

STATE OF NEW YORK

8201

2021-2022 Regular Sessions

IN ASSEMBLY

August 25, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the establishment of a board of trustees to administer the accountants' fund for client protection of the state of New York; to amend the state finance law, in relation to establishing the accountants' fund for client protection of the state of New York; to amend the education law, in relation to registration fees for accountants; and making an appropriation therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new section 7403-a
2 to read as follows:

3 § 7403-a. Client protection of the state of New York. 1. a. The state
4 board for public accountancy shall appoint a board of trustees to admin-
5 ister the accountants' fund for client protection of the state of New
6 York established pursuant to section ninety-seven-u of the state finance
7 law. Of the trustees first appointed, three shall be appointed for a
8 term of three years; two for a term of two years; and two for a term of
9 one year. As each such term expires, each new appointment shall be for a
10 term of three years. The state board for public accountancy may require
11 such reports or audits of the board of trustees as it shall from time to
12 time deem to be necessary or desirable.

13 b. Of the seven trustees appointed pursuant to this section, five
14 shall be certified public accountants licensed to practice in this state
15 and the remaining trustees shall be business executives operating busi-
16 nesses located in and doing business in this state.

17 2. The board shall have the power to receive, hold, manage and
18 distribute the funds collected hereunder for the purpose of maintaining
19 the integrity and protecting the good name of the accounting profession
20 by reimbursing, in the discretion of the trustees to the extent they may

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 deem proper and reasonable, losses caused by the dishonest conduct of
2 accountants licensed to practice in this state. For purposes of this
3 section, the term "dishonest conduct" shall mean misappropriation or
4 wilful misapplication of clients' money, securities, or other property,
5 by an accountant licensed to practice in this state.

6 3. The board of trustees shall adopt regulations for the adminis-
7 tration of the accountants' fund for client protection of the state of
8 New York and the procedures for presentation, consideration, allowance
9 and payment of claims, including the establishment of a maximum limita-
10 tion for awards to claimants; provided that for the first two years
11 following the establishment of the fund, the initial maximum amount of
12 an award shall be four hundred thousand dollars per claim.

13 4. The board of trustees shall have the sole discretion to determine
14 the merits of claims presented for reimbursement, the amount of such
15 reimbursement and the terms under which such reimbursement shall be
16 made. Such terms of reimbursement shall require that the claimant
17 execute such instruments, take such action or enter into such agreements
18 as the board of trustees shall require including assignments, subroga-
19 tion agreements and promises to cooperate with the board of trustees in
20 making claims against the accountant whose dishonest conduct resulted in
21 the claim.

22 5. The board of trustees shall serve without compensation but shall be
23 entitled to receive their actual and necessary expenses incurred in the
24 discharge of their duties.

25 6. The board of trustees may employ and at pleasure remove such
26 personnel as it may deem necessary for the performance of its functions
27 and fix their compensation within the amounts made available therefor.

28 7. The board of trustees shall be considered employees of the state
29 for the purpose of section seventeen of the public officers law.

30 8. All payments from the accountants' fund for client protection of
31 the state of New York shall be made by the state comptroller upon
32 certification and authorization of the board of trustees of said fund.

33 9. Acceptance of an award of reimbursement from the accountants' fund
34 for client protection of the state of New York shall, to the extent of
35 such award, (a) subrogate the fund to any right or cause of action that
36 accrued to the claimant as a consequence of the dishonest conduct that
37 resulted in the claimant's award and (b) create a lien in favor of the
38 fund that shall attach to any money asset that is designated to be paid
39 to the claimant from, or on behalf of, the accountant who caused the
40 claimant's loss. If the fund fully reimburses the claimant's loss, as
41 determined by the board of trustees, the lien shall be in the amount of
42 the fund's award. If the claimant's loss exceeds the fund's award, the
43 lien shall not extend to the claimant's right to recover additional
44 restitution from the accountant for the claimant's unreimbursed loss.
45 In the event of a recovery by the fund, a claimant shall be entitled to
46 any money recovered in excess of the fund's award of reimbursement to
47 the claimant.

48 § 2. The state finance law is amended by adding a new section 97-u to
49 read as follows:

50 § 97-u. Accountants' fund for client protection of the state of New
51 York. 1. There is hereby established in the custody of the state comp-
52 troller a special fund to be known as the "accountants' fund for client
53 protection of the state of New York".

54 2. (a) The full amount of the allocable portion of the triennial
55 registration fees collected pursuant to the provisions of sections
56 seventy-four hundred four and seventy-four hundred five of the education

1 law and such other monies as may be credited or otherwise transferred
2 from any other fund or source, pursuant to law, including voluntary
3 contributions, together with any interest accrued thereon, shall be
4 deposited to the credit of the accountants' fund for client protection
5 of the state of New York. Nothing contained herein shall prevent the
6 state from receiving grants, gifts, or bequests for the fund and depos-
7 iting them into the fund according to law.

8 (b) All deposits of such revenues not otherwise required for the
9 payment of claims as provided in this section shall be secured by obli-
10 gations of the United States or of the state having a market value equal
11 at all times to the amount of such deposits and all banks and trust
12 companies are authorized to give security for such deposits. Any such
13 revenues in such fund may be invested in obligations of the United
14 States or of the state, or in obligations the principal and interest on
15 which are guaranteed by the United States or by the state.

16 3. Monies in the fund, when allocated, shall be available to the board
17 of trustees of the fund for the purpose of issuing awards for losses
18 caused by the dishonest conduct of accountants licensed in this state
19 pursuant to section seventy-four hundred three-a of the education law.

20 4. Monies shall be payable from the fund on the audit and warrant of
21 the comptroller on vouchers approved and certified by the commissioner
22 of education.

23 § 3. Paragraph 8 of subdivision 1 of section 7404 of the education
24 law, as amended by chapter 62 of the laws of 1989, is amended to read as
25 follows:

26 (8) Fees: pay a fee of two hundred twenty dollars to the department
27 for admission to a department conducted examination and for an initial
28 license, a fee of one hundred fifteen dollars for each reexamination, a
29 fee of one hundred thirty-five dollars for an initial license for
30 persons not requiring admission to a department conducted examination,
31 and a fee of two hundred ~~ten~~ sixty dollars for each triennial regis-
32 tration period of which fifty dollars shall be allocated to and be
33 deposited in the accountants' fund for client protection of the state of
34 New York established pursuant to the provisions of section ninety-sev-
35 en-u of the state finance law.

36 § 4. Subdivision 4 of section 7405 of the education law, as amended by
37 chapter 62 of the laws of 1989, is amended to read as follows:

38 (4) Fees: pay a fee to the department for an initial license of two
39 hundred twenty dollars, and a fee of two hundred ~~ten~~ sixty dollars for
40 each triennial registration period of which fifty dollars shall be allo-
41 cated to and be deposited in the accountants' fund for client protection
42 of the state of New York established pursuant to the provisions of
43 section ninety-seven-u of the state finance law.

44 § 5. The sum of twenty million dollars (\$20,000,000), or so much ther-
45 eof as may be necessary, is hereby appropriated to the state board for
46 public accountancy out of any moneys in the state treasury in the gener-
47 al fund to the credit of the state purposes account not otherwise appro-
48 priated, and made immediately available, for the purpose of carrying out
49 the provisions of this act. Such moneys shall be payable on the audit
50 and warrant of the comptroller on vouchers certified or approved by the
51 commissioner of education in the manner prescribed by law.

52 § 6. This act shall take effect immediately.