

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

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I N A S S E M B L Y

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Introduced by M. of A. GLICK, PAULIN, BING, PEOPLES-STOKES, MORELLE, ZEBROWSKI, P. RIVERA -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the practice of public accountancy by accountants who are not licensed in New York state; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Section 7406 of the education law, as amended by chapter
2 651 of the laws of 2008, is amended to read as follows:
3 S 7406. Limited permits and [temporary] practice [permits] PRIVILEGE.
4 1. Limited permits. On recommendation of the board, the department may
5 issue a limited permit to an applicant of good moral character, who is
6 the holder of a certificate, license or degree in a foreign country
7 constituting a recognized qualification for the performance in such
8 country of the acts set forth in section seventy-four hundred one of
9 this article, provided the applicant has professional qualifications
10 that are determined by the board to be significantly comparable to the
11 licensure requirements for certified public accountancy pursuant to this
12 article, and the applicant resides or has a place for the regular trans-
13 action of business within the state, and equal recognition is granted by
14 the foreign country concerned to certified public accountants or public
15 accountants licensed in the United States. Such limited permit shall be
16 valid for a period of two years and may be renewed on recommendation of
17 the board. Such permit shall authorize the applicant to use only the
18 title or designation under which he or she is generally known in his or
19 her own country, followed by the name of the country from which he or
20 she received his or her certificate, license or degree, notwithstanding
21 the provisions of subdivision two of section seventy-four hundred eight
22 of this article. THE FEE FOR EACH LIMITED PERMIT AND EACH RENEWAL SHALL
23 BE ESTABLISHED IN REGULATION BY THE BOARD OF REGENTS.

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

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1 2. [Temporary practice permits] PRACTICE PRIVILEGE. a. [On recommenda-
2 tion of the board] EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH TWO OR
3 THREE OF PARAGRAPH F OF THIS SUBDIVISION, a certified public accountant,
4 licensed by another state which the board of regents has determined to
5 have [significantly comparable] SUBSTANTIALLY EQUIVALENT certified
6 public accountant licensure requirements, or whose individual licensure
7 qualifications are verified by the department to be [significantly
8 comparable] SUBSTANTIALLY EQUIVALENT to New York's requirements, and in
9 good standing, who intends to perform ANY OF the services in [subdivi-
10 sions] SUBDIVISION one [and], two OR THREE of section seventy-four
11 hundred one of this article may [temporarily] practice public accountan-
12 cy in this state, if the certified public accountant:

13 (1) holds a valid license to practice public accountancy in the other
14 state, AND

15 (2) practices public accountancy in another state that is his or her
16 principal place of business[, and

17 (3) obtains from the department a temporary practice permit].

18 b. The [temporary] practice [permit] PRIVILEGE allows such certified
19 public accountant, who meets the requirements of paragraph a of this
20 subdivision to practice public accountancy in this state. [Each tempo-
21 rary practice permit shall allow the holder to practice in this state
22 for an aggregate total of one hundred eighty days during the twelve
23 month period beginning on the effective date of the permit.]

24 c. [Applications for the temporary practice permit shall be submitted
25 to the department through an electronic means as prescribed by the
26 commissioner. After the department renders a timely initial determi-
27 nation that the applicant has submitted the information necessary to
28 verify that the requirements of paragraph a of this subdivision are
29 satisfied, applications for temporary practice permits shall be proc-
30 essed by the department within thirty days. During such thirty day proc-
31 essing period, the applicant may practice; provided, however, that if
32 the application is denied the applicant shall cease the practice of
33 public accountancy in the state of New York.] AN INDIVIDUAL WHO HAS BEEN
34 GRANTED PRACTICE PRIVILEGES UNDER THIS SECTION WHO PERFORMS ANY OF THE
35 SERVICES IN SUBDIVISION ONE OR TWO OF SECTION SEVENTY-FOUR HUNDRED ONE
36 OF THIS ARTICLE MAY ONLY DO SO THROUGH A FIRM WHICH HAS OBTAINED A
37 REGISTRATION UNDER SECTION SEVENTY-FOUR HUNDRED EIGHT OF THIS ARTICLE.
38 SUCH AN INDIVIDUAL, AS WELL AS AN INDIVIDUAL WITH A NEW YORK LICENSE WHO
39 DOES NOT HAVE A PRINCIPAL PLACE OF BUSINESS IN NEW YORK, MAY PROVIDE
40 SERVICES IN SUBDIVISION THREE OF SECTION SEVENTY-FOUR HUNDRED ONE OF
41 THIS ARTICLE THROUGH A FIRM OF CERTIFIED PUBLIC ACCOUNTANTS THAT DOES
42 NOT HAVE A REGISTRATION IN THIS STATE BUT THAT HOLDS A VALID LICENSE,
43 REGISTRATION, OR PERMIT IN ANOTHER STATE.

44 d. Any certified public accountant who practices in this state pursu-
45 ant to this section, and any firm that employs such certified public
46 accountant to provide such services in New York, consents to all of the
47 following as a condition of the exercise of such [temporary] practice
48 privilege:

49 (1) to the personal and subject matter jurisdiction and disciplinary
50 authority of the board of regents AS IF THE PRACTICE PRIVILEGE IS A
51 LICENSE, AND AN INDIVIDUAL WITH A PRACTICE PRIVILEGE IS A LICENSEE;

52 (2) to comply with this article, the rules of the board of regents and
53 the regulations of the commissioner; and

54 (3) to the appointment of the secretary of state or other public offi-
55 cial acceptable to the department, in the certified public accountant's
56 state of licensure or the state in which the firm has its principal

1 place of business, as the certified public accountant or firm's agent
2 upon whom process may be served in any action or proceeding by the
3 department against such certified public accountant or firm.

4 e. [No more than one temporary practice permit may be issued to any
5 individual applicant provided that each permit may be renewed by the
6 department up to three times such that an individual shall practice for
7 no more than four years within a five year time period under the
8 provisions of this section. Such renewals may be granted upon receipt of
9 written notice from the permit holder, provided that the applicant
10 remains in good standing and in compliance with all applicable laws,
11 rules and regulations.] FOR PURPOSES OF THIS SUBDIVISION, THE BOARD OF
12 REGENTS MAY DETERMINE THAT NATIONALLY-RECOGNIZED CERTIFIED PUBLIC
13 ACCOUNTANT LICENSURE REQUIREMENTS ARE SUBSTANTIALLY EQUIVALENT TO NEW
14 YORK'S REQUIREMENTS, SUCH THAT AN INDIVIDUAL LICENSED IN A STATE DETER-
15 MINED TO HAVE LICENSURE REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THE
16 NATIONALLY-RECOGNIZED CPA LICENSURE REQUIREMENTS, OR AN INDIVIDUAL WHOSE
17 LICENSURE QUALIFICATIONS ARE DETERMINED TO BE SUBSTANTIALLY EQUIVALENT
18 TO THE NATIONALLY-RECOGNIZED CPA LICENSURE REQUIREMENTS, MAY PRACTICE
19 UNDER THE PRACTICE PRIVILEGE PURSUANT TO THE REQUIREMENTS CONTAINED IN
20 THIS SUBDIVISION.

21 f. (1) A person who wishes to practice public accountancy in this
22 state but does not meet the requirements of paragraph a of this subdivi-
23 sion is subject to the full licensing and registration requirements of
24 this article.

25 (2) In the event the license from the other state of the certified
26 public accountant's principal place of business is no longer valid or in
27 good standing, or that the certified public accountant has had any final
28 disciplinary action taken [against his or her license] by the licensing
29 or disciplinary authority of any other state concerning the practice of
30 public accountancy THAT HAS RESULTED IN (I) THE SUSPENSION OR REVOCATION
31 OF HIS OR HER LICENSE, OR (II) OTHER DISCIPLINARY ACTION AGAINST HIS OR
32 HER LICENSE THAT ARISES FROM (A) GROSS NEGLIGENCE, RECKLESSNESS OR
33 INTENTIONAL WRONGDOING RELATING TO THE PRACTICE OF PUBLIC ACCOUNTANCY,
34 (B) FRAUD OR MISAPPROPRIATION OF FUNDS RELATING TO THE PRACTICE OF
35 PUBLIC ACCOUNTANCY, OR (C) PREPARATION, PUBLICATION, OR DISSEMINATION OF
36 FALSE, FRAUDULENT, OR MATERIALLY INCOMPLETE OR MISLEADING FINANCIAL
37 STATEMENTS, REPORTS OR INFORMATION RELATING TO THE PRACTICE OF PUBLIC
38 ACCOUNTANCY, the certified public accountant shall cease offering to
39 perform or performing such services in this state individually and on
40 behalf of his or her firm, UNTIL AND UNLESS SUCH CERTIFIED PUBLIC
41 ACCOUNTANT RECEIVES WRITTEN PERMISSION FROM THE DEPARTMENT TO RESUME THE
42 PRACTICE OF PUBLIC ACCOUNTANCY IN THIS STATE PURSUANT TO SUBPARAGRAPH
43 THREE OF THIS PARAGRAPH.

44 (3) ANY CERTIFIED PUBLIC ACCOUNTANT WHO, WITHIN THE LAST SEVEN YEARS,
45 IMMEDIATELY PRECEDING THE DATE ON WHICH HE OR SHE WISHES TO PRACTICE IN
46 NEW YORK, (I) HAS BEEN THE SUBJECT OF ANY FINAL DISCIPLINARY ACTION
47 TAKEN AGAINST HIM OR HER BY THE LICENSING OR DISCIPLINARY AUTHORITY OF
48 ANY OTHER JURISDICTION WITH RESPECT TO ANY PROFESSIONAL LICENSE OR HAS
49 ANY CHARGES OF PROFESSIONAL MISCONDUCT PENDING AGAINST HIM OR HER IN ANY
50 OTHER JURISDICTION, OR (II) HAS HAD HIS OR HER LICENSE IN ANOTHER JURIS-
51 DICTION REINSTATED AFTER A SUSPENSION OR REVOCATION OF SAID LICENSE, OR
52 (III) HAS BEEN DENIED ISSUANCE OR RENEWAL OF A PROFESSIONAL LICENSE OR
53 CERTIFICATE IN ANY OTHER JURISDICTION FOR ANY REASON OTHER THAN AN INAD-
54 VERTEENT ADMINISTRATIVE ERROR, OR (IV) HAS BEEN CONVICTED OF A CRIME OR
55 IS SUBJECT TO PENDING CRIMINAL CHARGES IN ANY JURISDICTION, SHALL SO
56 NOTIFY THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, AND SHALL

1 NOT PRACTICE PUBLIC ACCOUNTANCY IN THIS STATE UNDER PARAGRAPH A OF THIS
2 SUBDIVISION UNTIL HE OR SHE HAS RECEIVED FROM THE DEPARTMENT WRITTEN
3 PERMISSION TO DO SO. IN DETERMINING WHETHER THE CERTIFIED PUBLIC
4 ACCOUNTANT SHALL BE ALLOWED TO PRACTICE IN THIS STATE, THE DEPARTMENT
5 SHALL FOLLOW THE PROCEDURE TO DETERMINE WHETHER AN APPLICANT FOR LICEN-
6 SURE IS OF GOOD MORAL CHARACTER. ANYONE FAILING TO PROVIDE THE NOTICE
7 REQUIRED BY THIS PARAGRAPH SHALL BE SUBJECT TO THE PERSONAL AND SUBJECT
8 MATTER JURISDICTION AND DISCIPLINARY AUTHORITY OF THE BOARD OF REGENTS
9 AS IF THE PRACTICE PRIVILEGE IS A LICENSE, AND AN INDIVIDUAL WITH A
10 PRACTICE PRIVILEGE IS A LICENSEE, AND MAY BE DEEMED TO BE PRACTICING IN
11 VIOLATION OF SECTION SIXTY-FIVE HUNDRED TWELVE OF THIS TITLE.

12 g. (1) Notwithstanding subparagraph two of paragraph a of this subdi-
13 vision or any other inconsistent law or rule to the contrary, a certi-
14 fied public accountant licensed by another state and in good standing
15 who [obtains a temporary] OTHERWISE MEETS THE practice [permit] PRIVI-
16 LEGE REQUIREMENTS under this section and files an application for licen-
17 sure under section seventy-four hundred four of this article [on or
18 before the expiration date of such temporary practice permit] may
19 continue to practice under such [permit] PRIVILEGE for a period cotermi-
20 nous with the period during which his or her application for licensure
21 remains pending with the department, INCLUDING ANY PERIOD AFTER THE
22 CERTIFIED PUBLIC ACCOUNTANT ESTABLISHES A PRINCIPAL PLACE OF BUSINESS IN
23 NEW YORK WHILE HIS OR HER APPLICATION IS PENDING.

24 (2) Nothing in this section shall limit the applicability of section
25 seventy-four hundred seven of this article.

26 [h. Fees. The fee for each limited permit and temporary practice
27 permit and each renewal shall be established in regulation by the board
28 of regents.]

29 S 2. Section 7406-a of the education law is REPEALED.

30 S 3. Subparagraph 1 of paragraph b of subdivision 3 of section 7408 of
31 the education law, as amended by chapter 651 of the laws of 2008, is
32 amended to read as follows:

33 (1) At least one partner of a partnership or limited liability part-
34 nership, member of a limited liability company or shareholder of a
35 professional service corporation or the sole proprietor is licensed or
36 otherwise authorized to practice under this article and his or her
37 license to practice is not currently suspended, annulled or revoked in
38 any jurisdiction and he or she is regularly engaged in practice on
39 behalf of the firm within the state OR, IN THE CASE OF A FIRM THAT HOLDS
40 A LICENSE, REGISTRATION, OR PERMIT AS A FIRM OF CERTIFIED PUBLIC
41 ACCOUNTANTS IN ANOTHER STATE AND IS REQUIRED TO REGISTER IN THIS STATE,
42 AN INDIVIDUAL WITH PRACTICE PRIVILEGES UNDER SUBDIVISION TWO OF SECTION
43 SEVENTY-FOUR HUNDRED SIX OF THIS ARTICLE;

44 S 4. Subdivision 3 of section 7408 of the education law is amended by
45 adding a new paragraph h to read as follows:

46 H. AN INDIVIDUAL LICENSEE OR INDIVIDUAL PRACTICING UNDER SUBDIVISION
47 TWO OF SECTION SEVENTY-FOUR HUNDRED SIX OF THIS ARTICLE WHO SIGNS OR
48 AUTHORIZES SOMEONE TO SIGN THE ACCOUNTANT'S REPORT ON THE FINANCIAL
49 STATEMENTS ON BEHALF OF A FIRM SHALL MEET THE COMPETENCY REQUIREMENTS
50 SET OUT IN THE PROFESSIONAL STANDARDS FOR SUCH SERVICES, AS RECOGNIZED
51 IN SUBDIVISION ONE OF SECTION SEVENTY-FOUR HUNDRED ONE-A OF THIS ARTI-
52 CLE, AND AS SET OUT IN THE RULES OF THE BOARD OF REGENTS.

53 S 5. This act shall take effect on the ninetieth day after it shall
54 have become a law.