

AN ACT

relating to the regulation of the practice of public accountancy by certain out-of-state license holders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 901.002(a)(4) and (5), Occupations Code, are amended to read as follows:

(4) "Certified public accountant" means a person who holds a certificate issued under this chapter or who practices in this state under Section 901.462.

(5) "Certified public accountancy firm" means a person who holds a firm license or a firm that practices in this state under Section 901.461.

SECTION 2. Section 901.251(a), Occupations Code, is amended to read as follows:

(a) A person who is an individual may not engage in the practice of public accountancy unless the person holds a certificate issued under this chapter or practices in this state under a privilege under Section 901.462.

SECTION 3. Section 901.351, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) A firm may not provide attest services or use the title "CPA's," "CPA Firm," "Certified Public Accountants," "Certified Public Accounting Firm," or "Auditing Firm" or a variation of one of

those titles unless the firm holds a firm license issued under this subchapter or practices in this state under a privilege under Section 901.461.

(a-1) A firm is required to hold a firm license under this subchapter if the firm:

(1) establishes or maintains an office in this state;  
or

(2) performs for an entity with its principal office in this state:

(A) a financial statement audit or other engagement that is to be performed in accordance with the Statements on Auditing Standards;

(B) an examination of prospective financial information that is to be performed in accordance with the Statements on Standards for Attestation Engagements; or

(C) an engagement that is to be performed in accordance with auditing standards of the Public Company Accounting Oversight Board or its successor.

(b) The board shall grant or renew a firm license to practice as a certified public accountancy firm to:

(1) a firm that applies and demonstrates the necessary qualifications in accordance with this subchapter; or

(2) a firm originally licensed as a certified public accountancy firm in another state that:

(A) is required to hold a firm license under Subsection (a-1) [~~establishes an office in this state~~]; and

(B) demonstrates the necessary qualifications in

accordance with this subchapter.

SECTION 4. Sections 901.354(b), (f), and (g), Occupations Code, are amended to read as follows:

(b) A certified public accountancy firm may include individuals as owners who are not license holders if:

(1) the firm designates to the board as responsible for the firm's license and the supervision of the firm:

(A) a license holder who resides in this state;  
or

(B) if the firm is required under Section 901.351(a-1)(2) to hold a firm license, an individual practicing under a privilege under Section 901.462 ~~[to be responsible for the firm's firm license and the supervision of the firm]~~;

(2) each owner who is not a license holder and who is a resident of this state as determined by board rule:

(A) is actively involved in the firm or an affiliated entity;

(B) is of good moral character as demonstrated by a lack of history of dishonest or felonious acts;

(C) holds a baccalaureate or graduate degree conferred by a college or university acceptable to the board or equivalent education as determined by the board;

(D) maintains any professional designation held by the individual in good standing with the appropriate organization or regulatory body that is identified or used in an advertisement, letterhead, business card, or other firm-related communication;

1 (E) has passed an examination on the rules of  
2 professional conduct as determined by board rule;

3 (F) complies with the rules of professional  
4 conduct as determined by board rule; and

5 (G) maintains professional continuing education  
6 applicable to license holders as required by board rule; and

7 (3) the firm and the owners who are not license holders  
8 comply with board disciplinary actions and other requirements the  
9 board may impose by rule.

10 (f) An applicant for issuance or renewal of a firm license  
11 under this section must register each office of the firm in this  
12 state and show that all attest services performed in this state and  
13 each office in this state are under the supervision of a person who  
14 holds a certificate issued under this chapter or by another state.

15 (g) An application for a firm license under this chapter  
16 must be made on an affidavit of the owner, an officer, or the  
17 general partner of the firm, as applicable, stating:

18 (1) the name of the firm;

19 (2) the firm's post office address in this state if the  
20 firm has an office in this state;

21 (3) the address of the firm's principal office;

22 (4) the address of each office of the firm in this  
23 state if the firm has an office in this state;

24 (5) the name of the resident manager of each office of  
25 the firm in this state; and

26 (6) the name, residence, and post office address of:

27 (A) each partner, member, shareholder, or other

owner; and

(B) if the firm is a partnership, each shareholder of a partner that is a professional corporation.

SECTION 5. Section 901.401(b), Occupations Code, is amended to read as follows:

(b) Each office in this state of a certified public accountancy firm or a firm of public accountants must hold a license issued under this chapter.

SECTION 6. Section 901.405(f), Occupations Code, is amended to read as follows:

(f) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. A [The] person described by this subsection whose license has been revoked under Section 901.502(3) or (4) may obtain a new license under this subsection. A person described by this subsection must pay to the board a fee that is equal to two times the normally required renewal fee for the license and is not subject to additional fees under Section 901.408.

SECTION 7. Section 901.408(a), Occupations Code, is amended to read as follows:

(a) A person, other than a person described by Section 901.405(f), who fails to pay the license renewal fee or the additional fee imposed under Section 901.407, as applicable, and any late fee before the first anniversary of the due date of the renewal fee or additional fee may renew the person's license only by

submitting to the board an application for renewal accompanied by payment of:

- (1) all accrued fees, including late fees; and
- (2) the direct administrative costs incurred by the board in renewing the person's license.

SECTION 8. The heading to Subchapter J, Chapter 901, Occupations Code, is amended to read as follows:

SUBCHAPTER J. PRACTICE OF PUBLIC ACCOUNTANCY [~~BY LICENSE HOLDER~~]

SECTION 9. Section 901.451(b), Occupations Code, is amended to read as follows:

(b) A person may not provide attest services or assume or use the title "certified public accountants," the abbreviation "CPAs," or any other title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountancy firm unless:

(1) the person holds a firm license issued under this chapter or practices in this state under a privilege under Section 901.461;

(2) ownership of the person complies with the requirements of this chapter and rules adopted by the board; and

(3) the person complies with board rules authorizing the practice.

SECTION 10. Section 901.453(b), Occupations Code, is amended to read as follows:

(b) A person may hold the person out to the public as an "accountant," "auditor," or any combination of those terms or assert that the person has expertise in accounting or auditing only

1 if:

2 (1) the person holds a license issued under this  
3 chapter~~[+]~~ and

4 ~~[(2)]~~ each of the person's offices in this state for  
5 the practice of public accounting is maintained and practices under  
6 a firm license as required under Subchapter H; or

7 (2) the person practices under a privilege under  
8 Section 901.461 or 901.462.

9 SECTION 11. Section 901.454(a), Occupations Code, is  
10 amended to read as follows:

11 (a) A person who is an accountant of another state may use  
12 the title under which the accountant is generally known in the state  
13 from which the accountant received a certificate, license, or  
14 degree~~[, followed by the name of that state,]~~ if:

15 (1) the person holds a license issued under this  
16 chapter or practices in this state under a privilege under Section  
17 901.461 or 901.462; and

18 (2) any ~~[each]~~ of the person's offices established or  
19 maintained in this state for the practice of public accountancy are  
20 licensed ~~[is maintained and practices under a firm license as~~  
21 ~~required]~~ under this chapter ~~[Subchapter H]~~.

22 SECTION 12. Section 901.455, Occupations Code, is amended  
23 by adding Subsection (e) to read as follows:

24 (e) A firm that practices under Section 901.461 must use the  
25 firm name that it uses in the state in which it is licensed and has  
26 its principal place of business.

27 SECTION 13. Sections 901.456(a), (b), and (f), Occupations

Code, are amended to read as follows:

(a) Only a license holder or a person who practices under a privilege under Section 901.461 or 901.462 may issue a report on a financial statement of another person or otherwise perform or offer to perform an attest service.

(b) A person who is not a license holder and who does not practice under a privilege under Section 901.461 or 901.462:

(1) may not use language in any statement related to the financial affairs of a person that is conventionally used by license holders in reports on financial statements;

(2) may prepare financial statements; and

(3) may issue nonattest transmittals or information regarding nonattest transmittals if the transmittals or information do not purport to be in compliance with standards for accounting and review services adopted by the American Institute of Certified Public Accountants or another national accountancy organization recognized by the board.

(f) A license holder or an individual who practices under a privilege under Section 901.462 who performs attest services must provide those services in accordance with standards adopted by the American Institute of Certified Public Accountants or another national accountancy organization recognized by the board.

SECTION 14. Section 901.460(b), Occupations Code, is amended to read as follows:

(b) An individual who is a [A] license holder or practices under a privilege under Section 901.462 ~~[who is an individual]~~ and who is responsible for supervising attest services or signs or



authorizes another person to sign an accountant's reports on financial statements on behalf of a certified public accountancy firm must meet the competency requirements of the professional standards that apply to those services.

SECTION 15. Subchapter J, Chapter 901, Occupations Code, is amended by adding Sections 901.461 and 901.462 to read as follows:

Sec. 901.461. PRACTICE BY CERTAIN OUT-OF-STATE FIRMS. (a)

A certified public accountancy firm that is licensed and has its primary place of business in another state and is not required to hold a firm license under Section 901.351(a-1) may practice in this state without a firm license or notice to the board if the firm's practice in this state is performed by an individual who holds a license under this chapter or who practices under a privilege under Section 901.462.

(b) A firm described by Subsection (a) may exercise all the practice privileges of a firm license holder, except that the firm:

(1) may not perform the services described by Section 901.351(a-1); and

(2) may perform the services described by Sections 901.002(a)(1)(B) and (D) for an entity with its home office in this state only if:

(A) the firm meets the requirements of Sections 901.354(a) and (b);

(B) the firm complies with the board's peer review program under Section 901.159; and

(C) the services are performed by an individual who holds a license under this chapter or practices under a

1 privilege under Section 901.462.

2 (c) A firm practicing under a privilege under this section,  
3 as a condition of the privilege of practicing without a firm  
4 license:

5 (1) is subject to the personal and subject matter  
6 jurisdiction and disciplinary authority of the board;

7 (2) must comply with this chapter and board rules; and

8 (3) is considered to have appointed the regulatory  
9 agency of the state that issued the firm's license as the firm's  
10 agent on whom process may be served in any action or proceeding by  
11 the board against the firm.

12 (d) A firm practicing under a privilege under this section  
13 shall promptly cease offering or rendering professional services in  
14 this state if the firm's license to practice as a certified public  
15 accountancy firm in the state in which the firm's primary place of  
16 business is no longer valid.

17 Sec. 901.462. PRACTICE BY OUT-OF-STATE PRACTITIONER WITH  
18 SUBSTANTIALLY EQUIVALENT QUALIFICATIONS. (a) An individual who  
19 holds a certificate or license as a certified public accountant  
20 issued by another state and whose principal place of business is not  
21 in this state may exercise all the privileges of certificate and  
22 license holders of this state without obtaining a certificate or  
23 license under this chapter if:

24 (1) the National Association of State Boards of  
25 Accountancy's National Qualification Appraisal Service has  
26 verified that the other state has education, examination, and  
27 experience requirements for certification or licensure that are

1 comparable to or exceed the requirements for licensure as a  
2 certified public accountant of The American Institute of Certified  
3 Public Accountants/National Association of State Boards of  
4 Accountancy Uniform Accountancy Act and the board determines that  
5 the licensure requirements of that Act are comparable to or exceed  
6 the licensure requirements of this chapter; or

7         (2) the individual obtains from the National  
8 Association of State Boards of Accountancy's National  
9 Qualification Appraisal Service verification that the individual's  
10 education, examination, and experience qualifications are  
11 comparable to or exceed the requirements for licensure as a  
12 certified public accountant of The American Institute of Certified  
13 Public Accountants/National Association of State Boards of  
14 Accountancy Uniform Accountancy Act and the board determines that  
15 the licensure requirements of that Act are comparable to or exceed  
16 the licensure requirements of this chapter.

17         (b) An individual who meets the requirements of Subsection  
18 (a)(1) or (2) and who offers or renders professional services in  
19 person or by mail, telephone, or electronic means may practice  
20 public accountancy in this state without notice to the board.

21         (c) An individual practicing under the privilege under this  
22 section, as a condition of the privilege of practicing without a  
23 certificate or license:

24                 (1) is subject to the personal and subject matter  
25 jurisdiction and disciplinary authority of the board;

26                 (2) must comply with this chapter and the board's  
27 rules; and

1           (3) is considered to have appointed the regulatory  
2 agency of the state that issued the individual's certificate or  
3 license as the agent on whom process may be served in any action or  
4 proceeding by the board against the individual.

5           (d) An individual who practices under a privilege under this  
6 section shall promptly cease offering or rendering professional  
7 services in this state if the individual's certificate or license  
8 in the state of the individual's principal place of business is no  
9 longer valid.

10           (e) An individual practicing under this section must  
11 practice through a firm that holds a license under this chapter if,  
12 for an entity with its principal office in this state, the  
13 individual performs:

14           (1) a financial statement audit or other engagement  
15 that is to be performed in accordance with the Statements on  
16 Auditing Standards;

17           (2) an examination of prospective financial  
18 information that is to be performed in accordance with the  
19 Statements on Standards for Attestation Engagements; or

20           (3) an engagement that is to be performed in  
21 accordance with auditing standards of the Public Company Accounting  
22 Oversight Board or its successor.

23           SECTION 16. Sections 901.356 and 901.412, Occupations Code,  
24 are repealed.

25           SECTION 17. This Act takes effect September 1, 2007.

H.B. No. 2144

David Dewhurst

President of the Senate

Jim Caddell

Speaker of the House

I certify that H.B. No. 2144 was passed by the House on April 25, 2007, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2144 on May 21, 2007, by the following vote: Yeas 141, Nays 0, 3 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2144 was passed by the Senate, with amendments, on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Letsy Spaw

Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK

JUN 15 2007

Roger Williams

Secretary of State