

Act No. 76
Public Acts of 2016
Approved by the Governor
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April 5, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Afendoulis, Poleski, Clemente and Howrylak

ENROLLED HOUSE BILL No. 5192

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 720 and 728 (MCL 339.720 and 339.728), section 720 as amended by 2010 PA 215 and section 728 as amended by 2014 PA 177.

The People of the State of Michigan enact:

Sec. 720. (1) As used in this article:

(a) “Attest” means providing any of the following services, but does not include providing a compilation:

(i) An audit or other engagement to be performed in accordance with the statements on auditing standards.

(ii) A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(iii) An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(iv) An engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(v) An examination, review, or agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements, other than an examination described in subparagraph (iii).

(b) “Certified public accountant” means an individual who is either of the following:

(i) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) “Client” means an individual or entity that engages a licensee or licensee’s employer to receive any service in the practice of public accounting.

(d) “Compilation” means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) “Firm” means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) “Home office” means the location specified by the client as the address to which a service described in subdivision (a) or (d) is directed.

(g) Subject to subsection (2), “practice of public accounting” means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that 1 or more of the following types of information concerning the entity that is the subject of the opinion present fairly the condition of the entity:

(i) Financial or other information about which the opinion is given.

(ii) Facts respecting the entity’s compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(iii) The scope of the accounting procedures rendered in connection with the presentation of the entity’s financial statement.

(h) “Principal place of business” means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(i) “Report”, when used with reference to an attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of attested information or compiled financial statements and that also includes, or is accompanied by, any statement or implication that the individual or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the individual or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language that disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competence on the part of the individual or firm issuing that language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(2) In addition to the definition set forth in subsection (1)(g), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by an individual who is holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports in connection with any attest or compilation services.

(b) One or more kinds of management advisory, financial advisory, or consulting services, including, but not limited to, business valuation, forensic accounting, and fraud examination services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

Sec. 728. (1) A firm shall apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state if either of the following apply:

(a) The firm establishes or maintains an office in this state.

(b) An individual who represents the firm performs any engagement described in section 720(1)(a)(i), (iii), or (iv) for any client that has its home office in this state.

(2) A report produced pursuant to an engagement described in subsection (1)(b) may be supervised or signed, or the report’s signature may be authorized for the firm, by an individual who is practicing public accounting in Michigan under section 727a.

(3) A firm that is applying for licensure under this article shall meet both of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this state or another state or the equivalent in another licensing jurisdiction acceptable to the board. Owners who are not certified public accountants must be active individual participants in the firm or its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm license is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) All attest and compilation services provided by the firm in this state are performed under the supervision of an individual who is licensed and in good standing as a certified public accountant in this state or another state or the equivalent in another licensing jurisdiction acceptable to the board.

(4) A firm shall notify the department of any change in address within 30 days of the change.

(5) A firm that is not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services, perform an examination, other than an engagement described in section 720(1)(a)(iii), a review, or agreed-upon procedures engagement in accordance with

the statements on standards for attestation engagements, or perform a compilation for a client that has its home office in this state, may use the title "CPA" or "CPA firm", and may practice public accountancy as authorized in this section without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It has met the requirements in subsection (3)(a) and (b) and section 729(2).

(b) It performs those services through an individual who has practice privileges under section 727a.


(6) A firm that is not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (5) may perform other professional services within the practice of public accountancy while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It performs those services through an individual with practice privileges under section 727a.

(b) It can lawfully do so in the licensing jurisdiction where those individuals with practice privilege have their principal place of business.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor