or facts
6 respecting compliance with conditions established by law or
7 contract, including but not limited to statutes, ordinances,
8 regulations, grants, loans, and appropriations, unless he or
9 she holds a live permit issued under Section 34-1-11, and all
10 of the offices in this state for the practice of public
11 accounting are maintained and registered under Section
12 34-1-10. Notwithstanding the foregoing, this subdivision shall
13 not prohibit any officer, employee, partner, or principal of
14 any organization from affixing his or her signature to any
15 statement or report in reference to the financial affairs of
16 the organization with any wording designating the position,
17 title, or office which he or she holds in the organization,
18 nor shall this subdivision prohibit any act of a public
19 official or public employee in the performance of their
20 duties.

21 "(7) No person shall sign or affix the name of the
22 firm, with any wording indicating that it is a firm composed
23 of accountants or auditors or persons having expert knowledge
24 in accounting or auditing, to any opinion or certificate
25 attesting in any way to the reliability of any representation

1 or estimate in regard to any person or organization embracing
2 financial information or facts respecting compliance with
3 conditions established by law or contract, including but not
4 limited to statutes, ordinances, regulations, grants, loans,
5 and appropriations, unless the firm holds a live permit issued
6 under Section 34-1-11, and all of its offices in this state
7 for the practice of public accounting are maintained and
8 registered as required under Section 34-1-10.

9 "(8) No person shall assume or use the title or
10 designation "certified public accountant" or "public
11 accountant" in conjunction with names indicating or implying
12 that there is a firm, in conjunction with the designation "and
13 company" and "and co." or a similar designation if there is in
14 fact no bona fide firm registered under Section 34-1-6 or
15 Section 34-1-9. ~~Notwithstanding the foregoing, a sole~~
16 ~~proprietor or partnership lawfully using such title or~~
17 ~~designation on October 1, 1973, may continue to do so if he or~~
18 ~~she or it otherwise complies with this chapter. No person~~
19 holding a certificate or registration or firm holding a permit
20 under this chapter shall use a professional or firm name or
21 designation that is misleading about the legal form of the
22 firm, or about the persons who are partners, officers,
23 members, managers, or shareholders of the firm, or about any
24 other matter. This section shall not prevent a firm or its
25 successors from continuing to practice under a firm name which

1 consists of or includes the name or names of one or more
 2 former owners, ~~nor shall it prevent the continuation of a~~
 3 ~~name of a firm for a reasonable period of time by the~~
 4 ~~remaining owner practicing as a sole proprietor after the~~
 5 ~~withdrawal or death of one or more owners.~~

6 "(9) Only licensees holding a valid permit to
 7 practice may issue a report on financial statements of any
 8 other person, firm, organization, or governmental unit or
 9 otherwise offer to render any attest service, as defined
 10 herein. This restriction does not prohibit any act of a public
 11 official or public employee in the performance of that
 12 person's duties as such; or prohibit the performance by any
 13 person of other services involving the use of accounting
 14 skills, including the preparation of tax returns, management
 15 advisory services, and the preparation of financial statements
 16 without the issuance of reports thereon. This restriction also
 17 does not apply to nonlicensees, who may prepare financial
 18 statements and issue reports thereon which do not purport to
 19 be in compliance with the Statements on Standards for
 20 Accounting and Review Services (SSARS).

21 "(10) Licensees performing attest or compilation
 22 services must provide those services in accordance with
 23 professional standards.

24 "(11) Nonlicensees may not use language in any
 25 statement relating to the financial affairs of a person or

1 entity which is conventionally used by licensees in reports on
2 financial statements. In this regard, the board shall issue,
3 by rule, safe harbor language nonlicensees may use in
4 connection with such financial information. Notwithstanding
5 the foregoing, nonlicensees may use the following disclaimer
6 language in connection with financial statements to not be in
7 violation of this act:

8 "I (We) have prepared the accompanying (financial
9 statements) of (name of entity) as of (time period) for the
10 (period) then ended. This presentation is limited to preparing
11 in the form of financial statements information that is the
12 representation of management (owners).

13 "I (We) have not audited or reviewed the
14 accompanying financial statements and accordingly do not
15 express an opinion or any other form of assurance on them."

16 "(12) No holder of a certificate issued under
17 Section 34-1-4 of this chapter or a registration issued under
18 Section 34-1-8 of this chapter shall perform attest services
19 in any firm that does not hold a valid permit to practice
20 issued under Section 34-1-11 of this chapter.

21 "(13) No individual licensee shall issue a report in
22 standard form upon a compilation of financial information
23 through any form of business that does not hold a valid permit
24 issued under Section 34-1-11 of this chapter unless the report

1 discloses the name of the business through which the
2 individual is issuing the report, and the individual:

3 "a. Signs the compilation report identifying the
4 individual as a certified public accountant or public
5 accountant.

6 "b. Undergoes no less frequently than once every
7 three years, a peer review conducted in such manner as the
8 board shall by rule specify.

9 "(14) Nothing herein shall prohibit a practicing
10 attorney or firm of attorneys from preparing or presenting
11 records or documents customarily prepared by an attorney or
12 firm of attorneys in connection with the attorney's
13 professional work in the practice of law.

14 "§34-1-21.

15 "(a) All statements, records, schedules, working
16 papers, and memoranda made by a certified public accountant or
17 public accountant incident to or in the course of professional
18 service to clients by the accountant, except reports submitted
19 by a certified public accountant or public accountant to a
20 client, shall be and remain the property of the accountant, in
21 the absence of an express written agreement between the
22 accountant and the client to the contrary. No statement,
23 record, schedule, working paper, or memorandum shall be sold,
24 transferred, or bequeathed, without the consent of the client
25 or the personal representative or assignee of the client, to

1 anyone other than one or more surviving owners or new owners
2 of the firm of the accountant. All statements, records,
3 schedules, working papers, or memoranda prepared by a
4 certified public accountant or public accountant in the
5 performance of a practice monitoring program or peer review,
6 conducted by the board shall be and become the property of the
7 board immediately upon preparation or compilation, and shall
8 be remitted to the board promptly upon completion of the
9 review. The board may retain, archive, or destroy all or any
10 portion of same. The information shall be deemed confidential.
11 Notwithstanding the foregoing, nothing in this section shall
12 be construed as prohibiting the disclosure of information
13 required to be disclosed by the standards of the public
14 accounting profession in effect from time to time with respect
15 to reporting on the examination of financial statements or as
16 prohibiting the disclosure in court proceedings, in
17 investigations or proceedings conducted by the board or the
18 designees of the board, or in ethical investigations conducted
19 by private professional organizations. In addition, nothing in
20 this section shall be construed as prohibiting any temporary
21 transfer of workpapers or other material necessary in the
22 course of carrying out peer reviews.

23 "(b) A licensee shall furnish to a client or former
24 client, upon request and reasonable notice:

1 "(1) A copy of the licensee's working papers, to the
2 extent that such working papers include records that would
3 ordinarily constitute part of the client's records and are not
4 otherwise available to the client.

5 "(2) Any accounting or other records belonging to,
6 or obtained from or on behalf of, the client that the licensee
7 removed from the client's premises or received for the
8 client's account; the licensee may make and retain copies of
9 such documents of the client when they form the basis for work
10 done by the licensee.

11 "§34-1-22.

12 "All fees and charges provided for in this chapter
13 shall be paid to the board and, upon collection thereof, shall
14 be deposited in the State Treasury to the credit of the
15 Alabama State Board of Public Accountancy, except for the
16 examination fees collected by the board's designee as provided
17 for in Section 34-1-4 of this chapter. The State Treasurer
18 shall keep all moneys in a separate fund to be known as "Fund
19 of the Alabama State Board of Public Accountancy," which fund
20 shall be expended and drawn against solely for the purposes of
21 this chapter as herein provided. For the purpose of carrying
22 out the objects of this chapter and for the exercise of the
23 powers herein granted, the board shall have the power to
24 direct the disbursement of said fund. All compensation,
25 expenses and charges incurred for the purposes of this chapter

1 shall be paid from said fund and shall be paid on warrant of
2 the State Comptroller upon certificate or voucher of the
3 treasurer of the board, and of such separate fund such sums as
4 are necessary are hereby appropriated. No compensation,
5 expenses or charges incurred under this chapter shall be a
6 charge against the general funds of this state, and no part of
7 the special fund herein provided shall revert to the general
8 funds of the state. Fees and charges provided for in this
9 chapter shall be in addition to any licenses which are now or
10 may hereafter be levied on behalf of the state or any
11 political subdivision thereof."

12 Section 2. The provisions of this act are severable.
13 If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 3. ~~(a) Licensees shall not divulge, nor~~
17 ~~shall they in any manner be required to divulge, any~~
18 ~~information which is communicated to them or obtained by them~~
19 ~~by the reason of the confidential nature of their employment~~
20 ~~unless permission for release of such information is given by~~
21 ~~the client for whom a licensee performs services or the heirs,~~
22 ~~successors, or personal representatives of such client. Such~~
23 ~~information shall be deemed confidential; provided, that~~
24 ~~nothing herein shall be construed as prohibiting the~~
25 ~~disclosure of information required to be disclosed by the~~

1 ~~standards of the public accounting profession in reporting on~~
 2 ~~the examination of financial statements or as prohibiting~~
 3 ~~disclosures in court proceedings, in investigations or~~
 4 ~~proceedings under this chapter, in ethical investigations~~
 5 ~~conducted by private professional organizations, or in the~~
 6 ~~course of peer reviews, or to other persons active in the~~
 7 ~~organization performing services for that client on a need to~~
 8 ~~know basis or to persons in the entity who need this~~
 9 ~~information for the sole purpose of assuring quality control.~~
 10 ~~Disclosure of confidential information pursuant to this~~
 11 ~~subsection shall not constitute a waiver of the confidential~~
 12 ~~nature of such information for any other purpose.~~

13 ~~(b) Information derived as a result of such~~
 14 ~~professional employment is deemed to be confidential, except~~
 15 ~~that nothing in any section of this chapter shall be construed~~
 16 ~~as modifying, changing or affecting the criminal or bankruptcy~~
 17 ~~laws of this state or of the United States.~~

18 ~~(c) The provisions of this section apply only to~~
 19 ~~licensees engaged by individuals and private entities.~~

20 Section 4. ~~(a) This act applies to all causes of~~
 21 ~~action of the type specified herein filed on or after October~~
 22 ~~1, 2003.~~

23 ~~(b) This section governs any action based on~~
 24 ~~negligence brought against any certified public accountant,~~
 25 ~~public accountant or firm of CPAs or PAs practicing in this~~

1 ~~state by any person or entity claiming to have been injured as~~
2 ~~a result of financial statements or other information~~
3 ~~examined, compiled, reviewed, certified, audited or otherwise~~
4 ~~reported or opined on by the defendant CPA, PA or firm in the~~
5 ~~course of an engagement to provide other services.~~

6 ~~(c) No action covered by this act may be brought~~
7 ~~unless all the following conditions are satisfied:~~

8 ~~(1) The plaintiff is issuer (or successor of the~~
9 ~~issuer) of the financial statements or other information~~
10 ~~examined, compiled, reviewed, certified, audited or otherwise~~
11 ~~reported or opined on by the defendant.~~

12 ~~(2) The plaintiff engaged the defendant licensee to~~
13 ~~examine, compile, review, certify, audit or otherwise report~~
14 ~~or render an opinion on such financial statements or to~~
15 ~~provide other services.~~

16 ~~(3) The defendant licensee or firm was aware at the~~
17 ~~time the engagement was undertaken that the financial~~
18 ~~statements or other information were to be made available for~~
19 ~~use in connection with a specified transaction by the~~
20 ~~plaintiff who was specifically identified to the defendant~~
21 ~~licensee.~~

22 ~~(4) The defendant licensee or firm was aware that~~
23 ~~the plaintiff intended to rely upon such financial statements~~
24 ~~or other information in connection with the specified~~
25 ~~transaction.~~

1 ~~(5) The defendant licensee or firm had direct~~
2 ~~contact and communication with the plaintiff and expressed by~~
3 ~~words or conduct the defendant licensee's understanding of the~~
4 ~~reliance on such financial statements or other information.~~

5 ~~(d) The provisions of this section apply only to~~
6 ~~licenses engaged by individuals and private entities.~~

7 Section 5. This act shall become effective on
8 October 1, 2003, following its passage and approval by the
9 Governor, or its otherwise becoming law.

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Art W. Hurst

Speaker of the House of Representatives

Lucy Baxley

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 17-APR-03, as amended.

Greg Pappas
Clerk

Senate

16-JUN-03

Passed

APPROVED 6-24-03
TIME 5:17 PM
B. B. R. L.
GOVERNOR

Alabama Secretary Of State

Act Num....: 2003-393
Bill Num...: H-134