

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1296

(Delegate Feldman)

Economic Matters

Education, Health, and Environmental
Affairs

**Certified Public Accountants - Licensed Out-of-State Certified Public
Accountants - Practice Privilege**

This bill establishes “practice privilege” for certified public accountants licensed in another state who meet certain standards. The bill also modifies requirements of a partnership, limited liability corporation, or corporation in qualifying for a firm permit.

Fiscal Summary

State Effect: Practice privilege would reduce the number of licenses and permits issued by the State Board of Public Accountancy, thus reducing special fund revenues beginning in FY 2009. Unless the reduction appreciably affects workload, fees would need to be increased to maintain the current level of board expenditures.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The State Board of Public Accountancy’s authority to issue limited licenses is repealed, as are notification fees for out-of-state licensees. The bill instead establishes practice privilege for certified public accountants, authorizing an individual licensed by another state to practice without a Maryland license while remaining subject to the State’s regulatory and disciplinary authority.

Individuals who are licensed by a state with requirements that are substantially equivalent to the requirements of the Uniform Accountancy Act, as determined by the National Association of Boards of Accountancy (NASBA), may practice without a Maryland license if their primary place of business is in another state. Educational equivalency requirements under the Uniform Accountancy Act apply only to those licensed on or after January 1, 2012.

Individuals who are licensed by a state with requirements that are not substantially equivalent may practice without a Maryland license if their primary place of business is in another state and the NASBA National Qualification Appraisal Service determines that the individual's qualifications are substantially equivalent to those required by the Uniform Accountancy Act. Educational equivalency requirements do not apply to those licensed before January 1, 2012.

An individual who qualifies for practice privilege and the firm that employs him or her is subject to the authority of the State Board of Public Accountancy and must comply with all State accountancy laws. Practice privilege applies as long as an individual holds a valid license from another state. Sole practitioners operating under the practice privilege are limited in the services they are authorized to provide and must associate with a permitted firm.

Partnerships, Limited Liability Companies, and Corporations

The bill repeals the requirement that a partnership, LLC, or corporation must hold a permit issued by the State Board of Public Accountancy before offering CPA services. Instead, businesses offering certified public accountancy services must hold a permit if operating an office in Maryland that performs attest services or if performing certain attest services for a client with a home office in Maryland. In general, firms must also be permitted if an office in the State uses the title "CPA" or "CPA firm."

A firm that does not have an office in the State may provide financial statement review or compilation services for a client in Maryland if the firm meets applicable application and peer review requirements and performs services through an individual who qualifies for practice privilege. Other professional services may be offered without a permit if provided by an individual with practice privilege in the state where the individual retains a principal place of business.

The board is required to issue a firm permit to a partnership, LLC, or corporation that meets all applicable requirements. Limited firm permits are repealed. If a firm does not meet permitting requirements, the firm may operate in the State only if services are

provided by an individual with practice privilege in the state where the individual retains a principal place of business.

To qualify for a permit, a firm must meet the following criteria: • a simple majority of stakeholders must be licensed in a state; • have a permanent office in the state in which an individual is licensed or retain a principal place of business in Maryland for a simple majority of stakeholders; • hold a valid Maryland license; and • comply with board regulations. Other criteria are established or expanded for qualification as a partnership, LLC, or corporation.

Current Law: The State Board of Public Accountancy regulates and licenses certified public accountants and issues permits to business entities that provide accountancy services.

To qualify for a license, an applicant must have completed a baccalaureate or higher degree with a major in accounting or an equivalent field. An applicant for an initial license must also complete at least 2,000 hours of practical work experience under the direction of a qualified professional prior to licensure. After meeting these criteria, an applicant is eligible for the examination prepared by the American Institute of Certified Public Accountants (AICPA) administered twice each year. The board may waive the examination requirement for a CPA licensed in another state or similarly credentialed in another country. After an applicant meets all applicable education, experience, and examination criteria, the board may issue a license after all fees are paid.

The board may issue a limited license to an applicant who is licensed to practice in another state, is not a Maryland resident, and does not have a place of business in the State. The license authorizes the licensee to practice only for the specific job for which it was issued. An individual actively licensed as a CPA in another state may practice work of an ongoing nature after verifying that the individual's principal place of business is outside the state and the applicant pays a notification fee to the board. The individual must have acquired education, examination scores, and experience equivalent to the requirements of the Uniform Accountancy Act or must be licensed in a state with equivalent requirements. By notifying the board of the right to practice under these provisions, the individual must operate according to the board's regulatory and disciplinary authority.

A partnership, LLC, or corporation must hold a permit from the board before operating a business in which certified public accountancy is practiced. Applicants must have an office in the State or intend to immediately establish one once licensed. The office must be managed by a partner, member, or stockholder who resides in the State. In general, a simple majority of active partners or owners of the firm must be licensed to practice

certified public accountancy in Maryland to qualify for a firm permit. The firm must be managed or directed by a resident of the State. A limited permit may be issued to an out-of-state firm for a specific job if the firm meets all applicable requirements.

Background: NASBA and AICPA participate in a joint committee to review CPA regulation across the 50 states, the District of Columbia, and 4 territories. The work of the committee has been incorporated in revisions of the Uniform Accountancy Act, which provides a model for state regulation of certified public accountancy.

The joint committee has developed a mobility initiative to reduce barriers to interstate practice and respond to the proliferation of electronic commerce. The concept of substantial equivalency, which is included in this bill, is one component of the initiative. Substantial equivalency is a determination by a state board that the education, examination, and experience requirements of an out-of-state licensee are equivalent to or exceed those included in the Uniform Accountancy Act, regardless of the sequence in which the requirements were met. The mobility initiative encourages states to repeal notification laws and fees for individuals who practice across state lines while maintaining the authority of state boards to discipline these individuals. Maryland's State Board of Public Accountancy endorsed these concepts at its May 2007 meeting.

NASBA maintains a National Qualification Appraisal Service that readily identifies states that meet the education, examination, and experience requirements of the Uniform Accountancy Act. Maryland has been identified as one of 48 states and territories with substantial equivalency. Individuals licensed by a nonsubstantially equivalent state may be evaluated by NASBA's credentialing service to determine individual eligibility for practice privilege.

State Fiscal Effect: The Department of Labor, Licensing, and Regulation advises that 35% of the board's active and inactive licensees are not Maryland residents, a total of 2,217 licensees. In addition, there are 100 individuals practicing by notification and 157 holders of limited licenses. The total reduction in the number of out-of-state licensees that may result from this bill is unknown, but the department estimates that at least 1,000 current licensees would not renew their Maryland license if practice privilege were adopted. Thus, the board would lose fee revenue from limited license holders, those practicing by notification, and many out-of-state practitioners who hold a Maryland license.

With the board's conversion to special fund status on July 1, 2007 and fee setting authority beginning July 1, 2008, all revenues must approximate the board's direct and indirect costs. Unless workload is appreciably affected by the reduction in out-of-state licensees, fees will need to be increased to cover board expenditures. By this measure,

State revenues will not be affected by the reduction, but individual licensees may experience increases in fees.

Additional Comments: Chapter 156 of 2006 prohibits the board from annually increasing any fee by more than 12.5% of the existing and corresponding fee. Depending on the reduction in the number of licensees that results from this bill, the board may not be able to generate revenue sufficient to maintain the current level of expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; American Institute of Certified Public Accountants; National Association of Boards of Accountancy; Department of Legislative Services

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