

Article 2.--STATE BOARD OF ACCOUNTANCY

1-201. Membership; appointment; qualifications; term; vacancies; removal. (a) There is hereby created a board of accountancy, hereinafter referred to as the board. The board shall be composed of seven members who shall be appointed by the governor and shall be citizens of the United States and residents of the state of Kansas. Five members of the board shall be certified public accountants who hold permits to practice as certified public accountants in this state and who are in active practice as such and two members shall represent the general public. Any member of the board who is appointed to represent the general public shall be a person whose business, occupation or profession requires a reliance on and understanding of financial statements and their use.

(b) Each member of the board shall serve for a term of three years and until a successor is appointed and qualified. Vacancies in the board shall be filled by appointment of the governor for the unexpired term.

(c) The governor shall remove from the board any certified public accountant member who does not hold a permit to practice as a certified public accountant in this state. After a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, the governor may remove any member of the board for neglect of duty or other just cause.

1-202. Organization; officers; meetings; records; powers and duties; rules and regulations. (a) Each year the board shall meet and organize by electing a chairperson and a vice-chairperson from its membership. The board shall appoint a secretary, who need not be a member of the board. The board shall meet at the call of the chairperson but not less than twice each year and shall have a seal. The chairperson and the secretary of the board shall have the power to administer oaths.

(b) The board shall keep records of all proceedings and actions by and before it. In any proceedings in court, civil or criminal, arising out of or founded upon any provisions of this act, copies of such records which are certified as correct by the secretary of the board under the seal of the board shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

(c) The board may:

(1) provide for certification, notification and registration and issue permits to practice in accordance with the provisions of this act;

(2) adopt, amend and revoke rules and regulations governing its administration and enforcement of this act, including but not limited to: (A) Educational qualifications required under K.S.A. 1-302a and amendments thereto; (B) experience qualifications required under K.S.A. 1-302b and amendments thereto; (C) continuing professional education qualifications required under K.S.A. 1-310 and amendments thereto; (D) professional conduct directed to controlling the quality of services by licensees, and dealing among other things with independence, integrity and objectivity, competence and technical standards, responsibilities to the public and clients, commissions and referral fees, contingent fees, advertising, firm names, discreditable acts and communication with the board; (E) professional standards applicable to licensees; (F) the manner and circumstances of use of the titles "certified public accountant" and "C.P.A."; (G) peer reviews required in K.S.A. 1-501 and amendments thereto; (H) the definition of substantial equivalency for purposes of K.S.A. 2000 Supp. 1-322 and amendments thereto; and (I) such other rules and regulations as the board may deem necessary to regulate the practice of certified public accountancy.

(d) The board shall:

(1) Keep accounts of its receipts and disbursements;

(2) keep a register of Kansas certificates issued by the board;

(3) deny, revoke, suspend and reinstate certificates, notifications, firm registrations and permits; and

(4) initiate proceedings, hold hearings and do all things necessary to regulate the practice of certified public accountancy.

(e) Any statements on standards and guides imposed by the board shall meet the standards or guides developed for general application either by the American institute of certified public accountants or the division of accounts and reports which are in effect on July 1, 2001, or any later version as adopted by the board in rules and regulations.

(f) A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board.

1-203. Compensation and expenses. Members of the board of accountancy attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223.

1-204. Disposition of moneys; board of accountancy fee fund . There is hereby created the board of accountancy fee fund. The board of accountancy shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the board of accountancy fee fund. All expenditures from the board of accountancy fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board of accountancy or by a person or persons designated by the chairperson.

Article 3.--LICENSURE, EXAMINATION AND REGISTRATION

1-301. Fees; determination and fixing amounts; notification of permit holders. (a) The board shall charge and collect a fee from each applicant for a Kansas certificate or notification and shall charge and collect a fee for a permit to practice as a certified public accountant in this state. The board or the board's designated examination service may charge an examination application processing fee.

(b) The board shall adopt rules and regulations fixing the fees provided to be charged and collected under this section, which shall be as follows:

(1) for issuance of a certificate (initial or duplicate) an amount not to exceed \$50;

(2) for issuance of a reciprocal certificate an amount not to exceed \$250;

(3) for issuance or renewal of a permit to practice for the holder of a Kansas certificate, an amount not to exceed \$150, subject to paragraphs (4) and (6);

(4) for issuance or renewal of a permit to practice for the holder of a Kansas certificate whose permit is issued or renewed for a period of 12 months or less, an amount equal to ½ the amount of the fee fixed under paragraph (3), subject to paragraph (6);

(5) for issuance of a duplicate permit to practice for the holder of a Kansas certificate, an amount not to exceed \$25;

(6) for reinstatement of a permit to practice in the case of the holder of a Kansas certificate who had in some prior year held a permit to practice but who did not hold such a permit for the year immediately preceding the period for which a permit to practice is requested, or who, if holding a permit to practice for such period immediately preceding applies for renewal subsequent to the expiration date of such permit, an amount equal to 1 ½ times the amount of the fee then fixed under paragraph (3) or paragraph (4), whichever is applicable;

(7) for notification or renewal of notification required pursuant to K.S.A. 2000 Supp. 1-322, and amendments thereto, an amount not to exceed \$150; and

(8) for annual firm registration, an amount not to exceed \$50;

(9) for renewing a firm registration after the expiration, an amount equal to 1 ½ times the amount of the fee then fixed under paragraph (8);

(10) for examination application processing by the board, an amount not to exceed \$150.

(c) On or before May 30 each year, the board shall determine the amount of funds that will be required during the ensuing year to carry out and enforce the provisions of law administered by the board and may adopt rules and regulations to change any fees fixed under this section as may be necessary, subject to the limitations prescribed by this section. Upon changing any renewal fees as provided by this section, the board shall immediately notify all holders of permits to practice of the amount of such fees. The fees fixed by the board and in effect under this section immediately prior to the effective date of this act shall continue in effect until such fees are fixed by the board by rules and regulations as provided by this section.

1-302. Qualifications for certificate; refusal to grant on moral character grounds. (a) The certificate of certified public accountant shall be known as the Kansas certificate and shall be granted by the board to any person of good moral character who: (1) is a resident of this state or has a place of business or is employed therein; (2) meets the educational requirements prescribed by K.S.A. 1-302a, and amendments thereto; and (3) has passed an examination in accounting and auditing and in such other related subjects as the board may determine to be appropriate.

(b) The board may refuse to grant a certificate on the ground of failure to satisfy the good moral character requirement subject to notice and an opportunity for the person to be heard pursuant to the Kansas administrative procedures act.

1-302a. Education requirement for admission to examination. (a) The education requirement prescribed by K.S.A. 1-302, and amendments thereto, is satisfied if the applicant meets all of the following requirements:

(1) Is the holder of a baccalaureate or higher academic degree from a college or university approved by the board;

(2) has been awarded credit by a college or university approved by the board for at least 150 semester hours, with a concentration in accounting; and

(3) the credit for the concentration in accounting is accepted by the board.

(b) An applicant for admission to take the initial examination in this state as required in K.S.A. 1-302, and amendments thereto, must submit evidence satisfactory to the board or to the examination service that the applicant meets the requirements of subsection (a).

(c) The board may define, by rules and regulations, the term "concentration in accounting". The board may also prescribe, by rules and regulations, the type and amount of credit submitted pursuant to subsection (a).

1-302b. Qualifications for permit to practice; supervisory qualifications; licensees of other states relocating business to Kansas, issuance of certificate and permit, when. (a) No applicant who holds a Kansas certificate issued by the board shall receive a permit to practice in this state as a certified public accountant until the applicant submits evidence satisfactory to the board of having completed one year of accounting experience. This experience shall include providing any type of service or advice involving the use of attest or nonattest skills all of which was verified by a certified public accountant holding an active license to practice, meeting requirements prescribed by the board by rule. This experience would be acceptable if it was gained through employment in government, industry, academia or public practice.

(b) Any individual permit holder who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on any attest or compilation service on behalf of the firm, shall meet the experience or competency requirements, as adopted by the board through rules and regulations.

(c) Any individual permit holder who signs or authorizes someone to sign the accountant's report on any attest or compilation service on behalf of the firm, shall meet the experience or competency requirement of subsection (b).

(d) As an alternative to the requirements of subsection (a), an individual with an active license issued by another state who establishes such individual's principal place of business in this state shall request the issuance of both a certificate and a permit to practice from the board prior to establishing such principal place of business. The board may issue both a certificate and permit to such individual who obtains from the NASBA national qualification appraisal service verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the uniform accountancy act. An application under this section may be made through the NASBA qualifications appraisal service or similar organization approved by the board. Any individual meeting the requirements set forth in this subsection who is denied a certificate and a

permit to practice shall have the opportunity to be heard pursuant to the Kansas administrative procedures act.

1-304. Frequency of examinations; re-examinations, conditions. (a) Each examination provided for by this act shall take place as often as may be necessary in the opinion of the board, but not less frequently than once each year.

(b) After considering the need for uniformity with other states, the board may prescribe, by rule and regulation, the examination process, including but not limited to, the administration of the examination, application process, methods of grading, credit and determining a passing grade.

(c) The board may contract with third parties to perform administrative services with respect to the examination.

1-306. Exemption from certificate and examination requirements for certain persons. Persons who on July 1, 1951, held certified public accountant's certificates heretofore issued under the laws of this state shall not be required to secure additional certificates under this act or a Kansas certificate under this act, but shall otherwise be subject to all the provisions of this act and the act of which this section is amendatory. All such certificates heretofore issued shall, for all purposes, be considered to be Kansas certificates issued under and subject to the provisions of this act. Persons who have passed the certified public accountants' examination within the ten-year period immediately preceding the effective date of this act shall be considered to have satisfied the examination requirements set forth in this act and the act of which this section is amendatory and may apply for the Kansas certificate issued pursuant to this act.

1-307. Waiver of examination; conditions; requirements. (a) The board, in its discretion, may waive the examination of and may issue a certificate to a holder of a certificate as "certified public accountant" issued under the laws of any state upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at that time in this state; and

(2) the applicant (A) meets all current requirements in this state for the issuance of a certificate at the time application is made, (B) at the time of the issuance of the applicant's certificate in the other state, met all such requirements then applicable in this state or, (C) had four years' experience of the type described in subsection (a) of K.S.A. 1-302b, and amendments thereto, after passing the examination upon which the applicant's certificate was based and within the 10 years immediately preceding the application.

(b) The board shall issue a certificate to a holder of a foreign designation, granted in a foreign country entitling the holder thereof to engage in the practice of certified public accountancy, provided that:

(1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation;

(2) the foreign designation: (A) Was duly issued by a foreign authority that regulates the practice of certified public accountancy and the foreign designation has not expired or been revoked or suspended; (B) entitles the holder to issue reports upon financial statements; and (C) was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law;

(3) the applicant: (A) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted; (B) completed an experience requirement, substantially equivalent to the requirement set out in K.S.A. 1-302b, and amendments thereto, in the jurisdiction which granted the foreign designation; and (C) passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board; and

(4) the applicant shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy.

Each holder of a certificate issued under this subsection shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction. The board has the sole authority to interpret the application of the provisions of this subsection.

1-308. Entities authorized to practice; annual registration; fee; partner, shareholder and member requirements; designation of responsible permit holder; firm name; notification of board upon changes. (a) Notwithstanding any other provision of Kansas law, a firm may engage in the practice of certified public accountancy in this state only if the firm registers with the board, complies with the requirements established by rules and regulations adopted by the board for such registration, and meets the following requirements:

(1) At least one general partner, shareholder or member thereof must be a certified public accountant of this state holding a valid permit to practice;

(2) each partner, shareholder or member who is a certified public accountant thereof personally engaged within this state in a practice of certified public accounting must be a certified public accountant of this state holding a valid permit to practice;

(3) each partner, shareholder or member who is a certified public accountant thereof must be a certified public accountant in some state in good standing;

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state holding a valid permit to practice; and

(5) at least a simple majority of the ownership of the firm, in the terms of equity capital and voting rights of all partners, shareholders and/or members, belongs to the holders of valid licenses to practice as certified public accountants in some state. All nonlicensee owners must be of good moral character and must be natural persons actively participating in the business of the firm or entities, such as partnerships, corporations or other business associations, that are affiliated with the firm, provided that each ultimate beneficial owner of an equity interest in such an affiliated entity shall be a natural person actively participating in the business of the firm or affiliated entity. Although firms may include nonlicensee owners there

shall be at least one certified public accountant who has ultimate responsibility for all the services provided by the firm and, the firm and its ownership must comply with rules and regulations promulgated by the board. Any firm which is denied registration pursuant to this section shall be entitled to notice and an opportunity to be heard pursuant to the Kansas administrative procedures act.

(b) A professional corporation in partnership with one or more corporations or individuals shall not be registered with the board as a partnership unless such a partnership was registered prior to January 1, 2007.

(c) The term "resident" as used in this section, shall include a person engaged in practice as a certified public accountant in this state, who spends all or the greater part of such person's time during business hours in this state, but who resides in another state.

(d) Each firm shall register prior to engaging in the practice of certified public accountancy in this state and shall renew the firm's registration annually. Each firm shall designate a permit holder of this state who is responsible for the proper registration of the firm and shall identify that individual to the board by affidavit of a general partner, manager or officer of the firm. A fee may be charged for the registration of a firm.

(e) A firm that is not registered in accordance with this section shall not use the words "certified public accountants" or the abbreviation "CPA" in connection with its name. Notification shall be given the board, within one month, after the admission or withdrawal of a partner, shareholder or member from any firm so registered. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as determined by the board will result in the suspension or revocation of the firm permit.

1-310. Permit to practice; to whom issued; expiration; renewal; peer review program participation and continuing education requirements; reinstatement upon failure to renew. (a) Permits to engage in the practice of certified public accountancy in this state shall be issued by the board to persons who have met the requirements under K.S.A. 1-302b, and amendments thereto.

(b) Each holder of a Kansas certificate, which is numbered with an odd number, who is qualified under K.S.A. 1-302b, and amendments thereto, shall have a permit to practice issued or renewed on a biennial basis which shall expire on the next July 1 which occurs after the date the permit was issued or renewed and which occurs in an odd-numbered year.

(c) Each holder of a Kansas certificate, which is numbered with an even number, who is qualified under K.S.A. 1-302b, and amendments thereto, shall have a permit to practice issued or renewed on a biennial basis which shall expire on the next July 1 which occurs after the date the permit was issued or renewed and which occurs in an even-numbered year.

(d) A person may renew a permit within 12 months of its expiration date if such person submits a complete and sufficient renewal application together with the fee prescribed by K.S.A. 1-301, and amendments thereto.

(e) As a condition for renewal of a permit to practice, the board shall require all permit holders to furnish with such applicant's renewal application, evidence of participation in continuing education in accounting, auditing, or related areas of at least 80 hours during the two-year period for renewal unless the board waives all or a portion of the continuing education requirements.

(f) The board may exempt from the continuing education requirements an individual who holds a permit from another state if:

(1) The permit holder has a principal place of business located outside the state of Kansas;

(2) the permit holder verifies to the board's satisfaction that such person has met the continuing education requirements of the state in which the principal place of business is located;

(3) the board considers the continuing education requirements of the state in which the principal place of business is located to be substantially equivalent to those of Kansas; and

(4) the state in which the principal place of business is located extends the same exemption to Kansas permit holders who practice in that state.

(g) A person who fails to renew a permit within 12 months after its expiration may apply for reinstatement by making application on a form provided by the board, submitting a reinstatement fee as prescribed by K.S.A. 1-301 and amendments thereto, and submitting proof that such person has obtained 40 hours of qualifying continuing education within the preceding 12 months prior to applying for reinstatement.

1-311. Grounds for denial, revocation or suspension of permit, certificate, notification or registration; additional administrative sanctions or remedies; proceedings. (a) The board may deny an application for a Kansas certificate, revoke or suspend any certificate issued under the laws of this state or may revoke, suspend or refuse to renew any permit issued under K.S.A. 1-310 and amendments thereto, and any notification issued pursuant to K.S.A. 2000 Supp. 1-322 and amendments thereto, may censure the holder of any such permit, certificate, or notification, limit the scope of practice of any permit holder, and may impose an administrative fine not exceeding \$2,000, for any one or any combination of the following causes:

(1) Fraud, dishonesty or deceit in obtaining a certificate, permit, registration or notification;

(2) cancellation, revocation, suspension or refusal to renew a person's authority to practice for disciplinary reasons in any other jurisdiction for any cause;

(3) failure, on the part of a holder of a permit to practice or notification to maintain compliance with the requirements for issuance or renewal of such permit, or notification;

(4) revocation or suspension of the right to practice by the PCAOB or any state or federal agency;

(5) dishonesty, fraud or gross negligence in the practice of certified public accountancy;

(6) failure to comply with applicable federal or state requirements regarding the timely filing of the person's personal tax returns, the tax returns of the person's firm or the timely remittance of payroll and other taxes collected on behalf of others;

(7) violation of any provision of this act or rule and regulation of the board except for a violation of a rule of professional conduct;

(8) willful violation of a rule of professional conduct;

(9) violation of any order of the board;

(10) conviction of any felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas:

(11) performance of any fraudulent act while holding a Kansas certificate;

(12) making any false or misleading statement or verification, in support of an application for a certificate, permit, notification or firm registration filed by another;

(13) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501, and amendments thereto; and

(14) any conduct reflecting adversely on a person's fitness to practice certified public accountancy.

(b) In lieu of or in addition to any remedy specifically provided in subsection (a), the board may require of a permit holder satisfactory completion of such continuing education programs as the board may specify.

(c) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the act for judicial review and civil enforcement of agency actions.

1-312. Grounds for revocation or suspension of partnerships, professional corporations. (a) Except as provided in subsection (b), the board may deny an application to register a firm, revoke or suspend a firm's registration, censure a firm, limit the scope of practice of a firm or impose such remedial action as it deems necessary to protect the public interest, or both, and impose an administrative fine not exceeding \$2,000 for any one or any combination of the following causes:

(1) Failure to meet the requirements of K.S.A. 1-308 and amendments thereto;

(2) fraud, dishonesty or deceit in obtaining a registration;

(3) revocation or suspension of a firm's right to practice by the PCAOB or any state or federal agency;

(4) dishonesty, fraud or gross negligence in the practice of certified public accountancy;

(5) violation of any provision of chapter 1 of the Kansas Statutes Annotated and rules and regulations promulgated by the board except for a violation of a rule of professional conduct;

(6) willful violation of a rule of professional conduct;

(7) violation of any order of the board;

(8) cancellation, revocation, suspension or refusal to renew the authority of a firm to practice certified public accountancy in any other state;

(9) conviction of any felony, or of any crime an element of which is dishonesty, deceit or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas; or

(10) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501 and amendments thereto;

(b) In actions arising under peer review for reports modified for matters relating to attest services, the board may take such remedial action as it deems necessary to protect the public interest. However, the board may not limit the scope of practice of attest services of a firm or limit the scope of practice of attest services of any permit holder under K.S.A. 1-311, and amendments thereto, for failure to timely comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards unless:

(1) The firm has received at least two modified peer review reports during 12 consecutive years relating to attest services and the board finds that the firm has exhibited a course of conduct that reflects a pattern of noncompliance with applicable professional standards and practices; or

(2) the firm has failed to abide by remedial measures required by a peer review committee or the board.

(c) Nothing in subsection (b) shall be construed to preclude the board from: Limiting the scope of practice of attest services of a firm or limiting the scope of practice of attest services of a permit holder under K.S.A. 1-311, and amendments thereto; or taking such remedial action as the board deems necessary to protect the public interest, after a review of an adverse peer review report based on matters relating to attest services if the board determines that the firm failed to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards.

(d) After considering AICPA standards on peer review, the board may define, by rules and regulations, the terms "modified" and "adverse."

(e) At the time of suspension or revocation of a firm's registration, the board may suspend or revoke the permit to practice of a member, shareholder or partner of a firm if the permit holder is the only Kansas member, shareholder or partner of the firm. The permit shall be reinstated upon reinstatement of the firm's registration.

(f) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the act for judicial review and civil enforcement of agency actions.

(g) The board shall not have the power to assess fines under this section if a fine has been assessed for the same or similar violation under the provisions of subsection (a) of K.S.A. 1-311 and amendments thereto.

1-315. Reissuance of revoked or suspended certificate, registration or permit. The board may reissue the Kansas certificate of any person whose Kansas certificate has been revoked, or may permit the reregistration of any firm whose registration has been revoked, or may reissue or modify the suspension of any permit to practice as a certified public accountant which has been revoked or suspended.

1-316. Unlawful acts; penalty. (a) It is unlawful for any person to practice certified public accountancy unless the person holds a Kansas certificate and a valid permit to practice issued by the board pursuant to K.S.A. 1-310 and amendments thereto, or is entitled to practice pursuant to K.S.A. 1-322 and amendments thereto.

(b) It is unlawful for any firm to practice certified public accountancy as a certified public accounting firm or CPA firm unless the firm is registered with the board pursuant to K.S.A. 1-308 and amendments thereto.

(c) It is unlawful for any person, except the holder of a valid certificate, to use or assume the title "certified public accountant" or to use the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with "certified public accountant." The use of the term "public accountant" without the word "certified" shall not be interpreted as implying that one is a certified public accountant.

(d) Except as provided by this subsection, no person holding a permit or firm holding a registration under this act shall use a professional or firm name or designation that is misleading as to: (1) The legal form of the firm; (2) the persons who are partners, officers, members, managers or shareholders of the firm; or (3) any other matter. The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. The use of a fictitious name by a firm is permissible if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm may not include the name of an individual who is neither a present nor a past partner, member or shareholder of the firm or its predecessor. The name of the firm may not include the name of an individual who is not a certified public accountant.

(e) It is unlawful for any person, except the holder of a Kansas permit to practice, or a valid Kansas firm registration, to issue a report with regard to any attest or compilation service that references the AICPA or the PCAOB, or both. The practice of public accountancy by persons not required to hold a permit to practice, including public accountants, is not prohibited or regulated by the provisions of this act, except for the provisions of this section, K.S.A. 1-308, 1-318 and 1-319, and amendments thereto and K.S.A. 1-319, and amendments thereto. The title "enrolled agent" may only be used by individuals so designated by the federal internal revenue service.

(f) Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or by both such fine and imprisonment.

1-318. Enjoining unlawful acts. Whenever in the judgment of the board any person or firm, or both, has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. 1-316 and amendments thereto, or any valid rules and regulations of the board, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person or firm, or both, has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

1-319. Acts constituting prima facie evidence for injunction. (a) The display or assertion in any media form or public communication a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof shall be prima facie evidence in any action for an injunction brought under K.S.A. 1-318, and amendments thereto, that the person whose name is so displayed or asserted caused or procured the display or assertion and that such person is holding such person out to be the holder of a certificate or the holder of a permit to practice issued under K.S.A. 1-310 and amendments thereto.

(b) In any action under K.S.A. 1-318, and amendments thereto, evidence of the commission of a single act prohibited by this act or the act of which this section is amendatory shall be sufficient to justify an injunction without evidence of a general course of conduct.

1-321. Definitions. When used in chapter 1 of the Kansas Statutes Annotated, and amendments thereto, the following terms shall have the meanings indicated:

(a) "Actively participate" means participation that is continuous as one's primary occupation.

(b) "affiliated entity" means one that provides services to the CPA firm or provides services to the public that are complementary to those provided by the CPA firm.

(c) "AICPA" means the American institute of certified public accountants.

(d) "Attest" means providing the following financial statement services:

(1) Any audit or other engagement to be performed in accordance with the statements on auditing standards (SAS);

(2) any audit to be performed in accordance with the Kansas municipal audit guide;

(3) any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services (SSARS);

(4) any engagement, except a compilation, to be performed in accordance with the statements on standards for attestation engagements (SSAE); and

(5) any engagement to be performed in accordance with the standards of the PCAOB.

(e) "Board" means the Kansas board of accountancy established under K.S.A. 1-201 and amendments thereto.

(f) "Certificate" means a certificate as a certified public accountant issued under K.S.A. 1-302 and amendments thereto, or a certificate as a certified public accountant issued after examination under the law of any other state.

(g) "Client" means a person or entity that agrees with a permit holder to receive any professional service.

(h) "Compilation" means providing a service to be performed in accordance with the statements on standards for accounting and review services (SSARS) or performed in accordance with the statements on standards for attestation engagements (SSAE) that is presented in the form of financial statements or information that is the representation of management or both, without undertaking to express any assurance on the statements.

(i) "Equity capital" means (1) capital stock, capital accounts, capital contributions or undistributed earnings of a registered firm as referred to in K.S.A. 1-308 and amendments thereto; and (2) loans and advances to a registered firm made or held by its owners. "Equity capital" does not include an interest in bonuses, profit sharing plans, defined benefit plans or loans to a registered firm from banks, financial institutions or other third parties that do not actively participate in such registered firm.

(j) "Firm" means:

(1) An individual who operates as a sole practitioner and who issues reports subject to peer review; or

(2) any business organization including, but not limited to, a general partnership, limited liability partnership, general corporation, professional corporation or limited liability company.

(k) "Good moral character" means lack of a history of professional dishonesty or other felonious acts.

(l) "Active license" means a certificate or a permit to practice issued by another state that is currently in force and authorizes the holder to practice certified public accountancy.

- (m) "Licensee" means the holder of a certificate or a permit to practice issued by this state or another state.
- (n) "Manager" means a manager of a limited liability company.
- (o) "Member" means a member of a limited liability company.
- (p) "NASBA" means the national association of state boards of accountancy.
- (q) "Nonattest" means providing the following services:
 - (1) The preparation of tax returns and providing advice on tax matters;
 - (2) the preparation of any compilation;
 - (3) management advisory, consulting, litigation support and assurance services, except for attest services;
 - (4) financial planning; and
 - (5) any other financial service not included in the statements on auditing standards, the statements on standards for accounting and review services, the standards for attestation engagements as developed by the American institute of certified public accountants or as defined by the board.
- (r) "PCAOB" means the public company accounting oversight board created by the Sarbanes-Oxley act of 2002.
- (s) "Practice of certified public accountancy" means performing or offering to perform attest or nonattest services for the public while using the designation "certified public accountant" or "CPA" in conjunction with such services.
- (t) "Practice of public accountancy" means performing or offering to perform attest or nonattest services for the public by a person not required to have a permit to practice or a firm not required to register with the board.
- (u) "Professional" means arising out of or related to the specialized knowledge or skills associated with CPAs.
- (v) "Report," when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person 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 person or firm is an accountant or auditor or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.
- (w) "Rule" means any rule or regulation adopted by the board .
- (x) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Kansas.
- (y) "Substantial equivalency" is a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination and experience requirements contained in the uniform accountancy act or that an individual CPA's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in the uniform accountancy act.
- (z) "Uniform accountancy act" means model legislation issued by the AICPA and NASBA in existence on July 1, 2000.

1-322. Reciprocity for individuals licensed in other states; notification, application, renewal, fee; conditions; disciplinary actions. (a)

(1) An individual whose principal place of business is not in this state having an active license to practice certified public accountancy from any state which the NASBA national qualification appraisal service, or similar organization approved by the board, has verified to be in substantial equivalence with the CPA licensure requirements of the uniform accountancy act may be presumed to have qualifications substantially equivalent to this state's requirements and may be granted all the privileges of permit holders of this state without the need to obtain a permit issued under K.S.A. 1-310 and amendments thereto, or registration issued under K.S.A. 1-308 and amendments thereto; or

(2) an individual whose principal place of business is not in this state having an active license to practice certified public accountancy from any state which the NASBA national qualification appraisal service, or similar organization approved by the board, has not verified to be in substantial equivalency with the CPA licensure requirements of the uniform accountancy act may be presumed to have qualifications substantially equivalent to this state's requirements and may be granted all the privileges of permit holders of this state without the need to obtain a permit to practice issued under K.S.A. 1-310 and amendments thereto, or registration issued under K.S.A. 1-308 and amendments thereto, if such individual obtains from the NASBA national qualification appraisal service, or similar organization approved by the board, verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the uniform accountancy act. Any person meeting the requirements set forth in this section who is denied the right to practice in this state under this section shall have the opportunity to be heard pursuant to the Kansas administrative procedures act.

(b) Individuals seeking to practice certified public accountancy in Kansas pursuant to subsection (a) shall notify the board prior to commencing practice in this state. Such individuals shall have a reasonable amount of time from the date of such notification to the board to complete an application of notification provided by the board and shall renew such notification on a biennial basis. The board may enact rules and regulations governing notification and renewal. Individuals entering the state to provide attest services under this section shall be required to provide proof of having a peer review in accordance with K.S.A. 1-501 and amendments thereto, or similar requirements as approved by the board.

(c) The board may charge a fee for such notification and a renewal of such notification pursuant to K.S.A. 1-301 and amendments thereto.

(d) Any licensee of another state exercising the privilege afforded under subsection (a), as a condition of the grant of this privilege:

(1) Consents to the personal and subject matter jurisdiction of this board, and to the appointment of the state regulatory body that initially issued the licensee's certificate as the agent upon whom process may be served in any action or proceeding by the Kansas board against the licensee; and

(2) agrees to comply with this act and the board's rules and regulations.

(e) A holder of a permit to practice issued by this state offering or rendering services or using a CPA title in another state may be subject to

disciplinary action in this state for an act committed in another state for which the permit holder would be subject to discipline for an act committed in the other state. The board may investigate any complaint made by the board of accountancy of another state.

Article 4.--GENERAL PROVISIONS

1-401. Certified public accountants; ownership of working papers; client communications, privileged, exception; availability of documents and information for peer reviews and board investigations. (a) Except as otherwise provided in this section, all statements, records, schedules and memoranda, commonly known as working papers, made by a certified public accountant, or by any employee of a certified public accountant, incident to, or in the course of professional service to clients by such certified public accountant, except reports delivered to a client by such certified public accountant, shall be and remain the property of such certified public accountant in the absence of a written agreement between the certified public accountant and the client to the contrary.

(b) No certified public accountant shall be examined through judicial process or proceedings without the consent of the client as to any communication made by the client to the certified public accountant in person or through the media of books of account and financial records, or as to advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a certified public accountant be examined without the consent of the client concerned, concerning any fact the knowledge of which any such person has acquired in such capacity or relationship with the certified public accountant. Nothing in this section shall be construed as limiting the authority of this state or of the United States or any agency of this state or of the United States to subpoena books of account, financial records, reports or working papers or other documents and use such information in connection with any investigation, public hearing or court proceeding. This privilege shall not exist when any such communication is material to the defense of an action against a certified public accountant and as otherwise provided by this section.

(c) Nothing in subsection (a) shall prohibit a certified public accountant, or any employee of a certified public accountant, from disclosing any data to any other certified public accountant, or anyone employed by a certified public accountant in connection with peer reviews of such certified public accountant's accounting and auditing practice. Nothing in subsection (a) shall prohibit the board of accountancy from securing working papers in connection with any investigation authorized under law. Nothing in subsection (b) shall prohibit a certified public accountant or anyone employed by a certified public accountant from disclosing any data to any other certified public accountant or anyone employed by a certified public accountant in connection with peer reviews of such certified public accountant's accounting and auditing practice nor shall such disclosure waive the privilege. Persons conducting such peer reviews shall be subject to the same duty of confidentiality in regard to such data as is applicable to certified public accountants under this section.

(d) As used in this section, "certified public accountant" means a person who holds a permit from the board of accountancy to engage in practice as a certified public accountant in this state.

1-402. Liability for professional negligence; restrictions. No person, proprietorship, partnership or registered firm authorized to practice as a certified public accountant pursuant to article 3 of chapter 1 of the Kansas Statutes Annotated, or any employee, agent, partner, officer, shareholder or member thereof, shall be liable to any person or entity for civil damages resulting from acts, omissions, decisions or other conduct amounting to negligence in the rendition of professional accounting services unless:

(a) The plaintiff directly engaged such person, proprietorship or registered firm to perform the professional accounting services; or

(b) (1) the defendant knew at the time of the engagement or the defendant and the client mutually agreed after the time of the engagement that the professional accounting services rendered the client would be made available to the plaintiff, who was identified in writing to the defendant; and (2) the defendant knew that the plaintiff intended to rely upon the professional accounting services rendered the client in connection with specified transactions described in writing.

1-403. Same; effect on common law. The provisions of this act are not intended to alter or modify existing common law rules of liability except as otherwise stated herein.

Article 5.--QUALITY/PEER REVIEW PROGRAM

1-501. Quality review or peer review; condition for renewal of permit to practice; purpose; time; cost; alternative program; criteria; remedial program; revocation or suspension of permit, when; waiver, conditions; actions and reports privileged, when.

(a) The board may require as a condition for renewal of a firm registration that a firm that provides attest services undergo a peer review and submit evidence of such so that the board may determine the degree of the firm's compliance with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards. The reviews shall occur at least once every three years with the cost of such review to be borne by the firm.

(b) A firm's completion of a peer review program endorsed or supported by the AICPA or other substantially similar programs shall satisfy the requirements of this section. The board shall provide for oversight of these programs by adoption of rules and regulations.

(c) A firm at the time of application, may request in writing upon forms provided by the board, a waiver from the review requirement. The board may grant a waiver if the firm does not perform or has not performed any attest services during the twelve-month period preceding the date of application or for good cause as determined by the board.

A firm granted a waiver on the basis that the firm does not perform or intend to perform attest services shall immediately notify the board if the firm engages in such practice and thus becomes subject to the review.

(d) Except as provided by K.S.A. 60-437, and amendments thereto, and subsections (e) and (g) of this section, any reports, statements, memoranda, transcripts, findings, records, or working papers prepared and any opinions formulated, in connection with any peer review shall be

privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding, except that such privilege shall not exist when the material in question is involved in a dispute between a reviewer and the person or firm being reviewed.

(e) Nothing in subsection (d) shall limit the authority of the board to require a person whose work is the subject of a peer review or a firm to provide a copy of an adverse or modified peer review report and any responses to report deficiencies from the person or firm and any document identifying follow-up requirements for the purpose of determining the person's or firm's compliance with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards, provided however, the board may not request or require a person or firm subject to a peer review to provide a peer review report or any other document contained in this section unless the peer review report has been accepted by a report acceptance committee under the peer review program after December 31, 2001.

(f) After considering AICPA standards on peer review, the board may define, by rules and regulations, the terms "modified" and "adverse".

(g) In any proceeding before the board in which discussion or admission into evidence of peer review report documents identified in subsection (e) is proposed, the board or presiding officer shall conduct that portion of the proceeding in closed session. In closing a portion of such proceeding, the board or presiding officer may exclude any person from the proceeding except the person whose work is the subject of peer review, members of the permit holder's firm, the attorneys representing the parties, the board's attorneys, necessary witnesses and a court reporter. The board or presiding officer shall make the portions of the agency record in which such documents are disclosed subject to a protective order prohibiting further disclosure. Documents that are privileged under subsection (d) and that are considered during a closed proceeding shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity. No person in attendance at a closed portion of such proceeding shall at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a document privileged under subsection (d) which was disclosed in a closed portion of a proceeding, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing. All other evidence shall be presented as part of the proceeding in an open meeting. Offering any testimony or records in the open portion of a proceeding shall not be deemed a waiver of the peer review privilege created in subsection (d).

(h) No person who participates in the conduct of any peer review within the scope of this section shall be liable in damages to any person for any action taken or recommendation made in connection with the peer review process.