

SECOND REGULAR SESSION

HOUSE BILL NO. 1871

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

4437H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 326.289, RSMo, and to enact in lieu thereof one new section relating to exceptions to permit requirements for public accountants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 326.289, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 326.289, to read as follows:

326.289. 1. The board may grant or renew permits to practice as a certified public accounting firm to applicants that demonstrate their qualifications in accordance with this chapter.

(1) **Except as provided for in subsection 13 of this section**, the following shall hold a permit issued under this chapter:

(a) Any firm with an office in this state, as defined by the board by rule, offering or performing attest or compilation services; or

(b) Any firm with an office in this state that uses the title "CPA" or "CPA firm".

(2) Any firm that does not have an office in this state may offer or perform attest or compilation services in this state without a valid permit only if it meets each of the following requirements:

(a) It complies with the qualifications described in subdivision (1) of subsection 4 of this section;

(b) It complies with the requirements of peer review as set forth in this chapter and the board's promulgated regulations;

(c) It performs such services through an individual with practice privileges under section 326.283; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (d) It can lawfully do so in the state where said individual with the privilege to practice
19 has his or her principal place of business.

20 (3) A firm which is not subject to the requirements of subdivisions (1) or (2) of this
21 subsection may perform other nonattest or noncompilation services while using the title "CPA"
22 or "CPA firm" in this state without a permit issued under this section only if it:

23 (a) Performs such services through an individual with the privilege to practice under
24 section 326.283; and

25 (b) Can lawfully do so in the state where said individual with privilege to practice has
26 his or her principal place of business.

27 (4) (a) All firms practicing public accounting in this state shall register with the
28 secretary of state.

29 (b) Firms which may be exempt from this requirement include:

30 a. Sole proprietorships;

31 b. Trusts created pursuant to revocable trust agreements, of which the trustee is a natural
32 person who holds a license or privilege to practice as set forth in section 326.280, 326.283, or
33 326.286;

34 c. General partnerships not operating as a limited liability partnership; or

35 d. Foreign professional corporations which do not meet criteria of chapter 356 due to
36 name or ownership, shall obtain a certificate of authority as a general corporation.
37 Notwithstanding the provisions of chapter 356, the secretary of state may issue a certificate of
38 authority to a foreign professional corporation which does not meet the criteria of chapter 356
39 due to name or ownership, if the corporation meets the requirements of this section and the rules
40 of the board.

41 2. Permits shall be initially issued and renewed for periods of not more than three years
42 or for a specific period as prescribed by board rule following issuance or renewal.

43 3. The board shall determine by rule the form for application and renewal of permits and
44 shall annually determine the fees for permits and their renewals.

45 4. An applicant for initial issuance or renewal of a permit to practice under this section
46 shall be required to show that:

47 (1) A simple majority of the ownership of the firm, in terms of financial interests and
48 voting rights of all partners, officers, principals, shareholders, members or managers, belongs
49 to licensees who are licensed in some state, and the partners, officers, principals, shareholders,
50 members or managers, whose principal place of business is in this state and who perform
51 professional services in this state are licensees under section 326.280 or the corresponding
52 provision of prior law. Although firms may include nonlicensee owners, the firm and its
53 ownership shall comply with rules promulgated by the board;

54 (2) Any certified public accounting firm may include owners who are not licensees
55 provided that:

56 (a) The firm designates a licensee of this state, or in the case of a firm which must have
57 a permit under this section designates a licensee of another state who meets the requirements of
58 section 326.283, who is responsible for the proper registration of the firm and identifies that
59 individual to the board;

60 (b) All nonlicensee owners are active individual participants in the certified public
61 accounting firm or affiliated entities;

62 (c) All owners are of good moral character; and

63 (d) The firm complies with other requirements as the board may impose by rule;

64 (3) Any licensee who is responsible for supervising attest services, or signs or authorizes
65 someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet
66 competency requirements as determined by the board by rule which shall include one year of
67 experience in addition to the experience required under subdivision (6) of subsection 1 of section
68 326.280 and shall be verified by a licensee. The additional experience required by this
69 subsection shall include experience in attest work supervised by a licensee.

70 5. An applicant for initial issuance or renewal of a permit to practice shall register each
71 office of the firm within this state with the board and show that all attest and compilation
72 services rendered in this state are under the charge of a licensee.

73 6. No licensee or firm holding a permit under this chapter shall use a professional or firm
74 name or designation that is misleading as to:

75 (1) The legal form of the firm;

76 (2) The persons who are partners, officers, members, managers or shareholders of the
77 firm; or

78 (3) Any other matter.

79

80 The names of one or more former partners, members or shareholders may be included in the
81 name of a firm or its successor unless the firm becomes a sole proprietorship because of the
82 death or withdrawal of all other partners, officers, members or shareholders. A firm may use a
83 fictitious name if the fictitious name is registered with the board and is not otherwise misleading.
84 The name of a firm shall not include the name or initials of an individual who is not a present
85 or a past partner, member or shareholder of the firm or its predecessor. The name of the firm
86 shall not include the name of an individual who is not a licensee.

87 7. Applicants for initial issuance or renewal of permits shall list in their application all
88 states in which they have applied for or hold permits as certified public accounting firms and list
89 any past denial, revocation, suspension or any discipline of a permit by any other state. Each

90 holder of or applicant for a permit under this section shall notify the board in writing within
91 thirty days after its occurrence of any change in the identities of partners, principals, officers,
92 shareholders, members or managers whose principal place of business is in this state; any change
93 in the number or location of offices within this state; any change in the identity of the persons
94 in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of
95 a permit by any other state.

96 8. Firms which fall out of compliance with the provisions of this section due to changes
97 in firm ownership or personnel after receiving or renewing a permit shall take corrective action
98 to bring the firm back into compliance as quickly as possible. The board may grant a reasonable
99 period of time for a firm to take such corrective action. Failure to bring the firm back into
100 compliance within a reasonable period as defined by the board may result in the suspension or
101 revocation of the firm permit.

102 9. The board shall require by rule, as a condition to the renewal of permits, that firms
103 undergo, no more frequently than once every three years, peer reviews conducted in a manner
104 as the board shall specify. The review shall include a verification that individuals in the firm
105 who are responsible for supervising attest and compilation services or sign or authorize someone
106 to sign the accountant's report on the financial statements on behalf of the firm meet the
107 competency requirements set out in the professional standards for such services, provided that
108 any such rule:

109 (1) Shall include reasonable provision for compliance by a firm showing that it has
110 within the preceding three years undergone a peer review that is a satisfactory equivalent to peer
111 review generally required under this subsection;

112 (2) May require, with respect to peer reviews, that peer reviews be subject to oversight
113 by an oversight body established or sanctioned by board rule, which shall periodically report to
114 the board on the effectiveness of the review program under its charge and provide to the board
115 a listing of firms that have participated in a peer review program that is satisfactory to the board;
116 and

117 (3) Shall require, with respect to peer reviews, that the peer review processes be operated
118 and documents maintained in a manner designed to preserve confidentiality, and that the board
119 or any third party other than the oversight body shall not have access to documents furnished or
120 generated in the course of the peer review of the firm except as provided in subdivision (2) of
121 this subsection.

122 10. The board may, by rule, charge a fee for oversight of peer reviews, provided that the
123 fee charged shall be substantially equivalent to the cost of oversight.

124 11. In connection with proceedings before the board or upon receipt of a complaint
125 involving the licensee performing peer reviews, the board shall not have access to any documents

126 furnished or generated in the course of the performance of the peer reviews except for peer
127 review reports, letters of comment and summary review memoranda. The documents shall be
128 furnished to the board only in a redacted manner that does not specifically identify any firm or
129 licensee being peer reviewed or any of their clients.

130 12. The peer review processes shall be operated and the documents generated thereby
131 be maintained in a manner designed to preserve their confidentiality. No third party, other than
132 the oversight body, the board, subject to the provisions of subsection 11 of this section, or the
133 organization performing peer review shall have access to documents furnished or generated in
134 the course of the review. All documents shall be privileged and closed records for all purposes
135 and all meetings at which the documents are discussed shall be considered closed meetings under
136 subdivision (1) of section 610.021. The proceedings, records and workpapers of the board and
137 any peer review subjected to the board process shall be privileged and shall not be subject to
138 discovery, subpoena or other means of legal process or introduction into evidence at any civil
139 action, arbitration, administrative proceeding or board proceeding. No member of the board or
140 person who is involved in the peer review process shall be permitted or required to testify in any
141 civil action, arbitration, administrative proceeding or board proceeding as to any matters
142 produced, presented, disclosed or discussed during or in connection with the peer review process
143 or as to any findings, recommendations, evaluations, opinions or other actions of such
144 committees or any of its members; provided, however, that information, documents or records
145 that are publicly available shall not be subject to discovery or use in any civil action, arbitration,
146 administrative proceeding or board proceeding merely because they were presented or considered
147 in connection with the peer review process.

148 **13. Any firm may practice as a public accounting firm in this state without a valid**
149 **permit only if it meets each of the following requirements:**

- 150 **(1) It is a sole practitioner;**
151 **(2) It elects to register as a limited liability company; and**
152 **(3) It does not perform attest and compilation services.**

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