

By: Howard

H.B. No. 843

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a license to a firm to practice public
accountancy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 901.354, Occupations Code, is amended to
read as follows:

Sec. 901.354. FIRM LICENSE INFORMATION AND
ELIGIBILITY. (a) An applicant for initial issuance or renewal of
a firm license must show that ~~[a majority of]~~ the ownership of the
firm, in terms of financial interests and voting rights, belongs
only to persons who hold certificates issued under this chapter or
are licensed in another state. ~~[A firm and its owners shall comply
with board rules regardless of whether the firm includes owners who
are not license holders.]~~

(b) ~~[A certified public accountancy firm may include
individuals as owners who are not license holders if:~~

~~[(1) the firm designates to the board a license holder
who resides in this state to be responsible for the firm's firm
license and the supervision of the firm,~~

~~[(2) each owner who is not a license holder and who is
a resident of this state as determined by board rule:~~

~~[(A) is actively involved in the firm or an
affiliated entity,~~

~~[(B) is of good moral character as demonstrated~~

1 ~~by a lack of history of dishonest or felonious acts,~~

2 ~~[(C) holds a baccalaureate or graduate degree~~
3 ~~conferred by a college or university acceptable to the board or~~
4 ~~equivalent education as determined by the board,~~

5 ~~[(D) maintains any professional designation held~~
6 ~~by the individual in good standing with the appropriate~~
7 ~~organization or regulatory body that is identified or used in an~~
8 ~~advertisement, letterhead, business card, or other firm-related~~
9 ~~communication,~~

10 ~~[(E) has passed an examination on the rules of~~
11 ~~professional conduct as determined by board rule,~~

12 ~~[(F) complies with the rules of professional~~
13 ~~conduct as determined by board rule, and~~

14 ~~[(G) maintains professional continuing education~~
15 ~~applicable to license holders as required by board rule, and~~

16 ~~[(3) the firm and the owners who are not license~~
17 ~~holders comply with board disciplinary actions and other~~
18 ~~requirements the board may impose by rule.~~

19 ~~[(c) The board by rule may adopt a system to investigate the~~
20 ~~background of individual owners who are not license holders under~~
21 ~~this chapter.~~

22 ~~[(d) The board may obtain criminal history record~~
23 ~~information maintained by the Department of Public Safety, the~~
24 ~~Federal Bureau of Investigation identification division, and other~~
25 ~~law enforcement agencies to investigate the qualifications of an~~
26 ~~individual who is not a license holder under this chapter.~~

27 ~~[(e) The board may require an individual who is not a~~

~~license holder under this chapter to submit a complete set of fingerprints. If the individual does not provide the complete set of fingerprints on request, the board may refuse to allow that individual to become an owner of a certified public accountancy firm and may cancel or refuse to issue or renew a firm license to the firm.~~

~~(f)~~ An applicant for issuance or renewal of a firm license under this section must register each office of the firm and show that all attest services performed in this state and each office in this state are under the supervision of a person who holds a certificate issued under this chapter or by another state.

(c) ~~(g)~~ An application for a firm license under this chapter must be made on an affidavit of the owner, an officer, or the general partner of the firm, as applicable, stating:

- (1) the name of the firm;
- (2) the firm's post office address in this state;
- (3) the address of the firm's principal office;
- (4) the address of each office of the firm in this state;
- (5) the name of the resident manager of each office of the firm in this state; and
- (6) the name, residence, and post office address of:
 - (A) each partner, member, shareholder, or other owner; and
 - (B) if the firm is a partnership, each shareholder of a partner that is a professional corporation.

(d) ~~(h)~~ A sole proprietorship is eligible for a firm

1 license if the sole proprietor and each resident manager of an
2 office of the sole proprietorship in this state are certified
3 public accountants in good standing.

4 (e) [~~(i)~~] The board shall determine whether an applicant is
5 eligible for a firm license under this section. The board by rule
6 shall define "good standing" for purposes of this section.

7 (f) [~~(j)~~] A certified public accountancy firm shall notify
8 the board not later than the 31st day after the date on which
9 information in the affidavit is changed, including information
10 regarding the admission or withdrawal of an owner or resident
11 manager.

12 (g) [~~(k)~~] A certified public accountancy firm that is no
13 longer in compliance with this section because of a change in firm
14 ownership or personnel that occurs after the firm receives or
15 renews a firm license shall report that fact to the board not later
16 than the 30th day after the date the firm ceases to be in compliance
17 and shall take corrective action to bring the firm into compliance.
18 Failure to bring the firm into compliance within a reasonable time
19 as determined by board rule is grounds for the suspension or
20 revocation of the firm's firm license.

21 SECTION 2. Section 901.502, Occupations Code, is amended to
22 read as follows:

23 Sec. 901.502. GROUNDS FOR DISCIPLINARY ACTION. The board
24 may discipline a person under Section 901.501 for:

25 (1) fraud or deceit in obtaining a certificate, firm
26 license, or license under this chapter;

27 (2) fraud, dishonesty, or gross negligence in the

1 performance of services as a license holder, including:

2 (A) knowingly participating in the preparation
3 of a false or misleading financial statement or tax return; or

4 (B) failing to file the license holder's own
5 income tax return;

6 (3) the failure of a person who is certified or
7 required to hold a firm license under this chapter to obtain a
8 license not later than the third anniversary of the date on which
9 the person was certified or required to obtain a firm license;

10 (4) the failure of a person who is licensed under this
11 chapter to renew the license not later than the third anniversary of
12 the date on which the person most recently obtained or renewed the
13 license;

14 (5) a violation of Subchapter J;

15 (6) a violation of a rule of professional conduct
16 adopted by the board;

17 (7) a revocation or suspension of the certificate or
18 firm license or a revocation, suspension, or refusal to renew the
19 license of the person's partner, member, or shareholder;

20 (8) a revocation, cancellation, placement on
21 probation, limitation on the scope of practice, or suspension by
22 another state, or a refusal of renewal by another state, of the
23 authority issued by that state to the person, or to the person's
24 partner, member, or shareholder, to engage in the practice of
25 public accountancy for a reason other than the failure to pay the
26 appropriate authorization fee;

27 (9) a revocation or suspension of, or a voluntary

1 consent decree concerning, the right of the person, or of the
2 person's partner, member, or shareholder, to practice before a
3 state or federal agency for a reason the board determines warrants
4 its action;

5 (10) a final conviction of or the imposition of
6 deferred adjudication for an offense under the laws of any state or
7 the United States that:

8 (A) is a felony; or

9 (B) includes fraud or dishonesty as an element of
10 the offense;

11 (11) conduct indicating lack of fitness to serve the
12 public as a professional accountant; or

13 (12) a violation by a license holder ~~[or an owner of a~~
14 ~~certified public accountancy firm who is not a license holder]~~ of:

15 (A) this chapter;

16 (B) professional standards adopted by the board;

17 or

18 (C) a rule or order adopted by the board.

19 SECTION 3. (a) This Act takes effect September 1, 2003.

20 (b) The change in law made by this Act to Section 901.354,
21 Occupations Code, applies only to an application by a firm for a
22 license to practice public accountancy filed on or after the
23 effective date of this Act. An application filed before the
24 effective date of this Act is governed by the law in effect on the
25 date the application is filed, and the former law is continued in
26 effect for that purpose.

27 (c) The eligibility of a firm that holds a license to

1 practice public accountancy on the effective date of this Act to
2 hold or renew that license is not affected by the change in law made
3 by this Act to Section 901.354, Occupations Code, and the former law
4 is continued in effect for the purpose of determining eligibility.

5 (d) The change in law made by this Act to Section 901.502,
6 Occupations Code, applies only to a certified public accountancy
7 firm that holds a license issued on or after the effective date of
8 this Act. A certified public accountancy firm that holds a license
9 issued before the effective date of this Act is governed by the law
10 in effect immediately before that date, and the former law is
11 continued in effect for that purpose.