S T A T E O F N E W Y O R K

566

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the education law, in relation to exempt persons under the profession of public accountancy

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 7407 of the education law is amended by adding two new subdivisions g and h to read as follows:

G. ANY INDIVIDUAL, NOT LICENSED AS A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT PURSUANT TO THIS ARTICLE, FROM PERFORMING COMPILATIONS OR REVIEWS, SO LONG AS THE COMPILATION OR REVIEW IS NOT ACCOMPANIED BY ANY STATEMENT, REPORT, OR WORDING INDICATING SUCH INDIVIDUAL IS A CERTIFIED PUBLIC ACCOUNTANT, PUBLIC ACCOUNTANT, OR AUDITOR.

H. ANY INDIVIDUAL, NOT LICENSED AS A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT PURSUANT TO THIS ARTICLE, FROM USING THE FOLLOWING OR SUBSTANTIALLY SIMILAR STATEMENT WHEN PERFORMING COMPILATIONS OR REVIEWS PURSUANT TO SUBDIVISION G OF THIS SECTION:

"(I/WE) HAVE PREPARED THE ACCOMPANYING (FINANCIAL STATEMENTS) OF (NAME OF ENTITY) AS OF (TIME PERIOD) FOR THE (PERIOD) THEN ENDED. THIS PRESENTATION IS LIMITED TO PREPARING IN THE FORM OF FINANCIAL STATEMENTS, INFORMATION THAT IS THE REPRESENTATION OF (NAME OF ENTITY). (I/WE) DO NOT EXPRESS ANY FORM OF ASSURANCE WITH RESPECT TO THESE FINANCIAL STATEMENTS."

S 2. Subdivision 2 of section 7408 of the education law, as amended by chapter 994 of the laws of 1971, is amended and four new subdivisions, 3, 4, 5 and 6 are added to read as follows:

2. Any person shall be guilty of a class A misdemeanor who shall use, in connection with the practice of public accountancy, or in any manner tending to imply that he OR SHE is an independent accountant or auditor, the designations "chartered accountant", "certified accountant", "expert

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

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accountant", "certified tax accountant", "tax accountant", "enrolled accountant", "enrolled public accountant", "registered accountant", "licensed accountant", "incorporated accountant", "registered public accountant", "licensed public accountant", or any abbreviation thereof, or the letters "C.A.", "E.A.", "C.T.A.", "T.A.", "E.P.A.", "R.A.", "L.A.", "I.A.", "P.A.", "R.P.A.", or, "L.P.A.", except as provided elsewhere in this article, or any other designation tending to imply that he OR SHE has expert knowledge in accounting or auditing.

3. NO FIRM SHALL HOLD ITSELF OUT TO THE PUBLIC, IN CONSIDERATION OF COMPENSATION RECEIVED OR TO BE RECEIVED, FOR THE PRACTICE OF PUBLIC ACCOUNTANCY AS DEFINED IN SECTION SEVENTY-FOUR HUNDRED ONE OF THIS ARTICLE IN THIS STATE OR USE THE TITLE "CPA" OR "CPA FIRM" OR "PA" OR "PA FIRM" WITHOUT A REGISTRATION FROM THE DEPARTMENT. AS A CONDITION OF REGISTRATION OR ITS RENEWAL, THE FIRM SHALL DEMONSTRATE THAT IT HAS COMPLIED WITH THE PROVISIONS OF THIS ARTICLE, ANY OTHER APPLICABLE LAWS AND SUCH OTHER REQUIREMENTS AS THE DEPARTMENT MAY IMPOSE, CONSISTENT WITH THIS ARTICLE.

4. NOTHING IN THIS SUBDIVISION SHALL PREVENT AN INDIVIDUAL ENROLLED TO PRACTICE BEFORE THE UNITED STATES INTERNAL REVENUE SERVICE, PURSUANT TO REGULATIONS PROMULGATED BY THE INTERNAL REVENUE SERVICE, FROM USING THE DESIGNATION "ENROLLED AGENT" OR THE LETTERS "E.A.". THIS SUBDIVISION SHALL NOT APPLY TO ANY DESIGNATIONS AUTHORIZED BY A NATIONAL CREDENTIALING BODY RECOGNIZED BY THE DEPARTMENT.

5. FOR PURPOSES OF THIS SECTION, THE TERM "MEMBER" MEANS A PERSON WHO HAS BEEN ADMITTED AS A MEMBER OF A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THE LIMITED LIABILITY COMPANY LAW AND THE OPERATING AGREEMENT OF SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, AND HAS A MEMBERSHIP INTEREST IN SUCH LIMITED LIABILITY COMPANY WITH THE RIGHTS, OBLIGATIONS, PREFERENCES AND LIMITATIONS SPECIFIED UNDER THE LIMITED LIABILITY COMPANY LAW AND SUCH OPERATING AGREEMENT.

6. AN INDIVIDUAL NOT LICENSED AS A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT, OR ANY ENTITY NOT REGISTERED PURSUANT TO THIS ARTICLE MAY PREPARE A FINANCIAL STATEMENT SO LONG AS IT IS NOT ACCOMPANIED BY ANY STATEMENT, REPORT, OR WORDING INDICATING SUCH INDIVIDUAL IS A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT OR THAT SUCH ENTITY IS REGISTERED TO PRACTICE PUBLIC ACCOUNTANCY UNDER THIS ARTICLE. SUCH NON-LICENSED INDIVIDUALS AND NON-REGISTERED ENTITIES SHALL INCLUDE THE FOLLOWING WRITTEN LANGUAGE WHEN PREPARING FINANCIAL STATEMENTS:

A. "(I, WE) HAVE PREPARED THE ACCOMPANYING FINANCIAL STATEMENT(S) OF (NAME OF BUSINESS OR ORGANIZATION) AS OF THE (TIME PERIOD) AND FOR THE (PERIOD) THEN ENDED. THIS PRESENTATION IS LIMITED TO PREPARING, IN THE FORM OF A FINANCIAL STATEMENT(S), INFORMATION THAT IS THE REPRESENTATION OF (NAME OF BUSINESS OR ORGANIZATION)"; AND

B. "(I, WE) HAVE NOT AUDITED OR REVIEWED THE ACCOMPANYING FINANCIAL STATEMENT(S) AND ACCORDINGLY DO NOT EXPRESS AN OPINION OR ANY OTHER FORM OF ASSURANCE ON THEM."

S 3. This act shall take effect immediately.