

1 SB29
2 188360-1
3 By Senator Holley
4 RFD: Governmental Affairs
5 First Read: 09-JAN-18
6 PFD: 12/13/2017

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, certified public
9 accountants and public accountants are licensed and
10 regulated by the Alabama State Board of Public
11 Accountancy.

12 This bill would alter the composition of the
13 board.

14 This bill would further define terms.

15 This bill would authorize the board to
16 classify a certified public accountant or public
17 accountant as retired.

18 This bill would also shorten the grace
19 period after a license has lapsed after which time
20 the board may take disciplinary action against a
21 licensee for failure to apply for a permit or be
22 placed on inactive status.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to public accountants; to amend Sections
2 34-1-2, 34-1-3, 34-1-11, and 34-1-12, Code of Alabama 1975; to
3 alter the composition of the Alabama State Board of Public
4 Accountancy; to further define terms; to authorize the board
5 to classify a licensed certified public accountant or public
6 accountant as retired; and to shorten the grace period after a
7 license has lapsed after which time the board may take
8 disciplinary action against a licensee for failure to apply
9 for a permit or be placed on inactive status.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 34-1-2, 34-1-3, 34-1-11, and
12 34-1-12, Code of Alabama 1975, are amended to read as follows:

13 "§34-1-2.

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

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

19 "(2) ATTEST. Providing the following services:

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

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

25 "c. Any engagement to be performed in accordance
26 with the Statements on Standards for Attestation Engagements
27 (SSAE).

1 "d. Any engagement to be performed in accordance
2 with the auditing standards of the Public Company Accounting
3 Oversight Board (PCAOB).

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

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

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

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

24 "(6) LICENSE. A certificate issued pursuant to
25 Section 34-1-4, a permit issued pursuant to Section 34-1-11,
26 registration pursuant to Section 34-1-8; or, in each case, a
27 certificate or permit issued pursuant to corresponding

1 provisions of prior law, or the practice privilege provided
2 pursuant to Section 34-1-7.

3 "(7) LICENSEE. The holder of a license.

4 "(8) OWNER. Any person who holds an ownership
5 interest in a firm.

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

11 "(10) PREPARATION OF FINANCIAL STATEMENT. Providing
12 a service of any preparation of financial statements
13 engagement to be performed in accordance with Statements on
14 Standards for Accounting and Review Services (SSARS).

15 "(11)a. REPORT. When used in reference to any attest
16 or compilation service, an opinion, report, or other form of
17 language that states or implies assurance as to the
18 reliability of the attested information or compiled financial
19 statements and that also includes or is accompanied by any
20 statement or implication that the person or firm issuing it
21 has special knowledge or competence in accounting or auditing.
22 Such a statement or implication of special knowledge or
23 competence may arise from use by the insurer or the report of
24 names or titles indicating that the person or firm is an
25 accountant or auditor or from the language of the report
26 itself.

1 "b. The term report includes any form of language
2 that disclaims an opinion when such form of language is
3 conventionally understood to imply any positive assurance as
4 to the reliability of the attested information or compiled
5 financial statements referred to or special competence on the
6 part of the person or firm issuing such language. The term
7 report includes any other form of language that is
8 conventionally understood to imply such assurance or such
9 special knowledge or competence.

10 "~~(11)~~ (12) STATE. Any state, territory, or insular
11 possession of the United States or the District of Columbia.

12 "§34-1-3.

13 "(a) There is created a board of public accountancy
14 in and for the State of Alabama, to be known as the Alabama
15 State Board of Public Accountancy. The board shall consist of
16 seven members appointed by the Governor and, ~~effective October~~
17 ~~1, 1988,~~ confirmed by the Senate. Members of the board shall
18 be citizens of the United States and residents of the state.
19 The membership of the board shall be inclusive and reflect the
20 racial, gender, geographic, urban/rural, and economic
21 diversity of the state. Five Commencing October 1, 2019, six
22 members of the Alabama State Board of Public Accountancy shall
23 be certified public accountants in good standing with the
24 board ~~and shall be appointed by the Governor to the board. The~~
25 ~~Governor shall, in addition, appoint two other members to the~~
26 ~~board one being a public accountant who holds an active~~
27 ~~license to practice public accountancy issued under the laws~~

1 ~~of this state and who is in active practice as a public~~
2 ~~accountant and a seventh~~ and one member of the board who shall
3 be a public member who is not under the jurisdiction of the
4 board, but shall at the time of his or her appointment be an
5 active and reputable member of the Alabama business community
6 who possesses a knowledge and understanding of financial
7 transactions and financial statements. The persons and their
8 successors shall constitute the Board of Public Accountancy
9 and shall have and exercise all the powers and authority
10 vested by law in the board.

11 "(b) All appointments shall be effective on October
12 1 for four-year terms, unless an appointment is made for an
13 unexpired term.

14 "(c) The Alabama Society of Certified Public
15 Accountants shall, at least 30 days prior to the beginning of
16 any term or within 30 days after any position on the board
17 becomes vacant, submit to the Governor the names of five
18 persons qualified for membership on the board for the
19 certified public accountant position and public member
20 position to be filled, and the Governor shall appoint one of
21 the five nominees. Upon the failure of the Alabama Society of
22 Certified Public Accountants to submit timely nominations for
23 a position on the Board of Public Accountancy, the Board of
24 Public Accountancy may submit nominations for the position to
25 the Governor, who shall appoint one of the five nominees.

26 ~~"(d) The Alabama Association of Accountants shall,~~
27 ~~at least 30 days prior to the beginning of any term or within~~

1 ~~30 days after any position on the board becomes vacant, submit~~
2 ~~the names of five persons qualified for membership on the~~
3 ~~board for the public accountant position to be filled, and the~~
4 ~~Governor shall appoint one of the five nominees. Upon the~~
5 ~~failure of the Alabama Association of Accountants to submit~~
6 ~~timely nominations for a position on the Board of Public~~
7 ~~Accountancy, the Board of Public Accountancy may submit~~
8 ~~nominations for the position to the Governor, who shall~~
9 ~~appoint one of the five nominees.~~

10 "~~(e)~~ (d) No person who has served two successive
11 complete terms on the board shall be eligible for
12 reappointment until after the lapse of one year. An
13 appointment to fill an unexpired term shall not be considered
14 a complete term. Vacancies occurring during a term shall be
15 filled by appointment for the unexpired term. Upon the
16 expiration of his or her term of office, a member shall
17 continue to serve until his or her successor is appointed and
18 confirmed by the Senate. Within 15 days after their
19 confirmation by the Senate, the members of the board shall
20 take an oath before any person lawfully authorized to
21 administer oaths in this state to faithfully and impartially
22 perform their duties as members of the board, and the same
23 shall be filed with the Secretary of State. The Governor shall
24 remove from the board any accountant-member whose permit to
25 practice has become void, has been revoked, or suspended, or
26 may, after a hearing, remove any member of the board for
27 neglect of duty or just cause.

1 "~~(f)~~ (e) The board shall elect annually a chair, a
2 vice-chair, and a secretary from its members.

3 "~~(g)~~ (f) The board may adopt and amend rules and
4 regulations pursuant to the Administrative Procedure Act for
5 the orderly conduct of its affairs and for the administration
6 of this chapter.

7 "~~(h)~~ (g) A majority of the board shall constitute a
8 quorum for the transaction of business.

9 "~~(i)~~ (h) The board shall have a seal which shall be
10 judicially noticed.

11 "~~(j)~~ (i) The board shall keep records of its
12 proceedings and of any proceeding in court, civil or criminal,
13 arising out of or founded upon this chapter. Copies of the
14 records certified as correct under the seal of the board shall
15 be admissible in evidence to prove the content of the records.

16 "~~(k)~~ (j) The board shall maintain an annual register
17 which shall contain the names, arranged alphabetically by
18 classification, of all licensees under this chapter; the names
19 of the members of the board; and all other information deemed
20 proper by the board. The board may charge a fee in an amount
21 set by it for furnishing the annual register to persons who
22 request it.

23 "~~(l)~~ (k) The board shall employ an executive
24 director who is a certified public accountant in good standing
25 with the board and such other personnel as may be needed,
26 including, but not limited to, certified public accountants in
27 good standing with the board, and shall arrange for such

1 assistance, services, supplies, and equipment as it requires
2 for the performance of its duties. The number of employees,
3 their compensation, and all other expenses of the board shall
4 be paid at such rates and in such amounts as the board shall
5 approve. The executive director and other employees of the
6 board shall not be subject to or governed by the provisions of
7 the state Merit System law but shall be entitled to all
8 benefits accruing to Merit System employees including, but not
9 limited to, the right to accumulate leave, participate in the
10 Employees' Retirement System, and participate in the State
11 Employees' Health Insurance Plan.

12 ~~"(m)~~ (l) The board may promulgate and amend rules of
13 professional conduct appropriate to establish and maintain a
14 high standard of integrity in the profession of public
15 accountancy. At least 60 days prior to the promulgation of any
16 rule or amendment, the board shall mail copies of the proposed
17 rule or amendment to each holder of a permit issued under
18 Section 34-1-11, with a notice advising him or her of the
19 proposed effective date of the rule or amendment and
20 requesting that he or she submit comments thereon at least 15
21 days prior to the effective date; the comments shall be
22 advisory only. Failure to receive by mail the rule, amendment,
23 or notice by all permit holders shall not affect the validity
24 of any rule or amendment.

25 ~~"(n)~~ (m) Each member of the board shall be paid the
26 same per diem and travel allowance paid to state employees for

1 each day the member is actively engaged in the official
2 business of the board out of the funds of the board.

3 ~~"(o)~~ (n) Any records, information, or writings
4 obtained or kept by the Board of Public Accountancy in
5 connection with a peer review program which the board is
6 authorized to establish by rules and regulations, or obtained
7 or kept by the board in connection with a disciplinary
8 investigation shall be held in confidence. If, pursuant to a
9 disciplinary investigation, probable cause for a hearing is
10 found by the board, records, information, or writings upon
11 which the finding is based shall be available to the licensee
12 under investigation. Records, information, and writings held
13 in confidence shall not be disclosed to any person except to
14 the extent necessary to carry out the purposes of the peer
15 review program, the investigation, or the provisions of this
16 chapter; pursuant to a court order for the production of
17 evidence or the discovery thereof; or pursuant to litigation
18 involving the Board of Public Accountancy wherein the records,
19 information, or writings are relevant to the issue in
20 litigation. Notwithstanding the foregoing, with respect to
21 peer review programs deemed acceptable to the board which are
22 performed by other organizations, the board shall require that
23 the peer review processes be operated and documents maintained
24 in a manner designed to preserve confidentiality, and that
25 neither the board nor any third party, other than an oversight
26 body, shall have access to documents furnished or generated in
27 the course of the review.

1 "§34-1-11.

2 "(a) (1) Permits to engage in the practice of public
3 accounting in this state shall be issued by the board to a
4 holder of a certificate of certified public accountant issued
5 under Section 34-1-4 and to a person registered under Section
6 34-1-8 who furnishes evidence satisfactory to the board of
7 compliance with the requirements of subsection (c) and who:
8 (1) is a citizen of the United States or, if not a citizen of
9 the United States, a person who is legally present in the
10 United States with appropriate documentation from the federal
11 government, or has declared his or her intent to become a
12 citizen; and (2) has attained the age of 19 years; and (3) is
13 of good moral character; and (4) meets the experience
14 requirements set forth in subsection (e). Permits to engage in
15 the practice of public accounting in this state also shall be
16 issued by the board to persons or firms under Sections 34-1-5,
17 34-1-6, and 34-1-9, if all offices of those certificate
18 holders or registrants are maintained and registered as
19 required under Section 34-1-10. There shall be an annual
20 permit fee for each certificate holder under Section 34-1-4,
21 each registrant under Section 34-1-8, and each firm in an
22 amount to be determined by the board. All permits shall expire
23 on September 30 of each year and may be renewed annually for a
24 period of one year. The application for renewal and annual
25 renewal fee shall be filed with this board no later than
26 December 31 following the expiration date. The board may also
27 charge a late renewal penalty on or after January 1 following

1 the expiration date in an amount set by the board which is
2 graduated depending on the length of time the renewal is
3 delinquent.

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

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

20 "(2) If, upon receipt of the notification, the board
21 determines that the certified public accountant or public
22 accountant is not engaged in public accounting, the certified
23 public accountant or public accountant shall be permitted to
24 retain his or her initial registration or certificate by
25 paying an annual registration fee in an amount as the board
26 shall, from time to time, determine. ~~Effective October 1,~~
27 ~~2007, certified~~ Certified public accountants or public

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

15 "(c) Every application for renewal of an annual
16 permit to practice by any person who holds a certificate as a
17 certified public accountant or who is a registrant under
18 Section 34-1-8 shall be accompanied or supported by any
19 evidence the board prescribes of satisfaction of its
20 continuing education requirements during the preceding year.
21 Failure by an applicant for renewal of an annual permit to
22 furnish the evidence shall constitute grounds for revocation,
23 suspension, or refusal to renew the permit in a proceeding
24 under Section 34-1-12, unless the board determines the failure
25 to have been due to reasonable cause. The board may renew an
26 annual permit to practice despite failure to furnish evidence
27 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~~ Six months from the expiration date of the permit
20 to practice last obtained or renewed pursuant to subsection
21 (a); (2) ~~one year~~ six months from the expiration date of the
22 last annual renewal of his or her certificate pursuant to
23 subsection (b); or (3) ~~one year~~ six months from the date upon
24 which the certificate holder or registrant was granted his or
25 her certificate or registration, if no permit was ever issued
26 to him or her under subsection (a) or his or her name was
27 never placed on the board's inactive roll under subsection

1 (b), it shall deprive him or her of the right to apply for a
2 permit or inactive status, and shall constitute grounds for
3 revocation or suspension of the holder's certificate, unless
4 the board determines the failure to have been due to
5 reasonable cause. In that case, the board may impose a
6 reinstatement fee not to exceed one hundred dollars (\$100),
7 plus the total annual registration fees and late renewal
8 penalties which the certified public accountant or public
9 accountant would have paid under this chapter during the
10 period when neither a permit nor inactive status was
11 maintained. The board may also charge an inactive status
12 penalty in an amount set by the board which is graduated for
13 the time of the inactivity.

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

17 "§34-1-12.

18 "(a) After notice and hearing as provided in Section
19 34-1-14, the board may suspend for a period not to exceed
20 three years or revoke any certificate issued under Section
21 34-1-4, or any registration granted under Section 34-1-5 or
22 34-1-8, or any practice privilege granted pursuant to Section
23 34-1-7; may revoke, suspend, or refuse to renew any permit
24 issued under Section 34-1-11; or may censure the holder of any
25 permit or any practice privilege for any one or any
26 combination of the following causes:

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

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

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

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

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

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

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

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

23 "(9) Failure to be legally present in this state, or
24 to become a citizen of the United States within six years by
25 any person not a citizen of the United States when he or she
26 received a certificate as a certified public accountant or was
27 registered as a public accountant under this chapter.

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

4 "a. ~~One year~~ Six months from the expiration date of
5 the permit to practice last obtained or renewed pursuant to
6 Section 34-1-11(a).

7 "b. ~~One year~~ Six months from the expiration date of
8 the last annual renewal of his or her certificate pursuant to
9 Section 34-1-11(b).

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

17 "(11) Conduct discreditable to the public accounting
18 profession.

19 "(12) Failure of a certificate holder or registrant
20 to furnish evidence of satisfaction of requirements of
21 continuing education as required by the board pursuant to
22 Section 34-1-11 or to meet any conditions in respect of
23 continuing education which the board may have ordered with
24 respect to the certificate holder under that section.

25 "(13) Failure to comply with the provisions and
26 requirements of the board's peer review program.

1 "(14) Failure to comply with this chapter or rules
2 promulgated by the board under this chapter or failure to
3 comply with professional standards.

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

7 "(b) In addition to the disciplinary powers granted
8 pursuant to subsection (a), the board may singly, or in
9 combination with any other disciplinary action, levy and
10 collect administrative fines for violations of this chapter or
11 the rules and regulations of the board of not more than five
12 thousand dollars (\$5,000) for each violation."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.