

HOUSE BILL NO. 500

INTRODUCED BY A. HERTZ, G. HERTZ

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE BOARD OF PUBLIC ACCOUNTANTS AND THE LICENSED PRACTICE OF ACCOUNTING; REVISING QUALIFICATIONS FOR CERTAIN OWNERS OF ACCOUNTING FIRMS; REVISING REGISTRATION REQUIREMENTS FOR NONRESIDENT ACCOUNTANTS; AMENDING SECTIONS 37-50-101, 37-50-301, 37-50-325, 37-50-330, AND 37-50-335, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 37-50-101, MCA, is amended to read:

"37-50-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Affiliated entity" means an entity owned, leased, or controlled by a firm through common employment or any other service arrangement, including but not limited to financial or investment services, insurance, real estate, and employee benefits services.

(2) "Agreed-upon procedures engagement" means an engagement performed in accordance with applicable attestation standards and in which a firm or person is engaged to issue a written finding that:

- (a) is based on specific procedures that the specified parties agree are sufficient for their purposes;
- (b) is restricted to the specified parties; and
- (c) does not provide an opinion or negative assurance.

(3) "Attest" means providing the following services:

(a) an audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) a review of a financial statement to be performed in accordance with the statements on standards for accounting and review services;

(c) an examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements;

(d) an engagement to be performed in accordance with the auditing standards of the public company

1 oversight board; and

2 (e) an examination, other than an examination as provided in subsection (3)(c), a review, or an
 3 agreed-upon procedures engagement to be performed in accordance with the statements on standards for
 4 attestation engagements.

5 (4) "Board" means the board of public accountants provided for in 2-15-1756.

6 (5) "Compilation" means providing a service to be performed in accordance with statements on standards
 7 for accounting and review services that presents, in the form of financial statements, information that is the
 8 representation of owners without undertaking to express any assurance on the statements.

9 (6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

10 (7) "Firm" means a sole practice, sole proprietorship, partnership, professional corporation, or limited
 11 liability company engaged in the practice of public accounting.

12 ~~(8) "Home office" is the location specified by the client as the address where a service described in~~
 13 ~~37-50-325(4) is directed.~~

14 ~~(9)~~(8) "Peer review" means a board-approved study, appraisal, or review of one or more aspects of the
 15 attest or compilation work of a licensee of a registered firm in the practice of public accounting, by a person or
 16 persons who hold licenses in this or another jurisdiction and who are not affiliated with the person or firm being
 17 reviewed.

18 ~~(10)~~(9) "Practice of public accounting" means performing or offering to perform, by a person licensed as
 19 a certified public accountant or holding a practice privilege under 37-50-325, for a client or potential client one
 20 or more types of services involving the use of accounting or auditing skills, including:

21 (a) the issuance of reports or financial statements on which the public may rely;

22 (b) one or more types of management advisory or consulting services as determined by the board;

23 (c) the preparation of tax returns; or

24 (d) furnishing advice on tax matters.

25 ~~(11)~~(10) "Principal place of business" means the office location designated by the licensee for the
 26 purposes of substantial equivalency.

27 ~~(12)~~(11) "Satellite office" means a secondary location of a registered public accounting firm.

28 ~~(13)~~(12) "Substantial equivalency" or "substantially equivalent" means a determination by the board or
 29 its designee that the education, examination, and experience requirements contained in the statutes and rules
 30 of another jurisdiction are comparable to or exceed the education, examination, and experience requirements

1 contained in the Uniform Accountancy Act or subsequent acts or that an individual certified public accountant's
2 education, examination, and experience qualifications are comparable to or exceed the education, examination,
3 and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency,
4 the board shall take into account the qualifications without regard to the sequence in which the experience,
5 education, and examination requirements were attained."

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7 **Section 2.** Section 37-50-301, MCA, is amended to read:

8 **"37-50-301. Illegal use of title.** (1) It is not a violation of this chapter for a firm that is not registered
9 under 37-50-335 and that does not have an office in this state to provide its professional services and to practice
10 public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the exemption
11 requirements of 37-50-335(4).

12 (2) A person may not assume or use the title or designation "certified public accountant" or the
13 abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that
14 the person is a certified public accountant unless the person holds a current license as a certified public
15 accountant under this chapter or qualifies for the practice privilege under 37-50-325.

16 (3) A firm may not assume or use the title or designation "certified public accountant" or the abbreviation
17 "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the firm is
18 composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is registered as
19 required under 37-50-335 or meets the conditions to be exempt from registration as set forth in 37-50-335(4).

20 (4) A person or firm may not assume or use the title or designation "certified accountant", "chartered
21 accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or
22 designation likely to be confused with "certified public accountant", "licensed certified public accountant", or any
23 abbreviations likely to be confused with "CPA". However, a foreign accountant may use the title under which the
24 foreign accountant is generally known in the foreign country, followed by the name of the country from which the
25 foreign accountant's certificate, license, or degree was received, and a person who is licensed as an enrolled
26 agent by the internal revenue service may use the title "enrolled agent" or the abbreviation "EA".

27 (5) A person may not sign or affix a firm name with any wording indicating that it is a firm composed of
28 persons offering attest services and compilations unless the firm conforms to the requirements of 37-50-330 and
29 ~~is registered as required under 37-50-335.~~

30 (6) A person may not assume or use the title or designation "certified public accountant" in conjunction

1 with names indicating or implying that there is a firm or in conjunction with the designation "and company" or "and
2 co." or a similar designation if there is in fact no bona fide firm that has been formed subject to the provisions of
3 37-50-330 and ~~registered under~~ 37-50-335. However, it is lawful for a sole proprietor to continue the use of a
4 deceased's name in connection with the sole proprietor's business for a reasonable period of time after the death
5 of a former partner or co-owner."
6

7 **Section 3.** Section 37-50-325, MCA, is amended to read:

8 **"37-50-325. Practice privilege for nonresident certified public accountant -- rules.** (1) (a) A person
9 whose principal place of business is not in this state and who holds a valid license as a certified public accountant
10 from any state that the national association of state boards of accountancy's national qualification appraisal
11 service or a successor organization has verified to be in substantial equivalence with the certified public
12 accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute
13 of certified public accountants/national association of state boards of accountancy is presumed to have
14 qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding
15 a license of this state without the need to obtain a license under 37-50-302.

16 (b) A person who offers or renders professional services under this section, whether in person, by mail,
17 by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other
18 submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection
19 (1).

20 (2) (a) A person whose principal place of business is not in this state and who holds a valid license as
21 a certified public accountant from any state that the national association of state boards of accountancy's national
22 qualification appraisal service or a successor organization has not verified to be in substantial equivalence with
23 the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the
24 American institute of certified public accountants/national association of state boards of accountancy is presumed
25 to have qualifications substantially equivalent to this state's requirements and has all the privileges of persons
26 holding a license of this state without the need to obtain a license under 37-50-302 if the person obtains
27 verification from the national association of state boards of accountancy's national qualification appraisal service
28 that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform
29 Accountancy Act of the American institute of certified public accountants/national association of state boards of
30 accountancy.

1 (b) A person who has passed the uniform certified public accountant examination and holds a valid
 2 license issued by any other state prior to January 1, 2012, is exempt from the education requirements in the
 3 Uniform Accountancy Act or a subsequent act for purposes of this subsection (2).

4 (c) A person who offers or renders professional services under this subsection (2), whether in person,
 5 by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or
 6 other submission is required unless the person is ~~registered~~ required to register pursuant to 37-50-335. The
 7 person is subject to the requirements of subsections (3) and (4) and this subsection (2).

8 (3) A licensee of another state exercising the privilege under this section and the firm that employs that
 9 person, as a condition of the grant of this privilege:

10 (a) are subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

11 (b) shall comply with this chapter and the board's rules;

12 (c) shall cease offering or rendering professional services in this state individually or on behalf of a firm
 13 if the license from the state of the person's principal place of business is no longer valid; and

14 (d) shall accept the appointment of the state board that issued the license as the agent upon whom
 15 process may be served in any action or proceeding by the board of public accountants against the licensee.

16 (4) A person who has been granted practice privileges under this section and who, for any client with
 17 its home office in this state, performs any attest services or compilations may do so only through a firm ~~registered~~
 18 under in compliance with 37-50-335."

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20 **Section 4.** Section 37-50-330, MCA, is amended to read:

21 **"37-50-330. Compliance with ownership requirements -- firm registration.** (1) A firm composed of
 22 certified public accountants that is engaged in the practice of public accounting may include persons who are not
 23 licensed as certified public accountants if:

24 (a) the firm designates an accountant who is licensed in this state or, in the case of a firm that practices
 25 under the practice privilege pursuant to 37-50-335, a licensee of another state who meets the requirements set
 26 out in 37-50-325(1) or (2) to be responsible for the proper registration of the firm;

27 (b) a simple majority of ownership in the firm, in terms of equity and voting rights, is held by accountants
 28 who are licensed in this state or in another substantially equivalent jurisdiction or meet the requirements of
 29 37-50-325; and

30 (c) all persons with an ownership interest in the firm are of good moral character and individuals actively

1 participating in the business of the firm or its affiliated entities.

2 (2) An accountant licensed in this state or a person qualifying for practice privileges under 37-50-325
3 who holds an ownership interest in a firm, who is responsible for supervising attest or compilation services, and
4 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm
5 is responsible for all attest or compilation services.

6 (3) A person licensed in this state and a person qualifying for practice privileges under 37-50-325 who
7 signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm must
8 meet the competency requirements of 37-50-203(2)(a).

9 (4) (a) A firm that is no longer in compliance with the ownership requirements of subsection (1)(b) shall
10 give notice to the board within 90 days of the noncompliance.

11 (b) The board shall grant the firm a reasonable amount of time to reestablish compliance with the
12 ownership requirements of subsection (1)(b). The time granted by the board to a firm to reestablish compliance
13 may not be less than 90 days from the date the board receives the firm's notice of noncompliance.

14 (c) The failure of a firm to reestablish compliance with the ownership requirements of subsection (1)(b)
15 is grounds for the board to suspend or revoke the firm's registration required by 37-50-335."
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17 **Section 5.** Section 37-50-335, MCA, is amended to read:

18 **"37-50-335. Registration of firms -- exemptions.** (1) All firms that establish or maintain offices in this
19 state for the practice of public accounting shall register annually with the department.

20 ~~(2) All firms that do not have an office in this state but perform attest services and compilations for a~~
21 ~~client having its home office in this state shall register annually with the department.~~

22 ~~(2)~~ (2) A fee may be charged for the annual registration of firms.

23 (3) Each firm that establishes or maintains satellite offices in this state for the practice of public
24 accounting shall provide a list of the location of each satellite office in this state at the time of annual registration.

25 (4) A firm that does not have an office in this state may use the title "CPA" or "CPA firm" in this state
26 without registering and may:

27 (a) offer or render attest services and compilations in this state if the firm:

28 (i) complies with the state's peer review and firm ownership qualifications;

29 (ii) performs the services through an individual with practice privileges under 37-50-325; and

30 (iii) has practice privileges that include offering or rendering attest and compilation services in the state

1 where the firm has its principal place of business;

2 ~~(4) A firm that is not subject to the requirements of subsection (2) may~~

3 ~~(b) perform other professional services while using the title "CPA" or "CPA firm" in this state without~~

4 ~~registering with the department only~~ other than attest services or compilations in this state if the firm:

5 ~~(a)(i) it performs the services through a person with practice privileges under 37-50-325; and~~

6 ~~(b)(ii) it can lawfully~~ has practice privileges to perform the services in the state where ~~persons with~~

7 ~~practice privileges have their~~ the firm has its principal place of business.

8 ~~(5) Each firm that establishes or maintains satellite offices in this state for the practice of public~~

9 ~~accounting shall provide a list of the location of each satellite office in this state at the time of annual registration."~~

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11 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2017.

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