

MAINE STATE LEGISLATURE

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L.D. 867

(Filing No. H-353)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 644, L.D. 867,
Bill, "AN ACT to Regulate the Profession of Account-
ing."

Amend the bill in section 2 in that part desig-
nated "§12201." by inserting after subsection 5 the
following:

'6. Licensee. "Licensee" means a person who holds a valid permit issued by the board under section 12251, or a firm which holds a valid permit issued by the board under section 12252.

7. Permit. "Permit" means a permit as granted by the board to practice public accountancy as provided under sections 12251 and 12252.'

Further amend the bill in section 2 in that part designated "§12201." by striking out all of subsection 6 and inserting in its place the following:

'6. Practice of or practicing public accountancy. "Practice of or practicing public accountancy" means the following combined activities by a person or firm:

A. Representing to the public that he or it is a licensee; and

B. Performing or offering to perform, for a client or potential client, services involving the use of accounting or auditing skills.

Accounting or auditing skills include the issuance of reports on financial statements, management advisory or consulting services, the preparation of tax returns and the furnishing of advice on tax matters.'

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1 Further amend the bill in section 2 in that part
2 designated "§12201." by striking out all of subsection
3 8 and inserting in its place the following:

4 '8. Report on financial statements. "Report on
5 financial statements" means any form of language
6 which:

7 A. States or implies assurance as to the reli-
8 ability of any financial statements; and

9 B. States or implies that an audit, review or
10 compilation has been performed.

11 Report on financial statements includes disclaimers
12 of opinions when the disclaimer implies positive as-
13 urance as to the reliability of the financial state-
14 ments. Language which meets this definition includes
15 language asserting or implying that the person has
16 given an opinion upon financial statements or has re-
17 viewed or made a compilation of financial statements
18 in accordance with the appropriate standards promul-
19 gated by the American Institute of Certified Public
20 Accountants as adopted by the board by rule or that
21 the person has the capabilities to comply with those
22 standards.'

23 Further amend the bill in section 2 in that part
24 designated "§12201." by renumbering the subsections to
25 read consecutively.

26 Further amend the bill in section 2 by inserting
27 before subchapter II the following:

28 '§12202. Unlicensed persons or firms

29 Anyone may practice accounting and engage in ser-
30 vices which involve accounting or auditing skills,
31 including management advisory or consulting services,
32 the preparation of tax returns and the furnishing of
33 advice on tax matters, provided that no one except a

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1 licensee may:

2 1. Represent or appear to represent that he is a
3 licensee as defined in section 12201, subsection 6;
4 or

5 2. Issue a report on financial statements as de-
6 finied in section 12201, subsection 10, except those
7 persons described in section 12275, subsection 1,
8 paragraphs A and B.'

9 Further amend the bill in section 2 in that part
10 designated "§12213." by striking out all of the 4th
11 and 5th underlined sentences (page 3, lines 34 to 42
12 and page 4, lines 1 and 2 in L.D.) and inserting in
13 their place the following: 'Three members shall be
14 holders of certificates issued under section 12252
15 and of currently valid permits issued under section
16 12251 and shall have had, as their principal occupa-
17 tion, active practice as certified public account-
18 ants for at least the 5 preceding years. One member
19 shall hold a certificate issued under section 12273,
20 currently valid permit issued under section 12251 and
21 shall have had, as his principal occupation, active
22 practice as a noncertified public accountant for at
23 least the 5 preceding years.'

24 Further amend the bill in section 2 in that part
25 designated "§12214." in subsection 1 in the 8th line
26 (page 4, line 29 in L.D.) by inserting after the fol-
27 lowing: "of business" the following: ', provided
28 that at least one of the 3 members present is the
29 public member or the member who is registered under
30 section 12273'

31 Further amend the bill in section 2 in that part
32 designated "§12214." in subsection 3 in the first line
33 (page 5, line 1 in L.D.) by striking out the follow-
34 ing: "The money is" and inserting in its place the
35 following: 'Money received are'

36 Further amend the bill in section 2 in that part

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1 designated "§12214. in subsection 5 in the first line
2 (page 5, line 22 in L.D.) by striking out the follow-
3 ing: "commission" and inserting in its place the
4 following: 'commissioner'

5 Further amend the bill in section 2 in that part
6 designated "§12228." in subsection 2 in the last line
7 (page 7, line 12 in L.D.) by inserting after the fol-
8 lowing: "right of appeal" the following: 'under the
9 Maine Administrative Procedure Act, Title 5, chapter
10 375'

11 Further amend the bill in section 2 in that part
12 designated "§12228." in subsection 4 by striking out
13 all of the first sentence (page 7, lines 19 to 25 in
14 L.D.) and inserting in its place the following: '
15 The examination to be passed as a condition for the
16 granting of a certificate shall be in writing, shall
17 be held twice a year and shall be the Uniform Certi-
18 fied Public Accountant Examination prepared by the
19 Board of Examiners of the American Institute of Cer-
20 tified Public Accountants.'

21 Further amend the bill in section 2 in that part
22 designated "§12228." in subsection 4 in the 7th and
23 8th lines from the end (page 7, lines 35 and 36 in
24 L.D.) by striking out the following: "Uniform Certi-
25 fied Public Accountant Examination and"

26 Further amend the bill in section 2 in that part
27 designated "§12228." in subsection 5 by striking out
28 all of paragraphs B to E and inserting in their place
29 the following:

30 'B. The applicant passes the remaining parts of
31 the examination within 6 consecutive examinations
32 given after the one at which the first parts were
33 passed; and

34 'C. At each subsequent sitting at which the ap-
35 plicant seeks to pass any additional parts, the
36 applicant writes all parts not yet passed.'

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1 Further amend the bill in section 2 in that part
2 designated "§12228." in subsection 10 in the last
3 line (page 9, line 20 in L.D.) by inserting after the
4 following "required." the following: 'To the extent
5 the applicant's experience is as an auditor engaged
6 in the examination of financial statements for the
7 Department of Audit or as a revenue agent or similar
8 position engaged in the examination of personal and
9 corporate income tax returns for the Bureau of Taxa-
10 tion, the applicant shall receive credit at the rate
11 of 50% toward the experience required by this subsec-
12 tion.'

13 Further amend the bill in section 2 in that part
14 designated "§12228." in subsection 11 in the first
15 line (page 9, line 21 in L.D.) by striking out the
16 following: "certified" and in the 5th line (page 9,
17 line 25 in L.D) by striking out the following: "them
18 to"

19 Further amend the bill in section 2 in that part
20 designated "§12240." in subsection 2 in the last line
21 (page 10, line 22 in L.D.) by inserting after the
22 following: "right of appeal" the following:
23 'pursuant to the Maine Administrative Procedure Act,
24 Title 5, chapter 375'

25 Further amend the bill in section 2 in that part
26 designated "§12240." in subsection 4 in the 14th line
27 (page 10, line 42 in L.D.) by inserting after the
28 following: "rule." the following: 'The examination
29 may include all or part of the examination of the Na-
30 tional Society of Public Accountants.'

31 Further amend the bill in section 2 in that part
32 designated "§12240." in subsection 7 in the last line
33 (page 11, line 39 in L.D.) by inserting at the end
34 the following: 'To the extent the applicant's experi-
35 ence is as an auditor engaged in the examination of
36 financial statements for the Department of Audit or
37 as a revenue agent or similar position engaged in the

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1 examination of personal and corporate income tax re-
2 turns for the Bureau of Taxation, the applicant shall
3 receive credit at the rate of 50% toward the experi-
4 ence required by this subsection.'

5 Further amend the bill in section 2 in that part
6 designated "§12251." in subsection 3 in paragraph B
7 in the 5th line (page 13, line 10 in L.D.) by strik-
8 ing out the following: "that has been"

9 Further amend the bill in section 2 in that part
10 designated "§12251." in subsection 4 in paragraph A
11 in the 2nd line (page 13, line 19 in L.D.) by insert-
12 ing after the following: "grades that" the follow-
13 ing: 'would'

14 Further amend the bill in section 2 in that part
15 designated "§12251." in subsection 4 in paragraph B
16 in subparagraph (2) in the 3rd line (page 13, line 28
17 in L.D.) by striking out the following: "those" and
18 inserting in its place the following: 'the'

19 Further amend the bill in section 2 in that part
20 designated "§12251." in subsection 5 by striking out
21 the first 2 sentences (page 14, lines 1 to 10 in
22 L.D.) and inserting in their place the following:
23 'An applicant for renewal of a permit under this sec-
24 tion shall show that he has fulfilled requirements of
25 continuing professional education consisting of not
26 less than 12 hours in each one-year period and not
27 less than 72 hours in any 3-year period. The board
28 shall establish by rule the number of hours of con-
29 tinuing professional education required in each one-
30 year period and 3-year period and shall not require
31 more than 120 hours in each 3-year period.'

32 Further amend the bill in section 2 in that part
33 designated "§12251." in subsection 5 in the 19th line
34 (page 14, line 19 in L.D.) by striking out the fol-
35 lowing: "substantially" and in the 22nd line (page
36 14, line 22 in L.D.) by striking out the following:
37 "substantially"

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1 Further amend the bill in section 2 in that part
2 designated "§12251." in subsection 9 in the 3rd line
3 (page 15, line 29 in L.D.) by striking out the fol-
4 lowing: "commission" and inserting in its place the
5 following: "commissioner"

6 Further amend the bill in section 2 in that part
7 designated "§12275." by striking out all of subsec-
8 tions 1 to 3 and inserting in their place the follow-
9 ing:

10 '1. Issuance of reports. No person or firm not
11 holding a valid permit issued under section 12251 or
12 12252 may issue a report, including reviews and com-
13 pilations, on financial statements of any other per-
14 son, firm, organization or governmental unit. This
15 prohibition does not apply to the following:

16 A. An officer, partner or employee of any firm
17 or organization affixing his signature to any
18 statement or report in reference to the financial
19 affairs of that firm or organization with any
20 wording designating the position, title or office
21 that he holds in the organization;

22 B. Any act of a public official or employee in
23 the performance of his duties as such; or

24 C. The performance by any person of other ser-
25 vices involving the use of accounting skills, in-
26 cluding management advisory or consulting ser-
27 vices, the preparation of tax returns, the fur-
28 nishing of advice on tax matters and the prepara-
29 tion of financial statements without the issuance
30 of reports.'

31 Further amend the bill in section 2 in that part
32 designated "§12275." in subsection 8 in the 9th line
33 (page 23, line 16 in L.D.) by striking out the fol-
34 lowing: "EA," "

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1 Further amend the bill in section 2 in that part
2 designated "§12275." by striking out all of subsection
3 9 and inserting in its place the following:

4 '9. Similar designation prohibited. No person
5 or firm not holding a valid permit issued under section
6 12251 or 12252 may assume or use any title or
7 designation that includes the words "auditor" or "au-
8 ditng" in connection with any other language, in-
9 cluding the language of a report, that implies that
10 the person or firm holds such a permit or has special
11 competence as an auditor, provided that this subsection
12 does not prohibit any officer, partner or em-
13 ployee of any firm or organization from affixing his
14 signature to any statement in reference to the finan-
15 cial affairs of that firm or organization with any
16 wording designating the position, title or office
17 that he holds in the firm or organization or prohibit
18 any act of a public official or employee in the per-
19 formance of his duties.'

20 Further amend the bill in section 2 in that part
21 designated "§12275." by renumbering the subsections
22 to read consecutively.

23 STATEMENT OF FACT

24 This amendment addresses various areas of the
25 bill.

26 In the definition section, it provides defini-
27 tions of "licensee" and "permit" which are used
28 throughout the bill numerous times. It also rede-
29 fines "practice of or practicing public accountancy"
30 and "report on financial statements" to clarify the
31 distinction between the services that may be provided
32 by an unlicensed person who provides accounting ser-
33 vices.

34 A section is added to the bill specifically to

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1 explain what unlicensed persons or firms may and may
2 not provide for services.

3 The amendment provides that, to constitute a quo-
4 rum of the Board of Accountancy, at least the public
5 member or the public accountant member must be
6 present.

7 It requires the Board of Accountancy to adminis-
8 ter the Uniform Certified Public Accountant Examina-
9 tion for the Certified Public Accountant examination.

10 It provides that Certified Public Accountant or
11 public accountant applicants who have accounting ex-
12 perience in the Department of Audit or the Bureau of
13 Taxation receive credit toward the experience re-
14 quirement for that experience.

15 It provides that the Board of Accountancy may
16 consider use of the National Society of Public Ac-
17 countants' examination when administering the exami-
18 nation for public accountants.

19 It rewrites the continuing educational require-
20 ments simply to clarify that the requirements must be
21 not less than 72 hours in any 3-year period, not more
22 than 120 hours in any 3-year period and not less than
23 12 hours in any one-year period.

24 The prohibition section has been rewritten to
25 prohibit unlicensed persons or firms from issuing re-
26 ports, including reviews and compilations, on finan-
27 cial statements, but clarifying that they are allowed
28 to provide other services involving the use of ac-
29 counting skills.

30 It deletes the prohibition on the use of the des-
31 ignation "EA," which is a designation now used by en-
32 rolled accountants with the United States Internal
33 Revenue Service.

34 Finally, it deletes the prohibition on the use of

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1 the designation accountant or accounting, thereby al-
2 lowing unlicensed persons or firms to designate them-
3 selves as accountants or to represent that they pro-
4 vide accounting services and it also makes other
5 technical changes.

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