

By: Flores

H.B. No. 2144

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of public accountancy by certain out-of-state license holders.

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

SECTION 1. Sections 901.002(4) and (5), Occupations Code, are amended to read as follows:

(4) "Certified public accountant" means a person who holds a certificate issued under this chapter or who practices in this state under Section 901.462.

(5) "Certified public accountancy firm" means a person who holds a firm license or a firm that practices in this state under Section 901.461.

SECTION 2. Section 901.251(a), Occupations Code, is amended to read as follows:

(a) A person who is an individual may not engage in the practice of public accountancy unless the person holds a certificate issued under this chapter or practices in this state under a privilege under Section 901.462.

SECTION 3. Section 901.351, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) A firm may not provide attest services or use the title "CPA's," "CPA Firm," "Certified Public Accountants," "Certified Public Accounting Firm," or "Auditing Firm" or a variation of one of

1 those titles unless the firm holds a firm license issued under this
2 subchapter or practices in this state under a privilege under
3 Section 901.461.

4 (a-1) A firm is required to hold a firm license under this
5 subchapter if the firm:

6 (1) establishes or maintains an office in this state;
7 or

8 (2) for an entity with its principal office in this
9 state, performs in this state:

10 (A) a financial statement audit or other
11 engagement in accordance with the Statements on Auditing Standards;

12 (B) an examination of prospective financial
13 information in accordance with the Statements on Standards for
14 Attestation Engagements; or

15 (C) an engagement in accordance with auditing
16 standards of the Public Company Accounting Oversight Board or its
17 successor.

18 (b) The board shall grant or renew a firm license to
19 practice as a certified public accountancy firm to:

20 (1) a firm that applies and demonstrates the necessary
21 qualifications in accordance with this subchapter; or

22 (2) a firm originally licensed as a certified public
23 accountancy firm in another state that:

24 (A) is required to hold a firm license under
25 Subsection (a-1) [~~establishes an office in this state~~]; and

26 (B) demonstrates the necessary qualifications in
27 accordance with this subchapter.

1 SECTION 4. Sections 901.354(b), (f), and (g), Occupations
2 Code, are amended to read as follows:

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

5 (1) the firm designates to the board as responsible
6 for the firm's license and the supervision of the firm:

7 (A) a license holder who resides in this state;
8 or

9 (B) an individual practicing under a privilege
10 under Section 901.462 if the firm consists only of individuals
11 practicing under a privilege under Section 901.462 [~~to be~~
12 ~~responsible for the firm's firm license and the supervision of the~~
13 ~~firm~~];

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

16 (A) is actively involved in the firm or an
17 affiliated entity;

18 (B) is of good moral character as demonstrated by
19 a lack of history of dishonest or felonious acts;

20 (C) holds a baccalaureate or graduate degree
21 conferred by a college or university acceptable to the board or
22 equivalent education as determined by the board;

23 (D) maintains any professional designation held
24 by the individual in good standing with the appropriate
25 organization or regulatory body that is identified or used in an
26 advertisement, letterhead, business card, or other firm-related
27 communication;

1 (E) has passed an examination on the rules of
2 professional conduct as determined by board rule;

3 (F) complies with the rules of professional
4 conduct as determined by board rule; and

5 (G) maintains professional continuing education
6 applicable to license holders as required by board rule; and

7 (3) the firm and the owners who are not license holders
8 comply with board disciplinary actions and other requirements the
9 board may impose by rule.

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

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

18 (1) the name of the firm;

19 (2) the firm's post office address in this state if the
20 firm has an office in this state;

21 (3) the address of the firm's principal office;

22 (4) the address of each office of the firm in this
23 state if the firm has an office in this state;

24 (5) the name of the resident manager of each office of
25 the firm in this state; and

26 (6) the name, residence, and post office address of:

27 (A) each partner, member, shareholder, or other

1 owner; and

2 (B) if the firm is a partnership, each
3 shareholder of a partner that is a professional corporation.

4 SECTION 5. Section 901.401(b), Occupations Code, is amended
5 to read as follows:

6 (b) Each office in this state of a certified public
7 accountancy firm or a firm of public accountants must hold a license
8 issued under this chapter.

9 SECTION 6. Section 901.405(f), Occupations Code, is amended
10 to read as follows:

11 (f) A person who was licensed in this state, moved to
12 another state, and is currently licensed and has been in practice in
13 the other state for the two years preceding the date of application
14 may obtain a new license without reexamination. A [The] person
15 described by this subsection whose license has been revoked under
16 Section 901.502(3) or (4) may obtain a new license under this
17 subsection. A person described by this subsection must pay to the
18 board a fee that is equal to two times the normally required renewal
19 fee for the license and is not subject to additional fees under
20 Section 901.408.

21 SECTION 7. Section 901.408(a), Occupations Code, is amended
22 to read as follows:

23 (a) A person, other than a person described by Section
24 901.405(f), who fails to pay the license renewal fee or the
25 additional fee imposed under Section 901.407, as applicable, and
26 any late fee before the first anniversary of the due date of the
27 renewal fee or additional fee may renew the person's license only by

1 submitting to the board an application for renewal accompanied by
2 payment of:

- 3 (1) all accrued fees, including late fees; and
4 (2) the direct administrative costs incurred by the
5 board in renewing the person's license.

6 SECTION 8. The heading to Subchapter J, Chapter 901,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER J. PRACTICE OF PUBLIC ACCOUNTANCY [~~BY LICENSE HOLDER~~]

9 SECTION 9. Section 901.451(b), Occupations Code, is amended
10 to read as follows:

11 (b) A person may not provide attest services or assume or
12 use the title "certified public accountants," the abbreviation
13 "CPAs," or any other title, designation, word, letter,
14 abbreviation, sign, card, or device tending to indicate that the
15 person is a certified public accountancy firm unless:

16 (1) the person holds a firm license issued under this
17 chapter or practices in this state under a privilege under Section
18 901.461;

19 (2) ownership of the person complies with the
20 requirements of this chapter and rules adopted by the board; and

21 (3) the person complies with board rules authorizing
22 the practice.

23 SECTION 10. Section 901.453(b), Occupations Code, is
24 amended to read as follows:

25 (b) A person may hold the person out to the public as an
26 "accountant," "auditor," or any combination of those terms or
27 assert that the person has expertise in accounting or auditing only

1 if:

2 (1) the person holds a license issued under this
3 chapter~~[+]~~ and

4 ~~[(2)]~~ each of the person's offices in this state for
5 the practice of public accounting is maintained and practices under
6 a firm license as required under Subchapter H; or

7 (2) the person practices under a privilege under
8 Section 901.461 or 901.462.

9 SECTION 11. Section 901.454(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person who is an accountant of another state may use
12 the title under which the accountant is generally known in the state
13 from which the accountant received a certificate, license, or
14 degree~~[, followed by the name of that state,]~~ if:

15 (1) the person holds a license issued under this
16 chapter or practices in this state under a privilege under Section
17 901.461 or 901.462; or [and]

18 (2) any [each] of the person's offices established or
19 maintained in this state for the practice of public accountancy are
20 licensed ~~[is maintained and practices under a firm license as~~
21 ~~required]~~ under this chapter ~~[Subchapter H].~~

22 SECTION 12. Section 901.455, Occupations Code, is amended
23 by adding Subsection (e) to read as follows:

24 (e) A firm that practices under Section 901.461 must use the
25 firm name that it uses in the state in which it is licensed and has
26 its principal place of business.

27 SECTION 13. Sections 901.456(a), (b), and (f), Occupations

1 Code, are amended to read as follows:

2 (a) Only a license holder or a person who practices under a
3 privilege under Section 901.461 or 901.462 may issue a report on a
4 financial statement of another person or otherwise perform or offer
5 to perform an attest service.

6 (b) A person who is not a license holder and who does not
7 practice under a privilege under Section 901.461 or 901.462:

8 (1) may not use language in any statement related to
9 the financial affairs of a person that is conventionally used by
10 license holders in reports on financial statements;

11 (2) may prepare financial statements; and

12 (3) may issue nonattest transmittals or information
13 regarding nonattest transmittals if the transmittals or
14 information do not purport to be in compliance with standards for
15 accounting and review services adopted by the American Institute of
16 Certified Public Accountants or another national accountancy
17 organization recognized by the board.

18 (f) A license holder or an individual who practices under a
19 privilege under Section 901.462 who performs attest services must
20 provide those services in accordance with standards adopted by the
21 American Institute of Certified Public Accountants or another
22 national accountancy organization recognized by the board.

23 SECTION 14. Section 901.460(b), Occupations Code, is
24 amended to read as follows:

25 (b) An individual who is a [A] license holder or practices
26 under a privilege under Section 901.462 [who is an individual] and
27 who is responsible for supervising attest services or signs or

1 authorizes another person to sign an accountant's reports on
2 financial statements on behalf of a certified public accountancy
3 firm must meet the competency requirements of the professional
4 standards that apply to those services.

5 SECTION 15. Subchapter J, Chapter 901, Occupations Code, is
6 amended by adding Sections 901.461 and 901.462 to read as follows:

7 Sec. 901.461. PRACTICE BY CERTAIN OUT-OF-STATE FIRMS. (a)
8 A certified public accountancy firm that is licensed and has its
9 primary place of business in another state and is not required to
10 hold a firm license under Section 901.351(a-1) may practice in this
11 state without a firm license or notice to the board if the firm's
12 practice in this state is performed by an individual who holds a
13 license under this chapter or who practices under a privilege under
14 Section 901.462.

15 (b) A firm described by Subsection (a) may exercise all the
16 practice privileges of a firm license holder, except that the firm:

17 (1) may not perform the services described by Section
18 901.351(a-1); and

19 (2) may perform the services described by Sections
20 901.002(a)(1)(B) and (D) for an entity with its home office in this
21 state only if:

22 (A) the firm meets the requirements of Sections
23 901.354(a) and (b);

24 (B) the firm complies with the board's peer
25 review program under Section 901.159; and

26 (C) the services are performed by an individual
27 who holds a license under this chapter or practices under a

1 privilege under Section 901.462.

2 (c) A firm practicing under a privilege under this section,
3 as a condition of the privilege of practicing without a firm
4 license:

5 (1) is subject to the personal and subject matter
6 jurisdiction and disciplinary authority of the board;

7 (2) must comply with this chapter and board rules; and

8 (3) is considered to have appointed the regulatory
9 agency of the state that issued the firm's license as the firm's
10 agent on whom process may be served in any action or proceeding by
11 the board against the firm.

12 (d) A firm practicing under a privilege under this section
13 shall promptly cease offering or rendering professional services in
14 this state if the firm's license to practice as a certified public
15 accountancy firm in the state in which the firm's primary place of
16 business is no longer valid.

17 Sec. 901.462. PRACTICE BY OUT-OF-STATE PRACTITIONER WITH
18 SUBSTANTIALLY EQUIVALENT QUALIFICATIONS. (a) An individual who
19 holds a certificate or license as a certified public accountant
20 issued by another state and whose principal place of business is not
21 in this state may exercise all the privileges of certificate and
22 license holders of this state without obtaining a certificate or
23 license under this chapter if:

24 (1) the National Association of State Boards of
25 Accountancy's National Qualification Appraisal Service has
26 verified that the other state has education, examination, and
27 experience requirements for certification or licensure that are

1 comparable to or exceed the requirements for licensure as a
2 certified public accountant of The American Institute of Certified
3 Public Accountants/National Association of State Boards of
4 Accountancy Uniform Accountancy Act and the board determines that
5 the licensure requirements of that Act are comparable to or exceed
6 the licensure requirements of this chapter; or

7 (2) the individual obtains from the National
8 Association of State Boards of Accountancy's National
9 Qualification Appraisal Service verification that the individual's
10 education, examination, and experience qualifications are
11 comparable to or exceed the requirements for licensure as a
12 certified public accountant of The American Institute of Certified
13 Public Accountants/National Association of State Boards of
14 Accountancy Uniform Accountancy Act and the board determines that
15 the licensure requirements of that Act are comparable to or exceed
16 the licensure requirements of this chapter.

17 (b) An individual who meets the requirements of Subsection
18 (a)(1) or (2) and who offers or renders professional services in
19 person or by mail, telephone, or electronic means may practice
20 public accountancy in this state without notice to the board.

21 (c) An individual practicing under the privilege under this
22 section, as a condition of the privilege of practicing without a
23 certificate or license:

24 (1) is subject to the personal and subject matter
25 jurisdiction and disciplinary authority of the board;

26 (2) must comply with this chapter and the board's
27 rules; and

1 (3) is considered to have appointed the regulatory
2 agency of the state that issued the individual's certificate or
3 license as the agent on whom process may be served in any action or
4 proceeding by the board against the individual.

5 (d) An individual who practices under a privilege under this
6 section shall promptly cease offering or rendering professional
7 services in this state if the individual's certificate or license
8 in the state of the individual's principal place of business is no
9 longer valid.

10 (e) An individual practicing under this section must
11 practice through a firm that holds a license under this chapter if,
12 for an entity with its principal office in this state, the
13 individual performs:

14 (1) a financial statement audit or other engagement in
15 accordance with the Statements on Auditing Standards;

16 (2) an examination of prospective financial
17 information in accordance with the Statements on Standards for
18 Attestation Engagements; or

19 (3) an engagement in accordance with auditing
20 standards of the Public Company Accounting Oversight Board or its
21 successor.

22 SECTION 16. Sections 901.356 and 901.412, Occupations Code,
23 are repealed.

24 SECTION 17. This Act takes effect September 1, 2007.