

CERTIFIED PUBLIC ACCOUNTANT LICENSING ACT

58-26a-101. Short title.

This chapter is known as the "Certified Public Accountant Licensing Act."

58-26a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Accounting experience" means applying accounting and auditing skills and principles that are taught as a part of the professional education qualifying a person for licensure under this chapter and generally accepted by the profession, under the supervision of a licensed certified public accountant.
- (2) "AICPA" means the American Institute of Certified Public Accountants.
- (3) (a) "Attest and attestation engagement" means providing any or all of the following financial statement services:
 - (i) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
 - (ii) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);
 - (iii) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); or
 - (iv) an engagement to be performed in accordance with the standards of the PCAOB.
- (b) The standards specified in this definition shall be adopted by reference by the division under its rulemaking authority in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be those developed for general application by recognized national accountancy organizations such as the AICPA and the PCAOB.
- (4) "Board" means the Utah Board of Accountancy created in Section 58-26a-201.
- (5) "Certified Public Accountant" or "CPA" means an individual currently licensed by this state or any other state, district, or territory of the United States of American to practice public accountancy or who has been granted a license as a certified public accountant under prior law or this chapter.
- (6) "Certified Public Accountant firm" or "CPA firm" means a qualified business entity holding a valid registration as a Certified Public Accountant firm under this chapter.
- (7) "Client" means the person who retains a licensee for the performance of one or more of the services included in the definition of the practice of public accountancy. "Client" does not include a CPA's employer when the licensee works in a salaried or hourly rate position.
- (8) "Compilation" means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presenting in the form of financial statements, information that is the representation of management or owners, without undertaking to express any assurance on the statements.
- (9) "Experience" means:
 - (a) accounting experience;
 - (b) professional experience.
- (10) "Licensee" means the holder of a current valid license under this chapter.
- (11) "NASBA" means the National Association of State Boards of Accountancy.
- (12) "PCAOB" means the Public Company Accounting Oversight Board.
- (13) "Practice of public accounting" means the offer to perform or the performance by a person holding himself out as a certified public accountant of one or more kinds of services involving the use of auditing or accounting skills

- performing attestation engagements, the performance of one or more kinds of advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters for a client.
- (14) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a person or qualified business entity in the practice of public accountancy, by a licensee or any other qualified person in accordance with rules adopted pursuant to this chapter and who is not affiliated with the person or qualified business entity being reviewed.
- (15) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and licensure by endorsement.
- (16) "Professional experience" means experience lawfully obtained while licensed as a certified public accountant in another jurisdiction, recognized by rule, in the practice of public accountancy performed for a client, which includes expression of assurance or opinion.
- (17) "Qualified business entity" means a sole proprietorship, corporation, limited liability company, or partnership engaged in the practice of public accountancy.
- (18) "Qualified continuing professional education" means a formal program of education that contributes directly to the professional competence of a certified public accountant.
- (19) "Qualifying examinations" means:
- (a) the AICPA Uniform CPA Examination;
 - (b) the AICPA Examination of Professional Ethics for CPAs;
 - (c) the Utah Laws and Rules Examination; and
 - (d) any other examination approved by the board and adopted by the division by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (20) (a) "Report" means:
- (i) when used with reference to financial statements, an opinion, report or other form of language that:
 - (A) states or implies assurance as to the reliability of any financial statements; or
 - (B) implies that the person or firm issuing it has special knowledge or competence in accounting or auditing and specifically includes compilations and reviews; such an implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is a public accountant or auditor, or from the language of the report itself; or
 - (ii) any disclaimer of opinion when it is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or language suggesting special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.
- (b) "Report" does not include a financial statement prepared by an unlicensed person if:
- (i) that financial statement has a cover page which includes essentially the following language: "I (we) have prepared the accompanying financial statements of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing, in the form of financial statements, information that is the representation of management (owners). I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other

- (ii) the cover page and any related footnotes do not use the terms "compilation," "review," "audit," "generally accepted auditing standards," "generally accepted accounting principles," or other similar terms.
- (21) "Review of financial statements" means performing inquiry and analytical procedures which provide a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting; and, the issuance of a report on the financial statements stating that a review was performed in accordance with the standards established by the American Institute of Certified Public Accountants.
- (22) (a) "Substantial equivalency" means a determination by the division in collaboration with the board or its designee that:
 - (i) the education, examination, and experience requirements set forth in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act; or
 - (ii) an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act.
- (b) In ascertaining whether an individual's qualifications are substantially equivalent as used in this chapter, the division in collaboration with the board shall take into account the qualifications without regard to the sequence in which the education, examination, and experience requirements were attained.
- (23) "Uniform Accountancy Act" means the model public accountancy legislation developed and promulgated by national accounting and regulatory associations that contains standardized definitions and regulations for the practice of public accounting as recognized by the division in collaboration with the board.
- (24) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-26a-501.
- (25) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-26a-502 and as may be further defined by rule.
- (26) "Year of experience" means 2,000 hours of cumulative experience.

Part 2 - Board

58-26a-201. Board.

- (1) There is created the Utah Board of Accountancy consisting of four licensed certified public accountants and one member of the general public.
- (2) The board shall be appointed and shall serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

58-26a-301. Licensure or registration required - License and registration classifications.

- (1) (a) A license is required for an individual to engage in the practice of public accounting, except as specifically provided in Section 58-26a-305 or 58-1-307.
- (b) Registration with the division is required for a qualified business entity to engage in the practice of public accounting, except as specifically provided in Section 58-26a-305 or 58-1-307.
- (2) (a) The division shall issue to an individual who qualifies under this chapter a license in the classification of Certified Public Accountant.
- (b) The division shall issue to a qualified business entity which qualifies under this chapter a registration in the classification of Certified Public Accountant Firm.

58-26a-302. Qualifications for licensure and registration - Licensure by endorsement - Transitional provisions.

- (1) Each applicant for licensure under this chapter as a certified public accountant shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-303;
 - (c) show evidence of good moral character;
 - (d) submit a certified transcript of credits from an accredited institution acceptable to the board showing:
 - (i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate level education with a concentration in accounting, auditing, and business;
 - (ii) a baccalaureate degree or its equivalent at a college or university approved by the board; and
 - (iii) compliance with any other education requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (e) submit evidence of one year of accounting experience in a form prescribed by the division;
 - (f) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and
 - (g) submit to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure.
- (2) (a) The division may issue a license under this chapter to a person who holds a license as a certified public accountant issued by any other jurisdiction of the United States of America if the applicant for licensure by endorsement:
 - (i) submits an application in a form prescribed by the division;
 - (ii) pays a fee determined by the department under Section 63J-1-303;
 - (iii) shows evidence of good moral character;
 - (iv) submits to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure; and
 - (v) (A) (I) shows evidence of having passed the qualifying examinations; and
 - (II) (Aa) meets the requirements for licensure which were applicable in this state at the time of the issuance of the applicant's license by the jurisdiction from which the original licensure

58-26a-304. Continuing education.

- (1) As a condition precedent for a license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by rule, complete 80 hours of qualified continuing professional education in accordance with standards defined by rule.
- (2) If a renewal cycle is extended or shortened under Section 58-26a-303, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.
- (3)
 - (a) A licensee may request a waiver of the requirements of Subsection (1) for a period not exceeding three years by:
 - (i) submitting an application for waiver in a form approved by the division; and
 - (ii) demonstrating that the licensee will be engaged in activities or be subject to circumstances which prevent the licensee from meeting the requirements of Subsection (1) during the period of the waiver.
 - (b) An application for waiver shall be granted upon a showing of good cause.
 - (c) A licensee who is granted a waiver under this section shall complete 30 hours of continuing professional education within the six months immediately following the expiration of the waiver that includes at least 16 hours of continuing professional education focusing on auditing and accounting.

58-26a-305. Exemptions from licensure.

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of public accountancy, subject to the stated circumstances and limitations, without being licensed under this chapter:
 - (a) a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under any other title while practicing in this state if:
 - (i) the person's principal place of business is not in this state; and
 - (A) the person's license as a certified public accountant is from any state which the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act; or
 - (B) the person's license as a certified public accountant is from a state which the NASBA National Qualification Appraisal Service has not verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person obtains from the NASBA National Qualification Appraisal Service verification that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and Subsection 58-26a-302(1)(d)(i); and
 - (ii) the person consents, as a condition of the grant of this privileges:
 - (A) to personal and subject matter jurisdiction and disciplinary authority of the division;
 - (B) to comply with this chapter and the rules made under this

- (C) that in the event the license from the state of the person's principal place of business becomes invalid, the person shall cease offering or rendering professional services in this state both individually and on behalf of the firm; and
 - (D) to the appointment of the state board which issued the person's license as the person's agent upon whom process may be served in an action or proceeding brought by the division against the licensee;
- (b) through December 31, 2012, a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under another title while practicing in this state if:
 - (i) the person does not qualify for a practice privilege under Subsection (1) (a);
 - (ii) the practice is incidental to the person's regular practice outside of this state; and
 - (iii) the person's temporary practice within the state is in conformity with this chapter and the rules established under this chapter.
- (c) an officer, member, partner, or employee of any entity or organization who signs any statement or report in reference to the financial affairs of the entity or organization with a designation of that person's position within the entity or organization;
- (d) a public official or employee while performing his official duties;
- (e) a person using accounting or auditing skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or
- (f) an employee of a CPA firm registered under this chapter or an assistant to a person licensed under this chapter, working under the supervision of a licensee, if:
 - (i) neither the employee or assistant nor the licensed employer or registered CPA firm represents that the unlicensed person is a certified public accountant; and
 - (ii) no accounting or financial statements are issued over the unlicensed person's name.
- (2) (a) Notwithstanding any other provision of law, a person who qualifies under Subsection (1) (a) has all the privileges of a licensee of this state and may engage in acts included within the definition of the practice of public accountancy, whether in person or by mail, telephone, or electronic means, based on a practice privilege in this state, and no notice, fee, or other submission shall be provided by that person.
- (b) The division may revoke, suspend, or restrict an exemption granted under Subsection (1) (a) or (b), or place on probation or issue a public or private reprimand to a person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

58-26a-306. Examination requirements.

- (1) Before taking the qualifying examinations, an applicant shall:
 - (a) submit an application in a form approved by the division;
 - (b) pay a fee determined by the department under Section 63J-1-303;
 - (c) demonstrate completion of the education requirement in Subsection 58-26a-302(1) (d); and
 - (d) be approved by the board to take the qualifying examinations.
- (2) A person must sit for and meeting the conditioning requirements of the AICPA

58-26a-307. CPA emeritus status - Renewal of license.

- (1) A person currently licensed as a certified public accountant may, on any renewal date of that license, apply for and obtain a transfer of that license to a status of CPA emeritus registration if:
 - (a) (i) the licensee is at least 60 years of age as of the date of renewal;
 - (ii) the licensee is disabled; or
 - (iii) the board finds other good cause for believing that the licensee will not return to the practice of public accountancy;
 - (b) the licensee makes application for transfer of status and registration and pays a registration fee determined by the department under Section 63J-1-303;
 - (c) the licensee, on application for transfer, certifies that the licensee will not engage in the practice of public accountancy while in the status of CPA emeritus registration; and
 - (d) the licensee is in good standing as a CPA and not subject to any order of revocation, suspension, or probation.
- (2) Each CPA emeritus registration shall be issued in accordance with a two-year renewal cycle established by rule.
 - (3) CPA emeritus registrants may not engage in the practice of public accountancy.
 - (4) CPA emeritus registrants are not required to fulfill the continuing professional education or peer review provisions of this chapter.
 - (5) Each CPA emeritus registrant is responsible for renewing the registration, according to procedures that the division establishes by rule in collaboration with the board in accordance with Section 58-1-308.
 - (6) A CPA emeritus registrant may reinstate the CPA license by:
 - (a) submitting an application in a form prescribed by the division;
 - (b) paying a fee determined by the department under Section 63J-1-303; and
 - (c) showing evidence of having completed the continuing professional education requirement established by rule.

Part 4 - License Denial and Discipline

58-26a-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of any licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct

58-26a-501. Unlawful conduct.

"Unlawful conduct" includes:

- (1) using "certified public accountant," "public accountant," "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless that person:
 - (a) has a current license as a certified public accountant issued under this chapter; or
 - (b) qualifies for a practice privilege as provided for in Subsection 58-26a-305(1);
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- (2) a firm assuming or using "certified public accountant," "CPA," or any other

title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless each office of the firm in this state:

- (a) is registered with the division; and
 - (b) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);
- (3) signing or affixing to any accounting or financial statement the person's name or any trade or assumed name used in that person's profession or business, with any wording indicating that the person is an auditor, or with any wording indicating that the person has expert knowledge in accounting or auditing, unless that person is licensed under this chapter and all of the person's offices in this state for the practice of public accountancy are maintained and registered as provided in this chapter; and
- (4) except as provided in Section 58-26a-305, engaging in the following conduct if not licensed under this chapter to practice public accountancy:
- (a) issuing a report on financial statements of any other person, firm, organization, or governmental unit; or
 - (b) issuing a report using any form of language substantially similar to conventional language used by licensees respecting:
 - (i) a review of financial statements; or
 - (ii) a compilation of financial statements.

58-26a-502. Unprofessional conduct.

- (1) "Unprofessional conduct" includes:
- (a) undertaking an engagement when the licensee knows or should know that the licensee could not reasonably expect to complete it with professional competence;
 - (b) making unauthorized disclosures of confidential information obtained in the practice of public accountancy;
 - (c) engaging in any business or activity that creates a conflict of interest with a licensee's practice in the profession when the licensee knows or should know that it is a conflict of interest and the licensee does not fully disclose the conflict of interest in writing to all affected parties;
 - (d) failing to meet the requirements for continuing professional education or peer review required under this chapter; or
 - (e) issuing a report on financial statements of a client, other than a report in which a lack of independence is disclosed, or performing an attest engagement subject to the attestation standards of the American Institute of Certified Public Accountants when the licensee is not independent, in fact and appearance, to the client.
- (2) (a) A licensee may not, for a commission, recommend or refer to a client a product or service, or for a commission recommend or refer a product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:
- (i) an audit or review of a financial statement;
 - (ii) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
 - (iii) an examination of prospective financial information.
- (b) The prohibition under Subsection (2)(a) applies during:
- (i) the period in which the licensee is engaged to perform any of the services listed in Subsection (2)(a); and
 - (ii) the period covered by any historical financial statements involved in any such listed services.
- (c) A licensee who is not prohibited under Subsection (2)(a) from

expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

- (d) A licensee who accepts a referral fee for recommending or referring a service of a licensee to a person or entity or who pays a referral fee to obtain a client shall disclose the acceptance or payment to the client.
- (3) (a) A licensee may not:
 - (i) perform for a contingent fee a professional service for, or receive a contingent fee from a client for whom the licensee or the licensee's firm performs:
 - (A) an audit or review of a financial statement;
 - (B) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
 - (C) an examination of prospective financial information; or
 - (ii) prepare an original or amended tax return or claim for a tax refund for a contingent fee for a client.
- (b) The prohibition in Subsection (3)(a) applies during:
 - (i) the period in which the licensee is engaged to perform any of the services listed in Subsection (3)(a); and
 - (ii) the period covered by any historical financial statements involved in the listed services.
- (c) Except as stated in Subsections (3)(d) and (e), a contingent fee is a fee established for the performance of a service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service.
- (d) Solely for the purposes of this Subsection (3), fees are not regarded as being contingent if fixed by courts or other public authorities, or in tax matters, if determined based on the results of judicial proceedings or the findings of a governmental agency.
- (e) A licensee's fee may vary depending, for example, on the complexity of service rendered.

Part 6 - Regulatory and Operating Standards

58-26a-601. Ownership of statements, records, schedules, working papers, and memoranda made by licensee.

- (1) All statements, records, schedules, working papers, and memoranda made by a licensee under this chapter, incident to or in the course of professional service to a client, are the property of the licensee, in the absence of any express agreement between the licensee and the client to the contrary.
- (2) A licensee may not sell, trade, or bequeath statements, records, schedules, working papers, or memoranda without the consent of the client or the client's personal representative or assignee to anyone other than another licensee or one or more surviving partners or shareholders or new partners or shareholders of the licensee or any combined or merged CPA firm or successors-in-interest to the CPA firm.

58-26a-602. Privity.

A licensee, a CPA firm registered under this chapter, and any employee, partner, member, officer, or shareholder of a licensee or CPA firm are not liable to persons

with whom they are not in privity of contract for civil damages resulting from

acts, omissions, decisions, or other conduct in connection with professional services performed by that person, except for:

- (1) acts, omissions, decisions, or conduct that constitute fraud or intentional misrepresentations; or
- (2) other acts, omissions, decisions, or conduct, if the person performing the professional services:
 - (a) knew that a primary intent of the client was for the professional services to benefit or influence the particular person seeking to establish liability; and
 - (b) identified in writing to the client that the professional services performed on behalf of the client were intended to be relied upon by the particular person seeking to establish liability.

**CERTIFIED PUBLIC ACCOUNTANT
LICENSING ACT**

**Title 58, Chapter 26a
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