

1 SB146
2 155607-1
3 By Senator Holley
4 RFD: Governmental Affairs
5 First Read: 14-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.