

By: Senator(s) Woodfield, Kirby, Hewes

To: Business and
Financial
InstitutionsSENATE BILL NO. 2363
(As Sent to Governor)

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 REVISE CERTAIN RECIPROCITY REQUIREMENTS; TO AMEND SECTION
17 73-33-11, MISSISSIPPI CODE OF 1972, TO REVISE THE PROCEDURE BY
18 WHICH THE STATE BOARD OF PUBLIC ACCOUNTANCY MAY REVOKE, CANCEL OR
19 SUSPEND CERTIFICATES, LICENSES AND PERMITS OR TAKE OTHER
20 DISCIPLINARY ACTION AGAINST A REGISTRANT; TO AMEND SECTION
21 73-33-13, MISSISSIPPI CODE OF 1972, TO MAKE IT A MISDEMEANOR TO
22 REPRESENT THAT A CERTIFIED PUBLIC ACCOUNTANT FIRM WITHOUT A
23 CURRENT PERMIT IS LICENSED TO PRACTICE PUBLIC ACCOUNTING; TO AMEND
24 SECTION 73-33-15, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT A
25 CERTIFIED PUBLIC ACCOUNTANT BE ASSOCIATED WITH A REGISTERED FIRM
26 TO PRACTICE PUBLIC ACCOUNTING WITH A CERTAIN EXCEPTION; TO CREATE
27 A NEW CODE SECTION TO BE CODIFIED AS SECTION 73-33-19, MISSISSIPPI
28 CODE OF 1972, TO PROVIDE THAT ANY PERSON HOLDING A CERTIFICATE
29 WITHOUT A LICENSE ON JULY 1, 1999, SHALL AUTOMATICALLY RECEIVE A
30 CERTIFIED PUBLIC ACCOUNTANT'S LICENSE; AND FOR RELATED PURPOSES.

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

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

34 73-33-1. Any person residing or having a place for the
35 regular transaction of business in the State of Mississippi being
36 of good moral character, and who shall have received from the
37 State Board of Public Accountancy a license certifying his
38 qualifications as a certified public accountant as hereinafter
39 provided, shall be styled or known as a certified public
40 accountant, and it shall be unlawful for any other person or
41 persons to assume such title or use any letters, abbreviations or

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

48 A certified public accountant practicing public accounting
49 must be associated and registered with a certified public
50 accountant firm, except a certified public accountant who is
51 practicing as a sole proprietor not acting as a practice unit. A
52 firm permit to practice public accounting shall not be issued to
53 any individual(s) who does not hold a certified public accountant
54 license or reciprocal certified public accountant license issued
55 by the board.

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

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

66 SECTION 2. The following shall be codified as Section
67 73-33-2, Mississippi Code of 1972:

68 73-33-2. For the purposes of this chapter, unless context
69 requires otherwise:

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

75 (b) "Certified public accountant firm" or "CPA firm"
76 means any professional corporation, partnership, joint venture,
77 professional association, sole proprietor acting as a practice
78 unit, or other business organization or office thereof allowable
79 under state law and under the qualifications as set in the rules

80 and regulations of the board maintained for the purpose of
81 performing or offering to perform public accounting. "Sole
82 proprietor acting as a practice unit" means a sole proprietor CPA
83 who maintains an office full-time with professional accounting
84 staff and holds himself out for the practice of accounting as a
85 CPA.

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

97 (d) "Firm permit to practice public accounting" means a
98 permit issued by the Mississippi State Board of Public Accountancy
99 permitting a certified public accountant firm to practice CPA
100 public accounting, and "permit holder" means a certified public
101 accountant firm holding such permit.

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

104 73-33-5. The Mississippi State Board of Public Accountancy
105 is hereby authorized with the following powers and duties:

106 (a) To adopt a seal;

107 (b) To govern its proceedings;

108 (c) To set the fees and to regulate the time, manner

109 and place of conducting examinations to be held under this
110 chapter. Beginning February 1, 1995, a total of one hundred fifty
111 (150) collegiate-level semester hours of education including a
112 baccalaureate degree or its equivalent at a college or university
113 acceptable to the board shall be required in order to sit for the

114 examination by candidates who have not previously sat for the
115 examination. The * * * education program shall include an
116 accounting concentration or the equivalent as determined by the
117 board to be appropriate by rules and regulations. The examination
118 shall cover * * * branches of knowledge pertaining to accountancy
119 as the board may deem proper;

120 (d) To initiate investigations of certified public
121 accountant and certified public accountant firm practices;

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

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

135 (g) To issue certified public accountant licenses under
136 the signature and the official seal of the board as provided in
137 this chapter; and to issue permits to practice public accounting
138 to certified public accountant firms pursuant to such rules and
139 regulations as may be promulgated by the board;

140 * * *

141 (h) To employ personnel;

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

143 (j) To adopt and enforce all such rules and regulations
144 as shall be necessary for the administration of this chapter;
145 provided, however, no adoption or modification of any rules or
146 regulations of the board shall become effective unless any final
147 action of the board approving such adoption or modification shall

148 occur at a time and place which is open to the public and for
149 which notice by mail of such time and place and the rules
150 and * * * regulations proposed to be adopted or modified has been
151 given at least thirty (30) days prior thereto to every person who
152 is licensed and registered with the board.

153 Each application or filing made under this section shall
154 include the Social Security number(s) of the applicant in
155 accordance with Section 93-11-64, Mississippi Code of 1972.

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

158 73-33-7. The Mississippi State Board of Public Accountancy
159 is authorized to charge each applicant a fee for a certified
160 public accountant license. However, a firm permit to practice
161 public accounting shall be issued without the assessment of a fee
162 by the board. All fees shall be in such amounts as to be
163 determined by the board and paid when the application is filed.

164 On or before January 1 of each year * * *, each holder of a
165 certified public accountant license issued by the Mississippi
166 State Board of Public Accountancy shall register and pay a
167 reasonable annual registration fee in such amount as to be
168 determined by the board. If any certified public accountant fails
169 to register and pay the annual registration fee on or before
170 January 1, notice of such default shall be sent to the certified
171 public accountant by certified mail to the delinquent registrant's
172 last known address as shown by the records of the board. The
173 license of any certified public accountant who fails to register
174 and pay the annual registration fee within ten (10) days after
175 notice is given * * * shall be automatically cancelled, and the
176 board shall enter the cancellation on its records.

177 On or before January 1 of each year, each certified public
178 accountant firm holding a permit to practice public accounting
179 shall register with the board without the assessment of a
180 registration fee. If any firm fails to register on or before
181 January 1, notice of such default shall be sent to the firm by

182 certified mail to the firm's last known address as shown by the
183 records of the board. The permit to practice of any firm who
184 fails to register within ten (10) days after notice is given shall
185 be automatically cancelled, and the board shall enter the
186 cancellation on its records.

187 Any person who has lost a certified public accountant license
188 or a firm which has lost a permit to practice in this state by
189 failure to register or failure to pay the annual registration fee
190 if so required under this section, or who voluntarily cancels or
191 surrenders such license or permit, may be again * * * licensed or
192 have a firm permit reinstated by the board without reexamination,
193 provided such person or firm shall again comply with the
194 requirements of this chapter and the rules and regulations of the
195 board; file application for registration; and, if required to pay
196 a fee under this section, pay all fees in arrears, late fees and a
197 reinstatement fee as set by the board * * *.

198 Out of the funds collected under this chapter shall be paid
199 the expenses of the members of the board, including mileage, hotel
200 expenses and per diem compensation as provided in Section 25-3-69,
201 for the time expended in carrying out the duties of the office;
202 provided, however, no expense incurred by the board shall ever be
203 charged against the funds of the state in excess of amounts
204 collected under this section.

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

207 73-33-9. The Mississippi State Board of Public Accountancy
208 may, in its discretion, issue a reciprocal certified public
209 accountant license to practice to any holder of any certified
210 public accountant's certificate or license issued under the law of
211 another state, which shall entitle the holder to use the
212 abbreviation, "CPA," in this state provided that the state issuing
213 the original certificate or license grants similar privileges to
214 the certified public accountants of this state. The fee for a
215 license shall be in such reasonable amount as * * * determined by

216 the board. Such license shall not allow the holder thereof to
217 engage in the practice of public accounting as a certified public
218 accountant unless the holder meets the requirements of the
219 Mississippi State Board of Public Accountancy.

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

222 73-33-11. The Mississippi State Board of Public Accountancy
223 may revoke, suspend or take other appropriate action with respect
224 to any * * * license or permit issued pursuant to this
225 chapter * * * for any unprofessional conduct by the licensee or
226 permit holder, or for other sufficient cause, provided written
227 notice shall have been sent by registered mail (with the
228 addressee's receipt required) to the holder thereof, twenty (20)
229 days before any hearing thereon, stating the cause for such
230 contemplated action and appointing a day and a place for a full
231 hearing thereon by said board, provided further, no certificate or
232 license be cancelled or revoked until a hearing shall have been
233 given to the holder thereof according to law. But, after such
234 hearing, said board may, in its discretion, suspend such a
235 certified public accountant from practice as a certified public
236 accountant in this state * * *.

237 The members of the board are hereby empowered to sit as a
238 trial board; to administer oaths (or affirmations); to summon any
239 witness and to compel his attendance and/or his testimony, under
240 oath (or affirmation) before the board; to compel the production
241 before it, of any book, paper or document by the owner or
242 custodian thereof; and/or to compel any officer to produce, at
243 such hearing a copy of any public record (not privileged from
244 public inspection by law) in his official custody, certified to,
245 by him. The board shall elect one (1) of its members to serve as
246 clerk, to issue summons and other processes, and to certify copies
247 of its records or, the board may delegate such duties to the
248 executive director.

249 * * *

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

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

257 In a proceeding conducted under this section by the board for
258 disciplinary action against a licensee or permit holder, those
259 reasonable costs that are expended by the board in the
260 investigation and conduct of a proceeding for discipline
261 including, but not limited to, the cost of service of process,
262 court reporters, expert witnesses, investigators and legal fees
263 may be imposed by the board on the accused, the charging party or
264 both.

265 Such costs shall be paid to the board upon the expiration of
266 the period allowed for appeal of such penalties under this
267 section, or may be paid sooner if the guilty party elects. Money
268 collected by the board under this section shall be deposited to
269 the credit of the board's special fund in the State Treasury.
270 When payment of a monetary penalty assessed by the board under
271 this section is not paid when due, the board shall have the power
272 to institute and maintain proceedings in its name for enforcement
273 of payment in the Chancery Court of the First Judicial District of
274 Hinds County, Mississippi, or in the Chancery Court of the county
275 where the respondent resides.

276 In case of a decision adverse to the accused, appeal shall be
277 made within thirty (30) days from the day on which decision is
278 made * * * to the circuit court of the First Judicial District of
279 Hinds County, Mississippi, or in the circuit court of the county
280 in which the accused resides. In the case of a nonresident
281 licensee, the appeal shall be made to the First Judicial District
282 of Hinds County, Mississippi. The order of the board shall not
283 take effect until the expiration of said thirty (30) days.

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

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

290 In addition to the reasons specified in the first paragraph
291 of this section, the board shall be authorized to suspend the
292 license of any licensee for being out of compliance with an order
293 for support, as defined in Section 93-11-153. The procedure for
294 suspension of a license for being out of compliance with an order
295 for support, and the procedure for the reissuance or reinstatement
296 of a license suspended for that purpose, and the payment of any
297 fees for the reissuance or reinstatement of a license suspended
298 for that purpose, shall be governed by Section 93-11-157 or
299 93-11-163, as the case may be. Actions taken by the board in
300 suspending a license when required by Section 93-11-157 or
301 93-11-163 are not actions from which an appeal may be taken under
302 this section. Any appeal of a license suspension that is required
303 by Section 93-11-157 or 93-11-163 shall be taken in accordance
304 with the appeal procedure specified in Section 93-11-157 or
305 93-11-163, as the case may be, rather than the procedure specified
306 in this section. If there is any conflict between any provision
307 of Section 93-11-157 or 93-11-163 and any provision of this
308 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
309 case may be, shall control.

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

312 73-33-13. If any person shall: (a) falsely represent
313 himself to the public as having received a certified public
314 accountant license or falsely represent a firm in which he has an
315 ownership interest to the public as having received a firm permit
316 as provided in this chapter; or (b) falsely assume to practice as
317 a certified public accountant; or (c) falsely use the

318 abbreviation, "C.P.A.," or any similar words or word, letters or
319 letter to indicate that the person using the same is a certified
320 public accountant, without having received a certified public
321 accountant license * * * as provided in this chapter; or (d) if
322 any person having received a certified public accountant license
323 and having lost such license by cancellation, revocation or
324 suspension as provided by this chapter, shall continue to use the
325 "CPA" abbreviation, use the words certified public accountant, or
326 practice public accounting after losing his license; or (e) if any
327 person shall represent that a CPA firm with a suspended or revoked
328 permit in which he has an ownership interest is entitled to
329 perform such practice--he shall be deemed guilty of a misdemeanor
330 and upon conviction thereof shall be punished by a criminal fine
331 of not less than Five Hundred Dollars (\$500.00) or of not more
332 than Five Thousand Dollars (\$5,000.00), or by imprisonment in the
333 county jail for not longer than six (6) months, or by both such
334 fine and imprisonment, in the discretion of the court for each
335 such an offense.

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

338 73-33-15. (1) It shall be unlawful for any person, except a
339 registered public accountant, who is associated and registered
340 with a firm permit holder and/or for any firm, except for a
341 certified public accountant firm that holds a valid CPA firm
342 permit to practice public accounting issued pursuant to this
343 chapter to:

344 (a) Issue, sign or permit his name or firm name to be
345 associated with any report, transmittal letter or other written
346 communication issued as a result of an examination of financial
347 statements or financial information which contains either an
348 expression of opinion or other attestation as to the fairness,
349 accuracy or reliability of such financial statements;

350 (b) Offer to perform, or perform, for the public,
351 public accounting, tax consulting or other accounting-related

352 services while holding himself out as a certified public
353 accountant or as a firm of certified public accountants or
354 certified public accountant firm; or

355 (c) Maintain an office or other facility for the
356 transaction of business as a certified public accountant or
357 certified public accountant firm.

358 (2) Any person or firm violating subsection (1) of this
359 section shall be guilty of a misdemeanor, and may, upon conviction
360 therefor, be punished by a criminal fine of not less than Five
361 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
362 (\$5,000.00), or by imprisonment in the county jail for not less
363 than ten (10) days nor more than six (6) months, or by both such
364 fine and imprisonment in the discretion of the court.

365 (3) The provisions of paragraph (a) of subsection (1) of
366 this section shall not be construed to apply to an attorney
367 licensed to practice law in this state; to a person for making
368 statements as to his own business; to an officer or salaried
369 employee of a firm, partnership or corporation for making an
370 internal audit, statement or tax return for the same; to a
371 bookkeeper for making an internal audit, statement or tax return
372 for his employer, whose books he regularly keeps for a salary; to
373 a receiver, a trustee or fiduciary as to any statement or tax
374 return with reference to the business or property entrusted to him
375 as such; to any federal, state, county, district or municipal
376 officer as to any audit, statement, or tax return made by him in
377 the discharge of the duties of such office.

378 (4) Nothing in this section shall require a sole proprietor
379 not acting as a practice unit to associate and register with a
380 certified public accounting firm before engaging in the practice
381 of public accounting.

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

384 73-33-19. Any person holding on July 1, 1999, a certificate
385 without a license registered with the Mississippi State Board of

386 Public Accountancy shall automatically receive a certified public
387 accountant's license. After July 1, 1999, the board shall not
388 issue certificates without licenses and shall issue licenses only
389 as provided under the provisions of this chapter.

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