

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Board of Accountancy OAR 801 Division 005
Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

RULE CAPTION

Adds a definition for active status, retired status and expired status. Modifies inactive status .

Not more than 15 words that reasonably identify the subject matter of the agency's intended action.

November 15, 2011 9:00 a.m. Board of Accountancy 3218 Pringle Rd SE Salem OR 97302 L. Patrick Hearn
Hearing Date Time Location Hearings Officer

Hearing Date Time Location Hearings Officer
Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

801-005-0010, 801-005-0300

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 670.310

Other Auth.:

Stats. Implemented: ORS 670.310, 673.410

RULE SUMMARY

The 2011 Legislative Assembly passed HB 3181 which amends the time a license can be lapsed. In addition, the bill modified what can and cannot be performed by a licensee who has an inactive license.

December 2, 2011

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

 L. PATRICK HEARN 10/12/11
Signature Printed name Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form

Board of Accountancy
Agency of Division

OAR Chapter 801
Administrative Rules Chapter Number

In the Matter of the Board of Accountancy)	Statutory Authority
Amending rules in Chapter 801, Division 005)	Statutes Implemented
Related to applications for CPA Certificate)	Statement of Need
)	Principal Documents Relied Upon
)	Statement of Fiscal Impact

Statutory Authority: ORS Chapter 670.310

Other Authority: None

Statutes Implemented: ORS 670.310, 673.410

Need for the Rule(s): Implement HB 3181 to allow for a license to be on lapsed status for a total of 6 years (3 renewal periods). Implement provisions for a retired status and modify definition of inactive status.

Documents Relied Upon*: House Bill 3181

Fiscal & Economic Impact: Moderate Fiscal Impact. The board may experience a rise in reinstatement of lapsed or inactive licenses due to the new rules/law for a small window of time upon implementation and may also see a reduction in fees for inactive licensees who chose to retire their license (lesser fee).

Administrative Rule Advisory Committee consulted? Yes.

The Board had a legislative task force and a rule task force who developed the language and concept for this legislation and the rules to implement.



Authorized Signature

* The documents listed are available for public inspection at the office of the Oregon Board of Accountancy, 3218 Pringle Road SE, Suite 110 Salem, Oregon 97302-6307, during regular business hours, 8:00 am to 5:00 pm, Monday through Friday.

OREGON ADMINISTRATIVE RULES
CHAPTER 801, DIVISION 005 - BOARD OF ACCOUNTANCY

DEFINITIONS AND SAFE HARBOR LANGUAGE

Definitions

801-005-0010 As used in OAR Chapter 801, the following terms or abbreviations have the following meanings, unless otherwise defined therein:

(1) Active means a license issued by the Oregon Board of Accountancy to an individual who has met the requirements to hold a CPA or PA license, maintains the license and is in good standing.

(2) AICPA means American Institute of Certified Public Accountants.

(3) Applicant means a person applying for a certificate, license or permit to practice public accountancy.

(4) Attestation Services means the following financial statement services must be performed under the following standards means:-

(a) An audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS):

(b) A review of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS);

(c) Any engagement to be performed in accordance with the statements on Standards for Attest Engagements (SSAE);

(d) An engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board in the United States (PCAOB)

(e) The statements on standards specified in subsections (a) through (c) of this definition are those developed by the AICPA.

(5) Business organization means any form of business organization authorized by law, including but not limited to a proprietorship, partnership, corporation, limited liability company, limited liability partnership or professional corporation.

(6) CPA or Certified Public Accountant means a person who has a certificate of certified public accountant issued under ORS 673.040.

(7) CPA Exam means the Uniform Certified Public Accountant Examination.

(8) CPE means continuing professional education.

(9) Candidate means a person applying for the CPA Exam.

(10) Censure means an official written expression of reprimand, by Board action, to a licensee for specified conduct.

(11) Certificate means a certificate of certified public accountant issued under ORS 673.040.

(12) Client means a person or entity who agrees with a licensee to receive any professional service from the licensee.

(13) Commission means a fee calculated as a percentage of the total value of the sale of a product or service that is paid or received in the form of money or other valuable consideration.

(14) Compilation Services means a professional service performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS) that is presenting, in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

OREGON ADMINISTRATIVE RULES
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~~(1415)~~ **Contingent fee** means a fee established for the performance of any professional service and directly or indirectly paid to a licensee pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. A fee is not contingent if the fee:

- (a) Is fixed by courts or other public authorities; or
- (b) In tax matters, is determined based on the results of judicial proceedings or the findings of governmental agencies.

~~(156)~~ **Enterprise** means any person or entity, whether organized for profit or not, for which a licensee provides public accounting services.

~~(167)~~ **Expired** means a license that has been in lapsed status not been renewed after six years from the close of the last license period for which the license was active, inactive or retired, for a total period, consecutive or non-consecutive, of six years.

(a) An expired license may be restored only if the Board determines that there is just cause to do so.

~~(1687)~~ **Fees** include commissions, contingent fees and referral fees.

~~(1967)~~ **Financial statements** means the presentation of financial data, including accompanying notes, that is derived from accounting records and intended to communicate an entity's economic resources or obligations or the changes therein, at a specific point in time, and/or the results of operations for a specific period of time, presented in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Financial presentations included in tax returns are not financial statements. Incidental financial data included in management advisory services reports to support recommendations to a client are not financial statements. The method of preparation (for example, manual or computer preparation) is not relevant to the definition of a financial statement.

~~(19620)~~ **Firm** means a business organization as defined in ORS 673.010 that is engaged in the practice of public accountancy and is required to be registered with the Board.

~~(20161)~~ **First time candidate** means a candidate for the CPA exam who is sitting for the exam for the first time in Oregon.

~~(2210)~~ **Generally Accepted Accounting Principles** means accounting principles or standards generally accepted in the United States, including but not limited to *Statements of Financial Accounting Standards* and interpretations thereof, as published by the Financial Accounting Standards Board, and *Statements of Governmental Accounting Standards* and interpretations thereof, as published by the Government Accounting Standards Board.

~~(2234)~~ **Generally Accepted Auditing Standards** means the *Generally Accepted Auditing Standards* adopted by the American Institute of Certified Public Accountants, together with interpretations thereof, as set forth in *Statements on Auditing Standards* issued by the AICPA, and for federal audits, the *Single Audit Act* and related U.S. Office of Management and Budget Circulars published by the Government Accountability Office.

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(242) ~~242~~ **Holding out as a CPA or PA** means to assume or use by oral or written communication the titles or designations "certified public accountant" or "public accountant" or the abbreviations "CPA" or "PA", or any number or other title, sign, card, device or use of any internet domain or e-mail name, tending to indicate that the person holds a certificate or license and permit in good standing issued under the authority of ORS 673 as a certified public accountant or a public accountant.

(242) **Inactive means a license** ~~status is a permit status that may be granted by the Board to a licensee; who is not holding out as a CPA or PA and otherwise not engaged in the practice of public accountancy, if the license is not suspended, on probation or revoked.~~

(a) Whose license is not suspended or revoked;

(b) Who is not:

(A) Practicing public accountancy in a business organization that is required to be registered in Oregon with the Board under ORS 673.160; or

(B) A sole practitioner; and

(c) Who does not perform or offer to perform for a client services involving the use of accounting or auditing skills, including but not limited to issuance of reports on financial statements, management advisory, financial advisory or consulting services, preparation of tax returns or the furnishing of advice on tax matters.

(c4) Licensees who are granted inactive status must place the word shall not use the CPA or PA designation unless the word "inactive" is used in conjunction with the designation, such as "CPA Inactive" and is listed in the same size font next to the licensee's name and title on any business card, letterhead or other professional document.

(254) **In good standing** means the status of a holder of a permit, license or registration issued by any jurisdiction, ~~that jurisdiction, that is not inactive, suspended, revoked, on probation, expired, resigned or lapsed.~~

(265) **Jurisdiction** means the licensing authority for the practice of public accountancy in any state, U.S. Territory or foreign country.

(27) **Lapsed** means a license that is not renewed within 60-days ~~by the close of the close of a license period.~~

(a) A person in lapsed status Licensees may not:

(A) Practice public accounting in a business organization required to be registered with the Board under ORS 673.160; or

(B) Practice as a sole practitioner; ~~perform or offer to perform any accounting services while their license is in lapsed status or~~

(Ca) Perform or offer to perform for a client services involving the use of accounting or auditing skills, including but not limited to issuance of reports on financial statements, management advisory, financial advisory or consulting services, preparation of tax returns or the furnishing of advice on tax matters. A license that is not renewed for a total of six years, consecutive or non-consecutive, will expire.

(b) A person in lapsed status must not hold out in any form or manner that they are a CPA or PA

(c) A lapsed license may be reinstated to active status only prior to becoming expired.

OREGON ADMINISTRATIVE RULES
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(286) License means

(a) A ~~certificate, certificate or permit issued under ORS 673.150 or registration,~~ or a license issued under ORS 673.100, enabling the holder thereof to practice public accountancy in this state; or

(b) A certificate, permit, registration or other authorization issued by a jurisdiction outside this state enabling the holder thereof to practice public accountancy in that jurisdiction.

(279) Licensee means the holder of a license as defined in these rules.

(3028) Material participation means participation that is regular, continuous and substantial.

(3129) Manager means a manager of a limited liability company.

(320) Member means a member of a limited liability company.

(334) NASBA means National Association of State Boards of Accountancy.

(342) Non-licensee owner means a person who does not hold a certificate, license or permit as a certified public accountant or public accountant in Oregon or in any other jurisdiction.

(353) PA or Public Accountant means a person who is the holder of a license issued under ORS 673.100.

(364) Peer Review means a study, appraisal or review of one or more aspects of the public accountancy work of a holder of a ~~permit~~ license under ORS 673.150 or of a registered business organization that performs attestation or compilation services that is conducted by a CPA who holds an active license issued by any state or a public accountant licensed under ORS 673.100 who was required to pass the audit section of the Uniform CPA Exam as a requirement for licensing. The peer reviewer must also be independent of the ~~permit~~ license holder or registered business organization being reviewed.

(375) Permit means a ~~permit~~ license to practice public accountancy issued under ORS 673.150.

(386) Practice of public accountancy means performance of or any offer to perform one or more services for a client or potential client, including the performance of such services while in the employ of another person by a ~~licensee while holding out as a CPA or PA,~~ of the professional services of accounting, tax, personal financial planning, litigation support services, and those professional services for which standards are promulgated. These standards include Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC), Statements of Financial Accounting Standards, Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, Statements on Standards for Consulting Services, Statements of Governmental Accounting Standards, International Financial Reporting Standards, International Accounting Standards, Statements on Standards for Attestation Engagements, and Statements on Standards for Valuation Services.

(397) Principal Place of Business means the office location designated by a person for purposes of substantial equivalency and reciprocity.

(4038) Professional means arising out of or related to the specialized knowledge or skills associated with certified public accountants and public accountants.

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(4130) Professional services means any services performed or offered to be performed by a licensee for a client or potential client in the course of the practice of public accountancy.

(3420) Regional Accreditation means the college or university is accredited by one of the six regional accrediting associations or by another accrediting body that is recognized by the Board.

(430) Referral fee means a referral fee that includes, but is not limited to, a rebate, preference, discount or any item of value, whether in the form of money or otherwise, given or received by a certified public accountant, public accountant or firm, to or from any third party, directly or indirectly, in exchange for the purchase of any product or service, unless made in the ordinary course of business.

(441) Registration means the authority issued under ORS 673.160 to a business organization to practice public accountancy in this state.

(452) Report see OAR 801-005-0200 and OAR 801-005-0300

(46) Retired means a license status conferred by the Board upon a licensee who:

~~(a) Holds an inactive status license; and~~

~~(ab) At any age, has held an active license in good standing, not suspended or revoked, to practice public accountancy in Oregon for a combined period of not less than 20 years, or;~~

~~(b) Has reached 65 years of age,~~

~~(c) A licensee in retired status may not perform any attest services nor sign any tax returns as a preparer.~~

~~(d) The status of retired does not preclude a person from performing public accounting services for which the retired licensee receives no direct or indirect compensation.~~

~~(ed) A retired licensee may sign any documents related to such non-compensated services as a "CPA Retired" or "PA Retired".~~

(473) Returning candidate means a person who has received grades for any section of the Uniform CPA exam who applies to sit for any part of the CPA exam in Oregon.

(484) Single Audit Act means the Single Audit Act with the Single Audit Act Amendments of 1996, as published by the United States Government Accountability Office, Office of Management and Budget.

(495) Standards for Accounting and Review Services means the *Statements on Standards for Accounting and Review Services* published by the AICPA.

(5046) Standards for board approved peer review programs means the *Standards for Performing and Reporting on Peer Reviews* published by the AICPA.

(5147) Statements on Standards for Attestation Engagements means the statements by that name issued by the AICPA.

(5248) State means any state, territory or insular possession of the United States, and the District of Columbia.

(5349) Substantial equivalency means

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(a) an individual holds a valid license as a certified public accountant from another state that requires an individual, as a condition of licensure as a certified public accountant to:

(A) Complete at least 150 semester hours of college education and obtain a baccalaureate or higher degree conferred by a college or university;

(B) Achieve a passing grade on the Uniform Certified Public Accountant Examination; and

(C) Possess at least one year of experience, verified by a licensee, providing any type of service or advice involving the use of accounting, attestation, compilation, management advisory, financial advisory, tax or related consulting skills, obtained through public practice or government, industry or academic work; or

(b) An individual has the qualifications specified in paragraph (a) of this subsection and holds a valid license as a certified public accountant from another state that does not require an individual to have the qualifications specified in paragraph (1) of this subsection as a condition of licensure as a certified public accountant.

(540) Uniform Accountancy Act (UAA) is a model bill and set of regulations designed by the AICPA and NASBA to provide a uniform approach to regulation of the accounting profession, provisions of which may or may not be adopted by state boards of accountancy.

(551) Valid means a certified public accountant ~~certificate or permit~~, or a public accountant license ~~or permit~~, municipal roster authority, firm registration or chartered accountant certificate that is in active status and in good standing with the appropriate licensing authority. A license or certificate in active status is one that is not revoked, suspended, subject to probation, lapsed, ~~or inactive~~, retired or expired.

[The publication(s) referred to or incorporated by reference in this rule are available from the office of the Oregon Board of Accountancy.]

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 670.310

Hist.: 1AB 2-1982, f. & ef. 10-15-86 AB 1-1989, f. & cert. ef. 1-25-89; AB 2-1990, f. & cert ef. 4-9-90; AB 1-1992, f. & cert. ef. 2-18-92; AB 1-1993, f. 1-14-93, cert. ef. 1-15-93; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 5-1994, f. & cert. ef. 11-10-94; AB 2-1995, f. & cert. ef. 3-22-95; AB 3-1995, f. & cert. ef. 5-19-95; AB 4-1995, f. & cert. ef. 8-8-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 2-1996, f. & cert. ef. 9-25-96; AB 2-1997, f. & cert. ef. 3-10-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 2-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 3-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 3-2005, f. 2-24-05 cert. ef. 3-1-05; BOA 6-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 5-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2009, f. 12-15-09 cert. ef. 1-1-10; BOA 2-2010, f. 12-15-10, cert. ef. 1-1-11

Report

801-005-0200 (1) "Report", when used with reference to attestation or compilation services means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing the report has special knowledge or competence in public accountancy. 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 issuer is a public accountancy professional or organization or may arise from the language of the report itself.

(a) The term "report" includes any form of language that:

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(A) Disclaims an opinion when the form of language implies any positive assurance as to the reliability of the financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language;

(B) Implies any positive assurance as to the reliability of the financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language; or

(C) Relates to the financial affairs of a person and that is conventionally used by licensees in reports or financial statements.

Stat. Auth.: ORS 670.310

Stat. Implemented: ORS 673.410

Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 1-1995, f. & cert. ef. 1-25-95; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02

Language Not Constituting a Report

801-005-0300 The following statement, signed by a person who does not hold a permit license issued under ORS 673.150, shall not constitute a report under ORS 673.320 so long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.020, 673.030, 673.310 or 673.320:

"The accompanying balance sheet (or . . .) of XYZ Company as of (date) and the related statements of income (or retained earnings or cash flows) for the year then ended have been prepared by me (us). The information presented in these financial statements is the representation of management (owners)."

Stat. Auth.: ORS 670.310

Stat. Implemented: ORS 673.325

Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 3-1990, f. 5-22-90, cert. ef. 5-23-90; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02

Financial Statement Preparation

801-005-0400 Preparation of financial statements or reports (as defined by OAR 801-005-0200) is restricted to CPAs and PAs, unless prepared in accordance with OAR 801-005-0300.

Stat. Auth.: ORS 670.310

Stat. Implemented: ORS 673.320

Hist.: BOA 6-1998, f. & cert. ef. 7-29-98; BOA 4-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02

