

MAINE STATE LEGISLATURE

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L.D. 751

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Date: 6/12/07

(Filing No. H-547)

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BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

123RD LEGISLATURE

8

FIRST REGULAR SESSION

9

COMMITTEE AMENDMENT "A" to H.P. 572, L.D. 751, Bill, "An Act To
10 Modernize Maine's Accountancy Laws"

11

Amend the bill by inserting after the enacting clause and before section 1 the
12 following:

13

'Sec. 1. 32 MRSA §12201, sub-§3-A, as enacted by PL 1999, c. 245, §1, is
14 amended to read:

15

3-A. **Defined service.** For purposes of section 12275, subsections 12 and 13,
16 "defined service" means providing the following services:

17

A. Any audit or other engagement to be performed in accordance with the
18 Statements on Auditing Standards, SAS;

19

B. Any review of a financial statement or compilation of a financial statement to be
20 performed in accordance with the Statement on Standards for Accounting and
21 Review Services, SSARS; or

22

C. Any examination of prospective financial information to be performed in
23 accordance with the Statement on Standards for Attestation Engagements, SSAE;

24

D. Any engagement to be performed in accordance with the auditing standards of the
25 Public Company Accounting Oversight Board, established in 15 United States Code,
26 Section 7211 (2007); or

27

E. Any compilation of a financial statement to be performed in accordance with the
28 Statement on Standards for Accounting and Review Services, SSARS.

29

The statements on standards specified in this definition are those developed for general
30 application by recognized national accountancy organizations.'

31

Amend the bill in section 1 in subsection 12 in the 5th line (page 1, line 8 in L.D.) by
32 striking out the following: "the board" and inserting the following: 'the board this State'

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1 Amend the bill in section 1 in subsection 12 in the last line (page 1, line 10 in L.D.)
2 by striking out the following: "the board" and inserting the following: 'the board this
3 State'

4 Amend the bill by striking out sections 2 and 3 and inserting the following:

5 '**Sec. 2. 32 MRSA §12228, sub-§1**, as amended by PL 1989, c. 450, §49, is
6 further amended to read:

7 **1. Certificate grant.** The board shall grant the certificate of "certified public
8 accountant" to any person who makes application to the board and who meets the good
9 character, education, examination and experience requirements of, and who pays the fees
10 prescribed by, this section, except that no certificate may be granted to a person who has
11 ~~been issued~~ holding a valid certificate issued by another state.'

12 Amend the bill in section 4 in subsection 3 in paragraph C in the 5th line (page 2, line
13 14 in L.D.) by striking out the following: "education requirement" and inserting the
14 following: 'education requirement degree required in paragraph B'

15 Amend the bill by striking out sections 10, 11, 12 and 13 and inserting the following:

16 '**Sec. 10. 32 MRSA §12251, sub-§4-B** is enacted to read:

17 **4-B. Substantial equivalency.** The requirements for substantial equivalency are as
18 set out in this subsection.

19 A. An individual whose principal place of business is outside the State is presumed
20 to have qualifications substantially equivalent to the State's requirements and has all
21 the privileges of permit holders of the State and may provide professional services in
22 the State without the requirement to obtain a permit under this section or to otherwise
23 notify or register with the board or pay any fee if the individual:

24 (1) Holds a valid license as a certified public accountant from a state that the
25 board has verified to be in substantial equivalence with the certified public
26 accountant licensure requirements of a national association of state boards of
27 accountancy and standards promulgated by the American Institute of Certified
28 Public Accountants; or

29 (2) Holds a valid license as a certified public accountant from a state that is not in
30 substantial equivalence with the certified public accountant licensure
31 requirements under subparagraph (1), but the board determines that the
32 individual's certified public accountant qualifications are substantially equivalent
33 to the certified public accountant licensure requirements of a national association
34 of state boards of accountancy and standards promulgated by the American
35 Institute of Certified Public Accountants. For purposes of this subsection, the
36 board may exempt an individual who passed the Uniform Certified Public
37 Accountant Examination and holds a valid license issued by any other state prior
38 to January 1, 2012 from the education requirement in section 12228, subsection
39 3, paragraph B.

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1 In determining substantial equivalence, the board may consult determinations and
2 verifications from a national qualification appraisal service of a national association
3 of state boards of accountancy.

4 B. Notwithstanding any other provision of law, an individual who qualifies for the
5 practice privilege under this subsection may offer or render professional services in
6 this State, whether in person or by mail, telephone or electronic means, and no notice
7 or other submission may be required of any such individual. Such an individual is
8 subject to paragraph C.

9 C. An individual licensee of another state exercising the privilege afforded under this
10 subsection and the firm that employs that individual consent, as a condition of the
11 grant of this privilege:

12 (1) To the personal and subject matter jurisdiction and disciplinary authority of
13 the board;

14 (2) To comply with the provisions of this chapter and the board's rules;

15 (3) To the stipulation that, in the event the license from the state of the
16 individual's principal place of business is no longer valid, the individual will
17 cease offering or rendering professional services in the State individually and on
18 behalf of a firm; and

19 (4) To the appointment of the state board that issued the individual's license as
20 the individual's agent upon whom process may be served in any action or
21 proceeding by this State's board against the individual.

22 D. An individual who qualifies for the practice privilege under this subsection may
23 perform any of the services listed in this paragraph for any entity with its home office
24 in the State provided the individual does so through a firm that has obtained a permit
25 issued under section 12252:

26 (1) A financial statement audit or other engagement to be performed in
27 accordance with the Statements on Auditing Standards, SAS;

28 (2) An examination of prospective financial information to be performed in
29 accordance with Statements on Standards for Attestation Engagements, SSAE; or

30 (3) An engagement to be performed in accordance with auditing standards of the
31 Public Company Accounting Oversight Board, established in 15 United States
32 Code, Section 7211 (2007).

33 **Sec. 11. 32 MRSA §12252, sub-§1, as enacted by PL 1987, c. 489, §2, is**
34 **amended to read:**

35 **1. Permits granted.** The board shall grant or renew permits to practice public
36 accountancy to firms that make application and demonstrate their qualifications in
37 accordance with this section.

38 A. A firm must hold a permit issued under this section if it:

39 (1) Has an office in this State performing any of the services described in section
40 12201, subsection 3-A, paragraphs A to D;

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- 1 (2) Has an office in this State that uses the title "CPA" or "CPA firm"; or
- 2 (3) Does not have an office in this State but performs any of the services
- 3 described in section 12201, subsection 3-A, paragraphs A, C or D for a client
- 4 having its home office in this State.

5 B. A firm that does not have an office in this State may perform services described in
6 section 12201, subsection 3-A, paragraph B for a client having its home office in this
7 State and may use the title "CPA" or "CPA firm" without a permit issued under this
8 section only if:

- 9 (1) It qualifies for a firm permit pursuant to subsections 3 and 8; and
- 10 (2) It performs such services through an individual with practice privileges under
- 11 section 12251, subsection 4-B.

12 C. A firm that is not subject to the requirements of paragraphs A and B may perform
13 professional services other than those described in section 12201, subsection 3-A
14 while using the title "CPA" or "CPA firm" in this State without a permit issued under
15 this section only if the firm:

- 16 (1) Performs such services through an individual with practice privileges under
- 17 section 12251, subsection 4-B; and
- 18 (2) Has legal authority to perform such services in the state of that individual's
- 19 principal place of business.

20 **Sec. 12. 32 MRSA §12252, sub-§3, as amended by PL 2003, c. 344, Pt. D, §22,**
21 **is further amended to read:**

22 **3. Firm permits.** The following provisions apply to the issuance of firm permits.

23 A. An applicant for initial issuance or renewal of a permit to practice under this
24 section shall show that a simple majority of the ownership of the firm, in terms of
25 financial interests and voting rights of all partners, officers, shareholders, members or
26 managers, belongs to holders of certificates who are licensed in a state and that all
27 partners, officers, shareholders, members or managers whose principal place of
28 business is in this State ~~or~~ and who perform professional services in this State hold
29 valid individual permits issued by the board. Firms may include nonlicensee owners
30 in accordance with paragraph B.

31 B. A certified public accountancy firm or public accountancy firm may include
32 nonlicensee owners as long as:

- 33 (1) All nonlicensee owners are individuals who actively participate in the
- 34 certified public accountancy firm or public accountancy firm; ~~and~~
- 35 (2) The firm complies with such other requirements as the board may impose by
- 36 rule; and
- 37 (3) The firm designates an individual who is a licensee of this State or, in the
- 38 case of a firm that must have a permit pursuant to subsection 1, paragraph A,
- 39 subparagraph (3), designates an individual who is a licensee of another state who
- 40 meets the requirements set out in section 12251, subsection 4-B, paragraph A

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1 who is responsible for the proper registration of the firm and identifies that
2 individual who is a licensee to the board.

3 **Sec. 13. 32 MRSA §12252, sub-§4**, as enacted by PL 1987, c. 489, §2, is
4 amended to read:

5 **4. Office registered.** An applicant for initial issuance or renewal of a permit to
6 practice under this section shall ~~be required to~~ register each office of the firm within this
7 State with the board and to show that each such office is under the charge of a person
8 holding a valid permit to practice, issued under section 12251 or the corresponding
9 provision of prior law or the laws of another state.

10 **Sec. 14. 32 MRSA §12275, sub-§14** is enacted to read:

11 **14. Substantial equivalency.** For purposes of this section:

12 A. As an individual exercising permit privileges in the State pursuant to section
13 12251, subsection 4-B and complying with the restrictions on the scope of such
14 privileges under subsection 4-B is equivalent to an individual holding a certificate
15 under section 12227 and to an individual holding a permit to practice under section
16 12251, each reference in this section to certificate and permit holders is deemed to
17 include, on an equal basis, individuals exercising such privileges;

18 B. A firm in compliance with section 12252, subsection 1 must, for the purposes of
19 this section, be deemed to hold a valid permit to practice issued under section 12252;
20 and

21 C. Notwithstanding any other provision of this section, it is not a violation of this
22 section if a firm that does not hold a valid permit under section 12252 and that does
23 not maintain an office in this State provides professional services in this State if the
24 firm complies with the requirements of section 12252, subsection 1, paragraph B or
25 C, whichever is applicable.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
27 section number to read consecutively.

28 **SUMMARY**

29 This amendment makes changes to the substantial equivalency requirements
30 proposed by the bill for determining when accountants and firms licensed in other
31 jurisdictions may practice in Maine without a license to require that the final
32 determination of substantial equivalency is made by the Department of Professional and
33 Financial Regulation, Board of Accountancy. It also removes from the bill proposed
34 changes to the Board of Accountancy and removes the statutory fee cap language as well
35 as the language allowing the Department of Professional and Financial Regulation to
36 adjust fees, as this department already has the authority to adjust fees for each program as
37 necessary.

38 **FISCAL NOTE REQUIRED**
39 **(See attached)**

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 751

LR 1256(02)

An Act To Modernize Maine's Accountancy Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Business, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Current biennium revenue decrease - Other Special Revenue Funds

Fiscal Detail and Notes

Allowing a certified public accountant licensed in another jurisdiction to provide services in the State without a permit if the accountant is certified to have certain qualifications may result in a loss of revenue of approximately \$1,000 to the Board of Accountancy within the Office of Licensing and Registration, Department of Professional and Financial Regulation.