

1 HB377  
2 155607-1  
3 By Representatives Jones, Hill, Weaver, Harper, Gaston  
4 and Ison  
5 RFD: Financial Services  
6 First Read: 30-JAN-14

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8 SYNOPSIS: Under existing law, the term attest is  
9 defined in the Public Accountancy Act of 2003 as  
10 providing specified financial statement services,  
11 including the examination of prospective financial  
12 information.

13 This bill would expand this definition to  
14 include any engagement to be performed in  
15 accordance with the Statements on Standards for  
16 Attestation Engagements (SSAE) rather than just  
17 examination of prospective financial information.

18 This bill would also define the term report  
19 and would require nonresident certified public  
20 accountants with practicing privileges to provide  
21 services in accordance with professional standards.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 34-1-2, 34-1-16, and 34-1-17, Code  
2 of Alabama 1975, to further define the term attest to include  
3 any engagement to be performed in accordance with the  
4 Statements on Standards for Attestation Engagements (SSAE)  
5 rather than just examination of prospective financial  
6 information; to define the term report; and to require  
7 nonresident certified public accountants with practicing  
8 privileges to provide services in accordance with professional  
9 standards.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Sections 34-1-2, 34-1-16, and 34-1-17,  
12 Code of Alabama 1975, are amended to read as follows:

13           "§34-1-2.

14           "For purposes of this chapter, the following words  
15 and phrases shall have the meanings respectively ascribed in  
16 this section:

17           "(1) AICPA. The American Institute of Certified  
18 Public Accountants.

19           "(2) ATTEST. Providing the following ~~financial~~  
20 ~~statement~~ services:

21           "a. Any audit or other engagement to be performed in  
22 accordance with the Statements on Auditing Standards (SAS).

23           "b. Any review of a financial statement to be  
24 performed in accordance with the Statements on Standards for  
25 Accounting and Review Services (SSARS).

1           "c. Any ~~examination of prospective financial~~  
2 ~~information~~ engagement to be performed in accordance with the  
3 Statements on Standards for Attestation Engagements (SSAE).

4           "d. Any engagement to be performed in accordance  
5 with the auditing standards of the Public Company Accounting  
6 Oversight Board (PCAOB).

7           "e. The statements on standards specified in this  
8 definition shall be adopted by reference by the board pursuant  
9 to rule making and shall be those developed for general  
10 application by recognized national accountancy organizations  
11 such as the AICPA and PCAOB.

12           "(3) BOARD. The Alabama State Board of Public  
13 Accountancy created by Section 34-1-3, except the special  
14 meaning applicable only to Section 34-1-4.

15           "(4) COMPILATION. Providing a service to be  
16 performed in accordance with Statements on Standards for  
17 Accounting and Review Services (SSARS) that is presenting in  
18 the form of financial statements, information that is the  
19 representation of management (owners) without undertaking to  
20 express any assurance on the statements.

21           "(5) FIRM. A sole proprietorship, partnership,  
22 professional corporation, professional association, limited  
23 liability company, limited liability partnership, or any other  
24 form of business entity now or hereafter recognized by Alabama  
25 law.

26           "(6) LICENSE. A certificate issued pursuant to  
27 Section 34-1-4, a permit issued pursuant to Section 34-1-11,

1 registration pursuant to Section 34-1-8; or, in each case, a  
2 certificate or permit issued pursuant to corresponding  
3 provisions of prior law, or the practice privilege provided  
4 pursuant to Section 34-1-7.

5 "(7) LICENSEE. The holder of a license.

6 "(8) OWNER. Any person who holds an ownership  
7 interest in a firm.

8 "(9) PEER REVIEW. The study, appraisal, or review of  
9 one or more aspects of the professional work of a licensee or  
10 firm that performs attest or compilation services, by a person  
11 or persons who hold licenses and who are not affiliated with  
12 the licensee or firm being reviewed.

13 "(10)a. REPORT. When used in reference to any attest  
14 or compilation service, an opinion, report, or other form of  
15 language that states or implies assurance as to the  
16 reliability of the attested information or compiled financial  
17 statements and that also includes or is accompanied by any  
18 statement or implication that the person or firm issuing it  
19 has special knowledge or competence in accounting or auditing.  
20 Such a statement or implication of special knowledge or  
21 competence may arise from use by the insurer or the report of  
22 names or titles indicating that the person or firm is an  
23 accountant or auditor or from the language of the report  
24 itself.

25 "b. The term report includes any form of language  
26 that disclaims an opinion when such form of language is  
27 conventionally understood to imply any positive assurance as

1 to the reliability of the attested information or compiled  
2 financial statements referred to or special competence on the  
3 part of the person or firm issuing such language. The term  
4 report includes any other form of language that is  
5 conventionally understood to imply such assurance or such  
6 special knowledge or competence.

7 "~~(10)~~(11) STATE. Any state, territory, or insular  
8 possession of the United States or the District of Columbia.

9 "§34-1-16.

10 "No person shall assume or use the title or  
11 designation "certified public accountant," the abbreviation  
12 "CPA" or any other title, designation, words, letters,  
13 abbreviation, sign, card, or device tending to indicate that  
14 the person is a certified public accountant, unless the person  
15 has received a certificate as a certified public accountant  
16 under Section 34-1-4 and if in public practice, holds a permit  
17 issued under Section 34-1-11, which is not revoked or  
18 suspended, hereinafter referred to as a live permit, and all  
19 of the offices of the person in this state for the practice of  
20 public accounting are maintained and registered as required  
21 under Section 34-1-10, or the person is practicing pursuant to  
22 Section 34-1-7; provided, however:

23 "(1) A foreign accountant who has registered under  
24 Section 34-1-5 and who holds a live permit issued under  
25 Section 34-1-11 may use the title under which he or she is  
26 generally known in his or her country, followed by the name of

1 the country from which the certificate, license, or degree was  
2 received.

3 "(2) No firm with an office in this state shall  
4 provide attest services or assume or use the title or  
5 designation "certified public accountants" or the abbreviation  
6 "CPAs" or any other title, designation, words, letters, signs,  
7 abbreviation, card, or device tending to indicate that the  
8 firm is composed of certified public accountants, unless the  
9 firm is registered as a firm of certified public accountants  
10 under Section 34-1-6, holds a live permit issued under Section  
11 34-1-11, and all of the offices of the firm in this state for  
12 the practice of public accounting are maintained and  
13 registered as required under Section 34-1-10, and ownership of  
14 the firm is in accord with this chapter and rules promulgated  
15 by the board.

16 "(3) No person shall assume or use the title or  
17 designation "public accountant," the abbreviation thereof, or  
18 any other title, designation, words, letters, abbreviation,  
19 sign, card, or device tending to indicate that the person is a  
20 public accountant, unless the person is registered as a public  
21 accountant under Section 34-1-8, holds a live permit issued  
22 under Section 34-1-11, and all of the offices of the person in  
23 this state for the practice of public accounting are  
24 maintained and registered as required under Section 34-1-10 or  
25 unless the person has received a certificate as a certified  
26 public accountant under Section 34-1-4, holds a live permit  
27 issued under Section 34-1-11, and all of the offices of the

1 person in this state for the practice of public accounting are  
2 maintained and registered as required under Section 34-1-10.

3 "(4) No firm shall provide attest services or assume  
4 or use the title or designation "public accountant" or any  
5 other title, designation, words, letters, abbreviation, sign,  
6 card, or device tending to indicate that the firm is composed  
7 of public accountants, unless the firm is registered as a firm  
8 of public accountants under Section 34-1-9, or as a firm of  
9 certified public accountants under Section 34-1-5, holds a  
10 live permit issued under Section 34-1-11, and all of the  
11 offices of the firm in this state for the practice of public  
12 accounting are maintained and registered as required under  
13 Section 34-1-10.

14 "(5) No person or firm shall assume or use the title  
15 or designation "accredited accountant," "certified  
16 accountant," "chartered accountant," "enrolled accountant,"  
17 "licensed accountant," "registered accountant," or any other  
18 title or designation likely to be confused with "certified  
19 public accountant" or "public accountant," or any of the  
20 abbreviations "AA," "CA," "LA," "RA," or similar abbreviations  
21 likely to be confused with "CPA" or "PA." The title "enrolled  
22 agent" or "EA" may be used by only individuals so designated  
23 by the Internal Revenue Service. Notwithstanding the  
24 foregoing, any person who holds a live permit issued under  
25 Section 34-1-11, and all of whose offices in this state for  
26 the practice of public accounting are maintained and  
27 registered as required under Section 34-1-10, or who is



1 practicing pursuant to Section 34-1-7, may hold himself or  
2 herself out to the public as an "accountant" or "auditor." A  
3 foreign accountant registered under Section 34-1-5 who holds a  
4 live permit issued under Section 34-1-11 and all of whose  
5 offices in this state for the practice of public accounting  
6 are maintained and registered as required under Section  
7 34-1-10 may use the title under which he or she is generally  
8 known in his or her country, followed by the name of the  
9 country from which he or she received the certificate,  
10 license, or degree.

11 "(6) No person shall sign or affix his or her name  
12 or any trade or assumed name used in the person's profession  
13 or business, with any wording indicating that he or she has  
14 expert knowledge in accounting or auditing, to any opinion,  
15 report, or certificate attesting in any way to the reliability  
16 of any representation or estimate in regard to any person or  
17 organization embracing financial or attested information or  
18 facts respecting compliance with conditions established by law  
19 or contract, including but not limited to statutes,  
20 ordinances, regulations, grants, loans, and appropriations,  
21 unless he or she holds a live permit issued under Section  
22 34-1-11, and all of the offices in this state for the practice  
23 of public accounting are maintained and registered under  
24 Section 34-1-10, or unless the person is practicing pursuant  
25 to Section 34-1-7. Notwithstanding the foregoing, this  
26 subdivision shall not prohibit any officer, employee, partner,  
27 or principal of any organization from affixing his or her

1 signature to any statement or report in reference to the  
2 financial affairs of the organization with any wording  
3 designating the position, title, or office which he or she  
4 holds in the organization, nor shall this subdivision prohibit  
5 any act of a public official or public employee in the  
6 performance of their duties.

7 "(7) No person shall sign or affix the name of the  
8 firm, with any wording indicating that it is a firm composed  
9 of accountants or auditors or persons having expert knowledge  
10 in accounting or auditing, to any opinion, report, or  
11 certificate attesting in any way to the reliability of any  
12 representation or estimate in regard to any person or  
13 organization embracing financial or attested information or  
14 facts respecting compliance with conditions established by law  
15 or contract, including but not limited to statutes,  
16 ordinances, regulations, grants, loans, and appropriations,  
17 unless the firm holds a live permit issued under Section  
18 34-1-11, and all of its offices in this state for the practice  
19 of public accounting are maintained and registered as required  
20 under Section 34-1-10, or the person is practicing pursuant to  
21 Section 34-1-7.

22 "(8) No person shall assume or use the title or  
23 designation "certified public accountant" or "public  
24 accountant" in conjunction with names indicating or implying  
25 that there is a firm, in conjunction with the designation "and  
26 company" and "and co." or a similar designation if there is in  
27 fact no bona fide firm registered under Section 34-1-6 or

1 Section 34-1-9, unless the person is practicing pursuant to  
2 Section 34-1-7. No person holding a certificate or  
3 registration or firm holding a permit under this chapter or  
4 person practicing pursuant to Section 34-1-7 shall use a  
5 professional or firm name or designation that is misleading  
6 about the legal form of the firm, or about the persons who are  
7 partners, officers, members, managers, or shareholders of the  
8 firm, or about any other matter. This section shall not  
9 prevent a firm or its successors from continuing to practice  
10 under a firm name which consists of or includes the name or  
11 names of one or more former owners.

12 "(9) Only licensees holding a valid permit to  
13 practice or practicing pursuant to Section 34-1-7 may issue a  
14 report on financial statements of any other person, firm,  
15 organization, or governmental unit or otherwise offer to  
16 render any attest service, as defined herein. This restriction  
17 does not prohibit any act of a public official or public  
18 employee in the performance of that person's duties as such;  
19 or prohibit the performance by any person of other services  
20 involving the use of accounting skills, including the  
21 preparation of tax returns, management advisory services, and  
22 the preparation of financial statements without the issuance  
23 of reports thereon. This restriction also does not apply to  
24 nonlicensees, who may prepare financial statements and issue  
25 reports thereon which do not purport to be in compliance with  
26 the Statements on Standards for Accounting and Review Services  
27 (SSARS).

1           "(10) Licensees and individuals who have practice  
2 privileges under Section 34-1-7 performing attest or  
3 compilation services must provide those services in accordance  
4 with professional standards.

5           "(11) Nonlicensees may not use language in any  
6 statement relating to the ~~financial~~ affairs of a person or  
7 entity which is conventionally used by licensees in reports on  
8 financial statements or on any attest service as defined in  
9 Section 34-1-2. In this regard, the board shall issue, by  
10 rule, safe harbor language nonlicensees may use in connection  
11 with such financial information. Notwithstanding the  
12 foregoing, nonlicensees may use the following disclaimer  
13 language in connection with financial statements to not be in  
14 violation of this chapter:

15           "I (We) have prepared the accompanying (financial  
16 statements) of (name of entity) as of (time period) for the  
17 (period) then ended. This presentation is limited to preparing  
18 in the form of financial statements information that is the  
19 representation of management (owners).

20           "I (We) have not audited or reviewed the  
21 accompanying financial statements and accordingly do not  
22 express an opinion or any other form of assurance on them."

23           "(12) No holder of a certificate issued under  
24 Section 34-1-4 or a registration issued under Section 34-1-8,  
25 except a person practicing pursuant to Section 34-1-7, shall  
26 perform attest services in any firm that does not hold a valid  
27 permit to practice issued under Section 34-1-11.

1           "(13) No individual licensee shall issue a report in  
2 standard form upon a compilation of financial information  
3 through any form of business that does not hold a valid permit  
4 issued under Section 34-1-11 unless the report discloses the  
5 name of the business through which the individual is issuing  
6 the report, and the individual:

7           "a. Signs the compilation report identifying the  
8 individual as a certified public accountant or public  
9 accountant.

10           "b. Undergoes no less frequently than once every  
11 three years, a peer review conducted in such manner as the  
12 board shall by rule specify.

13           "(14) Nothing herein shall prohibit a practicing  
14 attorney or firm of attorneys from preparing or presenting  
15 records or documents customarily prepared by an attorney or  
16 firm of attorneys in connection with the attorney's  
17 professional work in the practice of law.

18           "§34-1-17.

19           "(a) Nothing contained in this chapter shall  
20 prohibit any person not a certified public accountant or  
21 public accountant from serving as an employee of, or an  
22 assistant to, a certified public accountant, a public  
23 accountant, or a firm composed of certified public accountants  
24 or public accountants holding a permit to practice issued  
25 under Section 34-1-11; or a foreign accountant registered  
26 under Section 34-1-5, or a person practicing pursuant to  
27 Section 34-1-7; provided, that the employee or assistant shall

1 not issue any accounting or financial statements or reports  
2 over his or her name.

3 "(b) Nothing contained in this chapter shall  
4 prohibit a certified public accountant of another state, or an  
5 accountant who holds a certificate, license, or degree in a  
6 foreign country, constituting a recognized qualification for  
7 the practice of public accounting in the country, from  
8 practicing in this state in conformity with Section 34-1-7 and  
9 the regulations and rules of professional conduct promulgated  
10 by the board."

11 Section 2. The provisions of this act are severable.  
12 If any part of this act is declared invalid or  
13 unconstitutional, that declaration shall not affect the part  
14 which remains.

15 Section 3. This act shall become effective on  
16 October 1, 2014, following its passage and approval by the  
17 Governor, or its otherwise becoming law.