

By: Senator(s) Woodfield, Kirby, Hewes

To: Business and
Financial
Institutions

SENATE BILL NO. 2363

1 AN ACT TO AMEND SECTION 73-33-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATUS OF A RETIRED CERTIFIED PUBLIC ACCOUNTANT; TO
3 REQUIRE THAT A CERTIFIED PUBLIC ACCOUNTANT WHO IS PRACTICING
4 PUBLIC ACCOUNTING BE ASSOCIATED AND REGISTERED WITH A CPA FIRM AND
5 TO ESTABLISH MINIMUM QUALIFICATIONS FOR SUCH CPA FIRM; TO CODIFY
6 SECTION 73-33-2, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS
7 OF CERTIFIED PUBLIC ACCOUNTANT (CPA), CPA FIRM, CAPS PRACTICING
8 PUBLIC ACCOUNTING, AND OTHER TERMS; AND TO DELETE THE REQUIREMENT
9 THAT A CERTIFIED PUBLIC ACCOUNTANT HOLD A SEPARATE LICENSE TO
10 PRACTICE PUBLIC ACCOUNTING; TO AMEND SECTION 73-33-5, MISSISSIPPI
11 CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF PUBLIC ACCOUNTANCY
12 TO ISSUE PERMITS TO CERTIFIED PUBLIC ACCOUNTANT FIRMS; TO AMEND
13 SECTION 73-33-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE
14 BOARD OF PUBLIC ACCOUNTANCY TO CHARGE ANNUAL CERTIFICATE, LICENSE
15 AND PERMIT FEES; TO AMEND SECTION 73-33-9, MISSISSIPPI CODE OF
16 1972, TO REQUIRE THAT A HOLDER OF A RECIPROCAL LICENSE BE
17 ASSOCIATED WITH A FIRM THAT HAS A PERMIT ISSUED BY THE BOARD; TO
18 AMEND SECTION 73-33-11, MISSISSIPPI CODE OF 1972, TO REVISE THE
19 PROCEDURE BY WHICH THE STATE BOARD OF PUBLIC ACCOUNTANCY MAY
20 REVOKE, CANCEL OR SUSPEND CERTIFICATES, LICENSES AND PERMITS OR
21 TAKE OTHER DISCIPLINARY ACTION AGAINST A REGISTRANT; TO AMEND
22 SECTION 73-33-13, MISSISSIPPI CODE OF 1972, TO MAKE IT A
23 MISDEMEANOR TO REPRESENT THAT A CERTIFIED PUBLIC ACCOUNTANT FIRM
24 WITHOUT A CURRENT PERMIT IS LICENSED TO PRACTICE PUBLIC
25 ACCOUNTING; TO AMEND SECTION 73-33-15, MISSISSIPPI CODE OF 1972,
26 TO REQUIRE THAT A CERTIFIED PUBLIC ACCOUNTANT BE ASSOCIATED WITH A
27 REGISTERED FIRM TO PRACTICE PUBLIC ACCOUNTING; TO CREATE A NEW
28 CODE SECTION TO BE CODIFIED AS SECTION 73-33-19, MISSISSIPPI CODE
29 OF 1972, TO PROVIDE THAT ANY PERSON HOLDING A CERTIFICATE WITHOUT
30 A LICENSE ON JULY 1, 1999, SHALL AUTOMATICALLY RECEIVE A CERTIFIED
31 PUBLIC ACCOUNTANT'S LICENSE; AND FOR RELATED PURPOSES.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

33 SECTION 1. Section 73-33-1, Mississippi Code of 1972, is
34 amended as follows:

35 73-33-1. Any person residing or having a place for the
36 regular transaction of business in the State of Mississippi being
37 of good moral character, and who shall have received from the
38 State Board of Public Accountancy a license certifying his
39 qualifications as a certified public accountant as hereinafter
40 provided, shall be styled or known as a certified public
41 accountant, and it shall be unlawful for any other person or

42 persons to assume such title or use any letters, abbreviations or
43 words to indicate that such person using same is a certified
44 public accountant, unless, at the discretion of the board, such
45 person has been granted use of the title of "certified public
46 accountant retired" by the Mississippi State Board of Public
47 Accountancy or has received a reciprocal certified public
48 accountant license from the State Board of Public Accountancy.

49 A certified public accountant practicing public accounting
50 must be associated and registered with a certified public
51 accountant firm. A firm permit to practice public accounting
52 shall not be issued to any individual(s) who do not hold a
53 certified public accountant license or reciprocal certified public
54 accountant license issued by the board.

55 In order to obtain and maintain a firm permit, a certified
56 public accountant firm must meet the qualifications as set and
57 determined by the board.

58 No person or persons shall engage in the practice of public
59 accounting as defined herein as a sole proprietor, partnership,
60 joint venture or professional corporation or other business
61 organization allowed by law, unless and until each business
62 organization or office thereof has registered with and been issued
63 a firm permit by the State Board of Public Accountancy.

64 SECTION 2. The following shall be codified as Section
65 73-33-2, Mississippi Code of 1972:

66 73-33-2. For the purposes of this chapter, unless context
67 requires otherwise:

68 (a) "Certified public accountant," "CPA," or "licensee"
69 means an individual who holds a license issued by the Mississippi
70 State Board of Public Accountancy to practice public accounting,
71 and the term "license" is used synonymously for the terms
72 "certificate" or "certification."

73 (b) "Certified public accountant firm" or "CPA firm"
74 means any sole proprietorship, professional corporation,
75 partnership, joint venture, professional association or other
76 business organization or office thereof allowable under state law
77 and under the qualifications as set in the rules and regulations
78 of the board maintained for the purpose of performing or offering
79 to perform public accounting.

80 (c) "Practice of, or practicing, CPA public accounting
81 or CPA public accountancy" means the performance, the offering to
82 perform, or maintaining an office by a person, persons or firm
83 holding itself out to the public as certified public accountant(s)
84 or CPA firm, for a client or potential client, or certified public
85 accountant(s) or CPA firm performing one or more kinds of services
86 involving the use of accounting or auditing skills, including, but
87 not limited to, the issuance of reports on financial statements,
88 or of one or more kinds of management advisory, financial advisory
89 or consulting services, or the preparation of tax returns or the
90 furnishing of advice on tax matters.

91 (d) "Firm permit to practice public accounting" means a
92 permit issued by the Mississippi State Board of Public Accountancy
93 permitting a certified public accountant firm to practice CPA
94 public accounting, and "permit holder" means a certified public
95 accountant firm holding such permit.

96 SECTION 3. Section 73-33-5, Mississippi Code of 1972, is
97 amended as follows:

98 73-33-5. The Mississippi State Board of Public Accountancy
99 is hereby authorized with the following powers and duties:

- 100 (a) To adopt a seal;
- 101 (b) To govern its proceedings;
- 102 (c) To set the fees and to regulate the time, manner
103 and place of conducting examinations to be held under this
104 chapter. Beginning February 1, 1995, a total of one hundred fifty
105 (150) collegiate-level semester hours of education including a
106 baccalaureate degree or its equivalent at a college or university
107 acceptable to the board shall be required in order to sit for the
108 examination by candidates who have not previously sat for the
109 examination. The * * * education program shall include an
110 accounting concentration or the equivalent as determined by the
111 board to be appropriate by rules and regulations. The examination
112 shall cover * * * branches of knowledge pertaining to accountancy
113 as the board may deem proper;

114 (d) To initiate investigations of certified public
115 accountant and certified public accountant firm practices;

116 (e) To notify applicants who have failed an
117 examination * * * of such failure and in what branch or branches
118 deficiency was found;

119 (f) To adopt and enforce such rules and regulations
120 concerning certified public accountant examinee and licensee
121 qualifications and practices and certified public accountant firm
122 permits and practices as the board considers necessary to maintain
123 the highest standard of proficiency in the profession of certified
124 public accounting and for the protection of the public interest.
125 The standards of practice by certified public accountants and
126 certified public accountant firms shall include generally accepted
127 auditing and accounting standards as recognized by the Mississippi
128 State Board of Public Accountancy;

129 (g) To issue certified public accountant licenses under
130 the signature and the official seal of the board as provided in
131 this chapter; and to issue permits to practice public accounting
132 to certified public accountant firms pursuant to such rules and
133 regulations as may be promulgated by the board;

134 * * *

135 (h) To employ personnel;

136 (i) To contract for services and rent; and

137 (j) To adopt and enforce all such rules and regulations
138 as shall be necessary for the administration of this chapter;
139 provided, however, no adoption or modification of any rules or
140 regulations of the board shall become effective unless any final
141 action of the board approving such adoption or modification shall
142 occur at a time and place which is open to the public and for
143 which notice by mail of such time and place and the rules
144 and * * * regulations proposed to be adopted or modified has been
145 given at least thirty (30) days prior thereto to every person who
146 is licensed and registered with the board.

147 Each application or filing made under this section shall

148 include the Social Security number(s) of the applicant in
149 accordance with Section 93-11-64, Mississippi Code of 1972.

150 SECTION 4. Section 73-33-7, Mississippi Code of 1972, is
151 amended as follows:

152 73-33-7. The Mississippi State Board of Public Accountancy
153 shall be authorized to charge each applicant a fee for a certified
154 public accountant license. In addition, the board shall be
155 authorized to charge a fee to applicants for a firm permit to
156 practice. All fees shall be in such amounts as to be determined
157 by the board and paid when the application is filed.

158 On or before January 1 of each year hereafter, each holder of
159 a certified public accountant license issued by the Mississippi
160 State Board of Public Accountancy and each certified public
161 accountant firm holding a permit to practice public accounting
162 shall pay a reasonable annual registration fee in such amount as
163 to be determined by the board. If any certified public accountant
164 or firm fails to register and pay the annual registration fee, on
165 or before January 1, notice of such default shall be sent to the
166 certified public accountant or firm by certified mail to the
167 delinquent registrants last known address as shown by the records
168 of said board. The license of any certified public accountant
169 and the permit to practice of any firm who fails to register and
170 pay the annual registration fee within ten (10) days after notice
171 is given * * * shall be automatically cancelled, and the board
172 shall enter the cancellation on its records.

173 Any person who has lost a certified public accountant license
174 or a firm which has lost a permit to practice in this state by
175 failure to register and pay the annual registration fee, or who
176 voluntarily cancels or surrenders such license or permit, may be
177 again * * * licensed or have a firm permit reinstated by the board
178 without reexamination, provided such person or firm shall again
179 comply with the requirements of this chapter and the rules and
180 regulations of the board, file application for registration and
181 pay all fees in arrears, late fees and a reinstatement fee as set

182 by the board * * *.

183 Out of the funds collected under this chapter shall be paid
184 the expenses of the members of the board, including mileage, hotel
185 expenses and per diem compensation as provided in Section 25-3-69,
186 for the time expended in carrying out the duties of the office;
187 provided, however, no expense incurred by the board shall ever be
188 charged against the funds of the state in excess of amounts
189 collected under this section.

190 SECTION 5. Section 73-33-9, Mississippi Code of 1972, is
191 amended as follows:

192 73-33-9. The Mississippi State Board of Public Accountancy
193 may, in its discretion, issue a reciprocal certified public
194 accountant license to practice to any holder of any certified
195 public accountant's certificate or license issued under the law of
196 another state, which shall entitle the holder to use the
197 abbreviation, "CPA," in this state provided that the state issuing
198 the original certificate or license grants similar privileges to
199 the certified public accountants of this state. The fee for
200 license and permit registration shall be in such amount as to be
201 determined by the board. Such license shall not allow the holder
202 thereof to engage in the practice of public accounting as a
203 certified public accountant unless the holder is associated with
204 and registered with a firm and meets the requirements of the
205 Mississippi State Board of Public Accountancy.

206 SECTION 6. Section 73-33-11, Mississippi Code of 1972, is
207 amended as follows:

208 73-33-11. The Mississippi State Board of Public Accountancy
209 may revoke, suspend or take other appropriate action with respect
210 to any * * * license or permit issued pursuant to this
211 chapter * * * for any unprofessional conduct * * *, or for other
212 sufficient cause, by the licensee or permit holder. No
213 disciplinary action may be taken against a licensee or permit
214 holder until the accused has been furnished both a statement of
215 the charges against him and notice of the time and place for the

216 hearing thereon. The board shall provide written notice to the
217 accused at least twenty (20) days prior to hearing on any action
218 by the board. Notice may be achieved by certified mail (with the
219 addressee's receipt required) or by personal service to the
220 licensee or permit holder. The notice shall contain a statement
221 of the charges and set a day and place for a hearing before the
222 board.

223 The members of the board are hereby empowered to sit as a
224 trial board; to administer oaths (or affirmations); to summon any
225 witness and to compel his attendance and/or his testimony, under
226 oath (or affirmation) before the board; to compel the production
227 before it, of any book, paper or document by the owner or
228 custodian thereof; and/or to compel any officer to produce, at
229 such hearing a copy of any public record (not privileged from
230 public inspection by law) in his official custody, certified to,
231 by him. The board shall elect one (1) of its members to serve as
232 clerk, to issue summons and other processes, and to certify copies
233 of its records or, the board may delegate such duties to the
234 executive director.

235 * * *

236 The accused * * * may appear in person and/or by counsel or,
237 in the instance of a firm permit holder through its manager and/or
238 counsel to defend such charges. If the accused does not appear or
239 answer, judgment may be entered by default, provided the board
240 finds that proper service was made on the accused.

241 The minutes of the board shall be recorded in an appropriate
242 minute book permanently maintained by the board at its office.

243 In a proceeding conducted under this section by the board for
244 disciplinary action against a licensee or permit holder, those
245 reasonable costs that are expended by the board in the
246 investigation and conduct of a proceeding for discipline
247 including, but not limited to, the cost of service of process,
248 court reporters, expert witnesses, investigators and legal fees
249 may be imposed by the board on the accused, the charging party or

250 both.

251 Such costs shall be paid to the board upon the expiration of
252 the period allowed for appeal of such penalties under this
253 section, or may be paid sooner if the guilty party elects. Money
254 collected by the board under this section shall be deposited to
255 the credit of the board's special fund in the State Treasury.
256 When payment of a monetary penalty assessed by the board under
257 this section is not paid when due, the board shall have the power
258 to institute and maintain proceedings in its name for enforcement
259 of payment in the Chancery Court of the First Judicial District of
260 Hinds County, Mississippi, or in the Chancery Court of the county
261 where the respondent resides.

262 In case of a decision adverse to the accused, appeal shall be
263 made within thirty (30) days from the day on which decision is
264 made * * * to the circuit court of the First Judicial District of
265 Hinds County, Mississippi, or in the circuit court of the county
266 in which the accused resides. In the case of a nonresident
267 licensee, the appeal shall be made to the First Judicial District
268 of Hinds County, Mississippi. The order of the board shall not
269 take effect until the expiration of said thirty (30) days.

270 In case of an appeal, * * * bond for costs in the circuit
271 court shall be given as in other cases; and the order of the board
272 shall not take effect until such appeal has been finally disposed
273 of by the court or courts.

274 The board may, at any time, reinstate a license or permit if
275 it finds that such reinstatement is justified.

276 In addition to the reasons specified in the first paragraph
277 of this section, the board shall be authorized to suspend the
278 license of any licensee for being out of compliance with an order
279 for support, as defined in Section 93-11-153. The procedure for
280 suspension of a license for being out of compliance with an order
281 for support, and the procedure for the reissuance or reinstatement
282 of a license suspended for that purpose, and the payment of any
283 fees for the reissuance or reinstatement of a license suspended

284 for that purpose, shall be governed by Section 93-11-157 or
285 93-11-163, as the case may be. Actions taken by the board in
286 suspending a license when required by Section 93-11-157 or
287 93-11-163 are not actions from which an appeal may be taken under
288 this section. Any appeal of a license suspension that is required
289 by Section 93-11-157 or 93-11-163 shall be taken in accordance
290 with the appeal procedure specified in Section 93-11-157 or
291 93-11-163, as the case may be, rather than the procedure specified
292 in this section. If there is any conflict between any provision
293 of Section 93-11-157 or 93-11-163 and any provision of this
294 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
295 case may be, shall control.

296 SECTION 7. Section 73-33-13, Mississippi Code of 1972, is
297 amended as follows:

298 73-33-13. If any person shall: (a) falsely represent
299 himself to the public as having received a certified public
300 accountant license or falsely represent a firm in which he has an
301 ownership interest to the public as having received a firm permit
302 as provided in this chapter; or (b) falsely assume to practice as
303 a certified public accountant; or (c) falsely use the
304 abbreviation, "C.P.A.," or any similar words or word, letters or
305 letter to indicate that the person using the same is a certified
306 public accountant, without having received a certified public
307 accountant license * * * as provided in this chapter; or (d) if
308 any person having received a certified public accountant license
309 and having lost such license by cancellation, revocation or
310 suspension as provided by this chapter, shall continue to use the
311 "CPA" abbreviation, use the words certified public accountant, or
312 practice public accounting after losing his license; or (e) if any
313 person shall represent that a CPA firm with a suspended or revoked
314 permit in which he has an ownership interest is entitled to
315 perform such practice--he shall be deemed guilty of a misdemeanor
316 and upon conviction thereof shall be punished by a criminal fine
317 of not less than Five Hundred Dollars (\$500.00) or of not more

318 than Five Thousand Dollars (\$5,000.00), or by imprisonment in the
319 county jail for not longer than six (6) months, or by both such
320 fine and imprisonment, in the discretion of the court for each
321 such an offense.

322 SECTION 8. Section 73-33-15, Mississippi Code of 1972, is
323 amended as follows:

324 73-33-15. (1) It shall be unlawful for any person, except a
325 registered public accountant, who is associated and registered
326 with a firm permit holder and/or for any firm, except for a
327 certified public accountant firm that holds a valid CPA firm
328 permit to practice public accounting issued pursuant to this
329 chapter to:

330 (a) Issue, sign or permit his name or firm name to be
331 associated with any report, transmittal letter or other written
332 communication issued as a result of an examination of financial
333 statements or financial information which contains either an
334 expression of opinion or other attestation as to the fairness,
335 accuracy or reliability of such financial statements;

336 (b) Offer to perform, or perform, for the public,
337 public accounting, tax consulting or other accounting-related
338 services while holding himself out as a certified public
339 accountant or as a firm of certified public accountants or
340 certified public accountant firm; or

341 (c) Maintain an office or other facility for the
342 transaction of business as a certified public accountant or
343 certified public accountant firm.

344 (2) Any person or firm violating subsection (1) of this
345 section shall be guilty of a misdemeanor, and may, upon conviction
346 therefor, be punished by a criminal fine of not less than Five
347 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
348 (\$5,000.00), or by imprisonment in the county jail for not less
349 than ten (10) days nor more than six (6) months, or by both such
350 fine and imprisonment in the discretion of the court.

351 (3) The provisions of paragraph (a) of subsection (1) of

352 this section shall not be construed to apply to an attorney
353 licensed to practice law in this state; to a person for making
354 statements as to his own business; to an officer or salaried
355 employee of a firm, partnership or corporation for making an
356 internal audit, statement or tax return for the same; to a
357 bookkeeper for making an internal audit, statement or tax return
358 for his employer, whose books he regularly keeps for a salary; to
359 a receiver, a trustee or fiduciary as to any statement or tax
360 return with reference to the business or property entrusted to him
361 as such; to any federal, state, county, district or municipal
362 officer as to any audit, statement, or tax return made by him in
363 the discharge of the duties of such office.

364 SECTION 9. The following section shall be codified as
365 Section 73-33-19, Mississippi Code of 1972:

366 73-33-19. Any person holding on July 1, 1999, a certificate
367 without a license registered with the Mississippi State Board of
368 Public Accountancy shall automatically receive a certified public
369 accountant's license. After July 1, 1999, the board shall not
370 issue certificates without licenses and shall issue licenses only
371 as provided under the provisions of this chapter.

372 SECTION 10. This act shall take effect and be in force from
373 and after July 1, 1999.