Info.
Work Session
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Enrolled
Senate Bill 867

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

CHAPTER .....

AN ACT

Relating to public accountancy; creating new provisions; amending ORS 673.010, 673.012, 673.150, 673.153, 673.160, 673.170, 673.185, 673.220, 673.320, 673.400, 673.445, 673.455 and 673.465; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 673.010 is amended to read:

673.010. As used in ORS 673.010 to 673.457:

[*(1) "Attest," "attesting" or "attestation" means the opinion of a licensee as to the reliability or fairness of information that is used for guidance in the financial transactions of, accounting for or assessing the status or performance of, commercial and noncommercial enterprises, whether public or private, following the completion of an audit, in accordance with generally accepted accounting and auditing standards. The board by rule shall further define what constitutes attestation services in conformance, to the extent possible, with professional standards, including but not limited to the Statements on Auditing Standards (SAS) for audits or other engagements, the Statement of Standards for Accounting and Review Services (SSARS) for the review of financial statements and the Statements on Standards for Attestation Engagements (SSAE) for examinations of prospective financial information.*]

(1) "Attestation services" means the following professional services required to be performed under rules adopted by the Oregon Board of Accountancy pursuant to ORS 673.445 as follows:

(a) An audit or other engagement for which performance standards are included in the Statements on Auditing Standards (SAS);

(b) Review of a financial statement for which performance standards are included in the Statements on Standards for Accounting and Review Services (SSARS);

(c) Examination of prospective financial information for which performance standards are included in the Statements on Standards for Attestation Engagements (SSAE); and

(d) Engagements for which performance standards are included in the Auditing Standards of the Public Company Accounting Oversight Board.

[*(2) "Board" means the Oregon Board of Accountancy created by ORS 673.410.*]

[*(3)*] **(2)** "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.

[*(4)*] **(3)** "Certificate" means a certificate of certified public accountant issued under ORS 673.040.

[*(5)*] **(4)** "Client" means a person who agrees with a licensee to receive any professional service from the licensee.

[*(6)*] **(5)** "Commission" means money or other consideration recognized as a commission under rules adopted by the board pursuant to ORS 673.012.

[*(7)*] **(6)** "Compilation **services**" means [*those services as defined by the board by rule.*] **professional services required to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS) under rules adopted by the Oregon Board of Accountancy pursuant to ORS 673.445 in which the person performing the services presents a financial statement that:**

(a) Is based on the representation of the owner or management of the company for which the statement is presented; and

(b) Does not include assurances by the person that the representations in the financial statement conform to generally accepted accounting principles.

[*(8)*] **(7)** "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. [*The board by rule may further define "contingent fee."*] 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.

[*(9)*] **(8)** "License" means:

(a) A certificate, permit 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.

[*(10)*] **(9)** "Licensee" means the holder of a license [*under*] **as defined in** subsection [*(9)(a)*] **(8)(a)** of this section.

[*(11)*] **(10)** "Manager" means a manager of a limited liability company.

[*(12)*] **(11)** "Member" means a member of a limited liability company.

[*(13)*] **(12)** "Peer review" means a study, appraisal or review of one or more aspects of the public accountancy work of a holder of a permit under ORS 673.150, or of a registered business organization that performs attestation or compilation services, that is conducted by:

(a) A certified public accountant who holds an active permit issued under ORS 673.150 or an active license issued by the licensing authority for the practice of public accountancy in another state and who is independent of the permit holder or registered business organization being reviewed; or

(b) A public accountant who holds an active permit issued under ORS 673.150 and who is independent of the permit holder or registered business organization being reviewed.

[*(14)*] **(13)** "Permit" means a permit to practice public accountancy issued under ORS 673.150.

(14) "Principal place of business" means the office location designated by a person for purposes of substantial equivalency and reciprocity.

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

(16) "Public accountant" means a public accountant licensed under ORS 673.100.

(17) "Referral fee" means a fee recognized as a referral fee under rules adopted by the board pursuant to ORS 673.012.

(18) "Registration" means the authority issued under ORS 673.160 by the Oregon Board of Accountancy to a business organization to practice public accountancy in this state.

(19)**(a)** "Report," when used with reference to [*attestation or compilation services,*] **financial statements,** means an opinion or other form of written language that states or implies assurance as to the reliability of [*any*] **the** financial [*statements*] **statement** and that [*also*] includes or is ac-

companied by [*any*] **a** statement or implication that the person 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)*] **(b)** "Report" includes any form of written language that:

(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 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 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.

[*(b)*] **(c)** "Report" does not include:

(A) The following statement signed by a person who does not hold a certificate, license or permit under ORS 673.010 to 673.457 as long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or any other language prohibited by ORS 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 flow) for the year then ended have been prepared by me (us).

The information presented in these financial statements is the representation of management (owners).

(B) Any other financial statements or reports that are not and do not purport to be in compliance with national standards, including but not limited to Statements [*of*] **on** Standards for Accounting and Review Services (SSARS) and Statements on Standards for Attestation Engagements (SSAE) adopted by the board by rule, when the statements or reports are issued by persons not otherwise subject to regulation by the board under ORS 673.010 to 673.457.

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

[*(21) "Substantial equivalency" means a determination by the National Qualification Appraisal Service of the National Association of State Boards of Accountancy that:*]

[*(a) The education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are equivalent to or exceed the education, examination and experience requirements established under ORS 673.040, 673.050 and 673.060 and adopted by the board by rule under ORS 670.310; or*]

[*(b) An individual's education, examination and experience qualifications are equivalent to or exceed the education, examination and experience requirements established under ORS 673.040, 673.050 and 673.060 and adopted by the board by rule under ORS 670.310.*]

(21) "Substantial equivalency" means that:

(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 ad-

visory, 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 (a) of this subsection as a condition of licensure as a certified public accountant.

SECTION 2. ORS 673.012 is amended to read:

673.012. **Consistent with the definitions in ORS 657.010:**

(1) The Oregon Board of Accountancy shall adopt rules **further** defining the terms "commission" and "referral fee" for purposes of ORS 673.010 to 673.457.

(2) The board may adopt rules further defining "contingent fee" for purposes of ORS 673.010 to 673.457.

SECTION 3. ORS 673.153 is amended to read:

673.153. (1) [*The Oregon Board of Accountancy may authorize*] A holder of a license with a principal place of business in another state [*to*] **may** practice public accountancy in this state if the holder [*holds in good standing a valid certificate and license as a certified public accountant from:*]

[*(a)*] **has a license from** another state that is [*verified to be*] of substantial equivalency, as defined in ORS 673.010 (21)[*(a)*].

[*(b) Another state that is not verified to be of substantial equivalency, as defined in ORS 673.010 (21)(a), but the holder's skills are verified to be of substantial equivalency, as defined in ORS 673.010 (21)(b).*]

(2)(a) A holder authorized under subsection (1) of this section [*shall be presumed to meet*] **meets** this state's requirements to practice public accountancy and [*shall have*] **has** all the rights and privileges of certificate holders and licensees of this state without the need to obtain a certificate under ORS 673.040 or a permit under ORS 673.150.

(b) The Oregon Board of Accountancy may not require, as a condition for practicing public accountancy under this section, an authorized holder to:

(A) Provide notice that the holder practices or intends to practice public accountancy in this state;

(B) Pay an annual fee for the authorization; or

(C) Provide any other submission.

[*(3) A holder of a license from another state who is engaged in the practice of public accountancy under this section shall:*]

[*(a) Notify the board of the holder's intent to practice public accountancy in this state on a form provided by the board;*]

[*(b) Pay an annual fee in an amount and by the date determined by the board by rule;*]

(3) An authorized holder practicing public accountancy under this section is deemed to:

[*(c)*] **(a)** Consent to the personal and subject matter jurisdiction of the board;

[*(d)*] **(b) Agree to** comply with the requirements of ORS 673.010 to 673.457 and any rules adopted thereunder; [*and*]

(c) If the license under which the holder is authorized to practice public accountancy under this section is no longer valid, agree to immediately cease offering or rendering professional services in this state individually or on behalf of a business firm; and

[*(e)*] **(d)** Agree to the appointment of the other state's licensing authority as the agent of the holder, upon whom process may be served in any action or proceeding by the board against the holder.

(4)(a) A business organization that employs a holder authorized to practice public accountancy under this section is deemed to:

(A) Consent to the personal and subject matter jurisdiction of the board;

(B) Agree to comply with the requirements of ORS 673.010 to 673.457 and any rules adopted thereunder;

(C) If the license under which the holder is authorized to practice public accountancy under this section is no longer valid, agree to require the following persons to immediately cease offering or rendering professional services in this state:

(i) The holder; and

(ii) Any other person who is employed by the business organization and who is offering or rendering professional services in this state pursuant to the holder being authorized to practice public accountancy under this section; and

(D) Agree to the appointment of the licensing authority of the state issuing the license that is the basis of the holder's authorization to practice public accountancy under this section as the agent of the business organization, upon whom process may be served in any action or proceeding by the board against the business organization that employs the holder during the time the holder is practicing public accountancy in this state.

(b) For purposes of this subsection, a person practicing as a sole proprietor is a business organization.

(5) A holder authorized to practice public accountancy under this section may not perform the following professional services for a business organization that has its home office in this state unless the business organization is registered under ORS 673.160:

(a) Financial statement audits or other engagements to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) Examinations of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); and

(c) Engagements to be performed in accordance with the auditing standards of the Public Company Accounting Oversight Board.

SECTION 4. ORS 673.160 is amended to read:

673.160. (1) Business organizations of certified public accountants or of public accountants shall register with the Oregon Board of Accountancy if the business organization:

(a) Has an office in this state and:

[*(a)*] **(A)** Uses the terms "certified public accountants" or "public accountants" or abbreviations for such terms in this state; **or**

[*(b) Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy; or*]

[*(c)*] **(B)** Performs attestation or compilation services in this state[.]**;**

(b) Holds itself out to clients in this state or the public in this state as a business organization engaged in the practice of public accountancy; or

(c) Does not have an office in this state and performs attestation services described in ORS 673.010 (1)(a), (c) or (d) for a client having an office in this state.

(2) [*Nothing in this section shall be construed to*] **This section does not** require a holder of a permit under ORS 673.150 to register under this section unless the permit holder:

(a) Holds the permit holder out to clients in this state or the public in this state as a business organization composed of more than one licensee except as authorized by ORS 673.320 (12); or

(b) Performs attestation or compilation services in this state.

(3)(a) Notwithstanding subsection (1) of this section, a business organization of certified public accountants that does not have an office in this state may perform attestation services described in ORS 673.010 (1)(b) or compilation services for a client in this state and may use the terms "certified public accountants" or "certified public accounting firm," abbreviations of those terms or any similar title, designation, words or letters without obtaining a registration issued by the board under this section if the business organization:

(A) Has the qualifications described in subsection (5) of this section; and

(B) Performs the services through a person authorized to practice public accountancy in this state under ORS 673.153.

(b) A business organization of certified public accountants that is not a business organization described in subsection (1) of this section or paragraph (a) of this subsection may

perform professional services in this state, other than attestation or compilation services, using the terms "certified public accountants" or "certified public accounting firm" or abbreviations of those terms without registering with the board under this section if the business organization:

(A) Performs the professional services through a person authorized to practice public accountancy in this state under ORS 673.153; and

(B) May lawfully perform the professional services in the state where the principal place of business of the person authorized to practice public accountancy in this state under ORS 673.153 is located.

[*(3)*] **(4)** Registrations shall be issued and renewed for periods of not more than two years. Applications for registration shall be made in a form prescribed by the board by rule. Applications for renewal shall be made between the dates prescribed by the board by rule.

[*(4)*] **(5)** The following requirements must be satisfied before a registration may be issued or renewed under this section:

(a)(A) Notwithstanding any other provision of law, a simple majority of the ownership of the business organization, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, [*shall*] **must** belong to holders of permits or holders of certificates who are licensed in any state, and the partners, officers, shareholders, members or managers of the business organization whose principal place of business is in this state and who perform public accountancy services in this state, [*shall*] **must** be holders of permits under ORS 673.150. If a majority of the ownership of the business organization is held by holders of permits who are public accountants holding licenses issued under ORS 673.100, the business organization may not use the name "C.P.A. Firm" or any similar name indicating that a majority of the ownership of the firm holds certificates issued under ORS 673.040.

(B) A business organization registered under this section that does not meet the ownership requirement specified in subparagraph (A) of this paragraph may request an extension of time to comply with the ownership requirement in accordance with the process for granting an extension for compliance that the board shall adopt by rule.

(b) In the case of a business organization that includes owners who are not holders of permits under ORS 673.150, a holder of a permit in this state shall be responsible for the management and proper registration of the business organization.

(c) In the case of a business organization required to register under subsection (1) of this section, a person who is authorized to practice public accountancy in this state under ORS 673.153 is responsible for the management and proper registration of the business organization.

[*(c)*] **(d)** All owners of the business organization who are not [*holders of permits under ORS 673.150 shall*] **licensees must** be active individual participants in the business organization or affiliated entities.

[*(d)*] **(e)** Any person who is responsible for supervising attestation or compilation services and who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the business organization in this state, [*shall*] **must:**

(A)(i) Hold a permit under ORS 673.150 [*and*]**; or**

(ii) Be authorized to practice public accountancy in this state under ORS 673.153; and

(B) Meet the competency requirements established **in the professional standards adopted** by the board by rule **under ORS 673.445.**

[*(5)*] **(6)** An application for registration or renewal of registration under this section shall:

(a) List all states in which the business organization has applied for or holds permits to practice public accountancy; and

(b) Provide evidence that the requirements of subsection [*(4)*] **(5)** of this section are satisfied.

[*(6)*] **(7)** Each applicant for registration or renewal under this section and each registrant shall notify the board in writing, within the time period specified by the board by rule, of:

(a) The identities of partners, officers, shareholders, members, managers or owners of the business organization who work regularly in this state;

(b) The number or location of offices in this state;

(c) The identity of the persons in charge of the offices in this state;

(d) Any issuance, denial, revocation, lapse or suspension of authority to perform professional or other services in any jurisdiction against a partner, officer, shareholder, member, manager or owner of the applicant or registrant that seeks registration or is registered in this state; and

(e) The filing of a lawsuit relating to professional services of the business organization, the commencement of any civil action an essential element of which involves fraud, dishonesty or misrepresentation, or of any criminal action against the applicant or registrant that seeks registration or is registered in this state or against a partner, officer, shareholder, member, manager or owner of the applicant or registrant that seeks registration or is registered in this state.

[*(7)*] **(8)** The board shall charge a fee for each application for issuance or renewal of registration under this section in [*an amount prescribed by the board by rule*] **the amount of $175**. A registration under this section that is not renewed by the close of the registration period may be restored upon payment to the board of a delinquent renewal fee in an amount determined by the board by rule.

[*(8)*] **(9)** Applicants for renewals of registrations under this section shall undergo a peer review as provided under ORS 673.455, unless the registrant notifies the board that the registrant is exempt from peer review requirements because the registrant does not perform attestation or compilation services in this state.

SECTION 5. ORS 673.170 is amended to read:

673.170. (1) The Oregon Board of Accountancy may take any of the following disciplinary actions:

(a) Revoke, suspend or refuse to issue any certificate issued under ORS 673.040 to 673.075.

(b) Revoke, suspend or refuse to issue any public accountant's license issued under ORS 673.100.

(c) Revoke, suspend, refuse to renew or refuse to issue any permit described in ORS 673.150.

[*(d) Revoke, suspend, refuse to renew or refuse to issue authorization to practice public accountancy in this state under ORS 673.153.*]

(d) Censure a person authorized to practice public accountancy in this state under ORS 673.153.

(e) Censure the holder of any permit described in ORS 673.150 or authorization described in ORS 673.153.

(f) Revoke, suspend, refuse to renew or refuse to issue any registration issued under ORS 673.160.

(g) Censure the holder of any registration issued under ORS 673.160.

(h) Censure a business organization providing accounting services in this state that is exempt from registering under ORS 673.160 (3).

(2) The board may take any of the actions described in subsection (1) of this section for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining or applying for:

(A) A certificate under ORS 673.040 to 673.075;

(B) A public accountant's license under ORS 673.100;

(C) A registration under ORS 58.345 or 673.160;

(D) A permit under ORS 673.150;

(E) Authorization to practice public accountancy in this state under [*the provisions of*] ORS 673.153; or

(F) Admission to the roster of authorized accountants referred to in ORS 297.670.

(b) Dishonesty, fraud or gross negligence in the practice of public accountancy.

(c) Incompetence in the practice of public accountancy. A holder of a license issued under ORS 673.100, certificate, permit or registration **or a person authorized to practice public accountancy in this state under ORS 673.153** is incompetent in the practice of public accountancy if the holder:

(A) Engages or has engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed to a client or the general public; or

(B) Engages or has engaged in conduct that evidences a lack of knowledge or ability to apply principles or skills of the practice of public accountancy, as adopted by the board.

(d) Violation of any of the provisions of ORS 673.010 to 673.457.

(e) Violation of any of the provisions of ORS 297.405 to 297.555.

(f) Violation of any provision of the Code of Professional Conduct **or accounting standards** adopted by the board [*under the authority granted by ORS 673.010 to 673.457,*] **under ORS 673.445** or rules adopted by the board under ORS 670.310.

(g) Conduct resulting in a conviction of a felony under the laws of any state, of any foreign jurisdiction or of the United States. However, such conduct may be considered only to the extent permissible under the provisions of ORS 670.280.

(h) Conviction of any crime, an essential element of which is dishonesty, fraud or misrepresentation, under the laws of any state, of any foreign jurisdiction or of the United States.

(i) Conviction of willful failure to pay any tax, file any tax return, keep records or supply information required under the tax laws of any state, of any foreign jurisdiction or of the United States, or conviction of the willful making, rendering, delivery, disclosure, signing or verifying of any false or fraudulent list, return, account, statement or other document, or of supplying any false or fraudulent information, required under the tax laws of any state, of any foreign jurisdiction or of the United States.

(j) Cancellation, revocation[,] **or** suspension **of,** or refusal to renew, authority to practice as a certified public accountant or a public accountant in any state or foreign jurisdiction.

(k) Cancellation, suspension, revocation or refusal to renew by any state, any foreign jurisdiction or any federal agency of the right to practice law, to practice as an enrolled agent before the Internal Revenue Service pursuant to 31 C.F.R. part 10, or to practice under other regulatory law if the cancellation, suspension, revocation or refusal to renew was related to the practice of public accountancy or if dishonesty, fraud or deception was involved.

(L) Failure to comply with the continuing education requirements under ORS 673.165 unless such requirements have been waived by the board.

(m) Failure to pay a civil penalty imposed by the board after the period for requesting a hearing on the civil penalty terminates if the person or business organization against whom the penalty is imposed has not requested a hearing, or after the period for seeking judicial review of the order assessing the civil penalty has passed.

(n) Failure to comply with the terms of a consent agreement described in subsection (3) of this section.

(o) Failure to comply with any reporting or other requirement established by the board by rule.

(p) Issuance of a cease and desist order against the person under subsection [*(7)*] **(8)** of this section.

(3) In lieu of disciplinary actions under subsection (1) of this section, the board may enter into a consent agreement with the holder of any certificate described in ORS 673.040 to 673.075, the holder of any public accountant's license, the holder of any registration described in ORS 673.160, the holder of any permit described in ORS 673.150 or the holder of any authorization described in ORS 673.153, under which the holder agrees to comply with conditions prescribed by the board.

(4) In addition to the causes in subsection (2) of this section, the board may take any of the actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in the practice of public accountancy.

(5) In lieu of or in addition to any action described in subsection (1) of this section, the board may take any of the following actions:

(a) Require a holder of a permit under ORS 673.150 that provides compilation services or a business organization registered under ORS 673.160 to undergo a peer review conducted as the board may specify; or

(b) Require a holder of a permit under ORS 673.150 to complete any continuing professional education programs the board may specify.

(6)(a) A licensee offering or providing professional services in another state or using the title "certified public accountant" or any abbreviation for that term in another state is subject to disciplinary action in this state for actions taken by the licensee in the other state that constitute a cause for disciplinary action under this section.

(b) The board shall investigate any complaint made by a board of accountancy of another state.

[*(6)*] **(7)** In the case of a registered business organization, the board may take any of the actions described in subsection (1) of this section for any of the following additional causes:

(a) The cancellation, revocation or suspension of, or refusal to renew, the authority to provide professional services, in this state or any other jurisdiction, of any partner, officer, shareholder, member, manager or owner of the business organization; or

(b) The cancellation, revocation or suspension of, or refusal to renew, the authority of the business organization to practice public accountancy or provide other professional services in any other state or foreign jurisdiction.

[*(7)*] **(8)** If the board has reasonable cause to believe that any person has engaged, is engaging or is about to engage in any violation of any provision of ORS 673.010 to 673.457 or any rule or order adopted under ORS 673.010 to 673.457, the board may issue an order, subject to ORS 673.173, directed to the person, and to any other person directly or indirectly controlling the person, to cease and desist from the violation or threatened violation.

[*(8)*] **(9)** Notwithstanding any protective order issued under ORCP 36 C, upon motion of the board, the court shall order disclosure of materials or information subject to a protective order under ORCP 36 C. The board may use the material or information to take disciplinary action under this section.

[*(9)*] **(10)** If the board takes disciplinary action under this section, the board may assess against the person disciplined costs associated with the disciplinary action. An assessment under this subsection is in addition to, and not in lieu of, any other action taken by the board. Moneys collected under this subsection shall be deposited in the Oregon Board of Accountancy Account established in the General Fund pursuant to ORS 670.335.

SECTION 6. ORS 673.185 is amended to read:

673.185. (1) When the Oregon Board of Accountancy proposes to refuse to issue a certificate under ORS 673.040, license under ORS 673.100, permit under ORS 673.150, **or** registration under ORS 673.160 [*or authorization under ORS 673.153*], proposes to refuse to renew a permit or registration or proposes to revoke or suspend a certificate, registration, license[,] **or** permit, [*or authorization,*] opportunity for hearing shall be accorded as provided in ORS chapter 183 and chapter 734, Oregon Laws 1971.

(2) When the board institutes or continues a disciplinary action under ORS 673.170, **the board is not deprived of its authority to institute or continue the disciplinary action against a licensee or other person subject to the jurisdiction of the board by:**

(a) The surrender, retirement or other forfeiture, expiration, lapse or revocation of a license issued by the board; **or** [*does not deprive the board of its authority to institute or continue the disciplinary action against the licensee.*]

(b) The cessation of services offered or provided in this state by a person authorized to practice public accountancy in this state under ORS 673.153.

(3) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS chapter 183 and chapter 734, Oregon Laws 1971.

(4) The decision of the board under subsection (1) of this section shall be by majority vote.

SECTION 7. ORS 673.320 is amended to read:

673.320. (1)(a) A person or business organization in this state [*shall*] **may** not provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization or governmental unit unless the person or business organization:

(A) Holds a permit or registration issued under ORS 673.010 to 673.457[.];

(B) Is authorized to practice public accountancy in this state under ORS 673.153; or

(C) Is exempt from the registration requirement under ORS 673.160 (3).

(b) The prohibitions of this subsection do not apply to:

[*(a)*] **(A)** An officer, partner, employee, shareholder, member, manager or owner of any firm or organization affixing that person's own signature to any statement or report in reference to the financial affairs of the firm or organization with wording designating the position, title or office that the person holds in the firm or organization;

[*(b)*] **(B)** Any act of a public official or employee in the performance of official duties; or

[*(c)*] **(C)** The performance by any person, other than a licensee or registrant, of other services, including the preparation of tax returns, management advisory services and the preparation of financial statements, without the issuance of reports thereon.

(2) Any transmission of financial statements or information using language as specified in ORS 673.325 or as adopted by the Oregon Board of Accountancy by rule under this subsection [*shall not be considered*] **is not** a report.

(3) A person [*shall*] **may** not assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant, unless the person:

(a) Holds a valid certificate of certified public accountant issued under ORS 673.040 and a permit issued pursuant to ORS 673.150[.]; **or**

(b) Is authorized to practice public accountancy in this state under ORS 673.153.

(4) A business organization [*shall*] **may** not assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the business organization is composed of certified public accountants unless the business organization:

(a) Is registered under ORS 673.160[.]; **or**

(b) Is exempt from the registration requirement under ORS 673.160 (3).

(5) A person [*shall*] **may** not assume or use the title or designation "public accountant," or the abbreviation "P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a public accountant unless that person holds a valid license issued under ORS 673.100 and permit issued under ORS 673.150.

(6) A business organization [*shall*] **may** not assume or use the title or designation "public accountant," or the abbreviation "P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the business organization is composed of public accountants, unless the business organization is registered under ORS 673.160.

(7)(a) A person or business organization [*shall*] **may** not assume or use any title or designation likely to be confused with the titles "certified public accountant" or "public accountant," or any abbreviations likely to be confused with the abbreviations "C.P.A." or "P.A.," unless the person or business organization:

(A) Holds a valid permit or registration issued under ORS 673.010 to 673.457[.];

(B) Is authorized to practice public accountancy in this state under ORS 673.153; or

(C) Is exempt from the registration requirement under ORS 673.160 (3).

(b) This subsection does not restrict the use of any title, designation or abbreviation awarded by institutions that are recognized by the board by rule.

(8)(a) A person or business organization [*shall*] **may** not assume or use any title or designation that includes the words "accountant," "auditor" or "accounting" in connection with any other wording, including that of a report, that implies that the person or business organization holds a permit or registration or has special competence as an accountant or auditor, unless the person or business organization:

(A) Holds a permit or registration issued under ORS 673.010 to 673.457[.];

(B) Is authorized to practice public accountancy in this state under ORS 673.153; or

(C) Is exempt from the registration requirement under ORS 673.160 (3).

(b) This subsection does not prohibit:

[*(a)*] **(A)** A partner, officer, employee, shareholder, member, manager or owner of any firm or organization from affixing that person's own signature to any statement or report in reference to the financial affairs of the firm or organization with wording designating the position, title or office that the person holds in the firm or organization;

[*(b)*] **(B)** Any act of a public official or employee in the performance of official duties; or

[*(c)*] **(C)** Use of the words "accountant" or "accounting" by a person or business offering services that are not restricted to a person or business organization holding a license or permit to practice public accountancy.

(9) A person or business organization holding a permit or registration under ORS 673.010 to 673.457 [*shall*] **may** not use a professional or business name or designation that is misleading about the legal form of the business organization, about the persons who are partners, officers, shareholders, members, managers or owners of the business organization or about any other matter. The board by rule may specify the appropriate use by licensees of abbreviations and initials in a professional or business name. Notwithstanding any provision of this subsection, the names of one or more former partners, shareholders, members or managers may be included in the name of a registered business organization or its successor.

(10) A person holding a permit issued under ORS 673.150 shall not perform attestation or compilation services in any business organization that does not hold a valid registration under ORS 673.160.

(11) Subsections (1) to (10) of this section apply to a person or business organization holding a certification, license, permit, designation or degree granted in another jurisdiction entitling the holder to engage in the practice of public accountancy or its equivalent in the other jurisdiction unless:

(a) The person is authorized to practice public accountancy in this state under ORS 673.153;

(b) The business organization is exempt from the registration requirement under ORS 673.160 (3); or

[*(a)*] **(c)(A)** The activities of the person or business organization in this state are limited to the provision of professional services to clients in this state, where the clients are residents of, governments of or business entities in the other jurisdiction in which the person holds the entitlement;

[*(b)*] **(B)** The person or business organization does not provide attestation or compilation services or issue reports regarding the financial statements of any other persons, organizations or governmental units in this state; and

[*(c)*] **(C)** The person or business organization does not hold out to clients, potential clients or the public in this state that the person or business organization is licensed or registered under ORS 673.010 to 673.457 and does not use any title or designation other than the one under which the person or business organization practices in the other jurisdiction, followed by the name of the other jurisdiction and, if applicable, any translation of the title or designation into the English language.

(12) Notwithstanding subsection (11) of this section, a person or business organization holding a certification, license, permit, designation or degree granted in another jurisdiction that entitles the holder to engage in the practice of public accountancy as a certified public accountant in the other jurisdiction may prepare, advise or assist in the preparation of tax returns without obtaining a license or registration under ORS 673.010 to 673.457 and may use the title or designation "certified public accountant" or the abbreviation "C.P.A." in connection with tax services described in this subsection as long as the person or business organization does not have an office in this state.

SECTION 8. ORS 673.455 is amended to read:

673.455. (1) The Oregon Board of Accountancy shall appoint a Peer Review Oversight Committee. The board may also approve applications for operation of alternative peer review programs such as programs provided by the American Institute of Certified Public Accountants and the National Society of Accountants.

(2) Each holder of a permit under ORS 673.150, **each person authorized to practice public accountancy in this state under ORS 673.153,** [*and*] each business organization registered under ORS 673.160, **and each business organization exempt from registration requirements under ORS 673.160 (3),** that performs attestation or compilation services shall participate in a peer review program described in this section. The peer review shall be conducted by the board or by an alternative peer review program approved by the board under subsection (1) of this section. **A person authorized to practice public accountancy in this state under ORS 673.153 who practices as a sole proprietor must meet peer review standards pertaining to business organizations. The person or business organization undergoing the peer review shall bear the cost of the peer review.**

(3) The members of the committee serve at the pleasure of the board.

(4) A member of the committee appointed under this section is entitled to expenses as provided in ORS 292.495.

(5) The committee may review:

(a) Any financial statement or report filed with the state or any political subdivision and prepared by a certified public accountant or public accountant;

(b) Any procedure, working paper or supporting document relating to the financial statement or report; and

(c) Any peer review report.

(6) If the client grants permission or if all information identifying the client has been removed, the committee also may review any financial statement not described in subsection (5) of this section and prepared by a licensee, or any procedure, working paper or supporting document relating to the financial statement.

(7) The failure or refusal by any licensee, **person authorized to practice public accountancy in this state under ORS 673.153 or business organization authorized to perform professional services in this state under ORS 673.160** to comply with a request for review or explanation, or both, of such financial statement as set forth in this section constitutes a violation of ORS 673.170 (2)(b).

SECTION 9. ORS 673.445 is amended to read:

673.445. (1) The Oregon Board of Accountancy may adopt a code of professional conduct for certified public accountants and public accountants.

(2) The board shall adopt by rule accounting standards for the provision of attestation or compilation services and require by rule licensees to comply with the accounting standards. The board shall adopt national accounting standards as amended and in effect as of the effective date of this 2009 Act. If the standards are altered or amended on or after the effective date of this 2009 Act, the board may adopt the national accounting standards as altered or amended. The board shall adopt the following national accounting standards:

(a) For attestation services:

(A) For audits or other engagements, the Statements on Auditing Standards (SAS);

(B) For reviews of financial statements, the Statements on Standards for Accounting and Review Services (SSARS);

(C) For examinations of prospective financial information, the Statements on Standards for Attestation Engagements (SSAE); and

(D) For engagements of public accounting firms in the preparation and issuance of audit reports required by the Sarbanes-Oxley Act of 2002 (P.L. 107-204, 15 U.S.C. 7201 et seq.) or rules of the Securities and Exchange Commission, the Auditing Standards of the Public Company Accounting Oversight Board.

(b) For compilation services, the Statements on Standards for Accounting and Review Services (SSARS).

SECTION 10. ORS 673.400 is amended to read:

673.400. (1) Any person who violates any provision of ORS 673.010 to 673.457, any rule adopted thereunder or any order of the Oregon Board of Accountancy shall forfeit and pay a civil penalty

into the General Fund to be credited to the Oregon Board of Accountancy for its use in carrying out the provisions of this section. The civil penalty shall be in an amount determined by the board of not more than $5,000 for each offense.

(2) The board may impose a civil penalty as part of a cease and desist order issued under ORS 673.170 [*(7)*] **(8)**. The civil penalty may not exceed $5,000 per violation.

(3) The civil penalty may be recovered by the Attorney General in an action brought in the name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided in ORS 183.745.

(4) The provisions of this section are in addition to and not in lieu of any other penalty provided by law.

SECTION 11. ORS 673.465 is amended to read:

673.465. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Oregon Board of Accountancy may require the fingerprints of a person who:

(1) Is applying for a license, certificate, registration or permit that is issued by the board;

(2) Is applying for renewal of a license, certificate, registration or permit that is issued by the board;

(3) Is under investigation by the board; **or**

[*(4) Is applying for authority to practice public accountancy pursuant to ORS 673.153; or*]

[*(5)(a)(A)*] **(4)(a)(A)** Is employed or applying for employment by the board; or

(B) Provides services or seeks to provide services to the board as a contractor or vendor; and

(b) Is, or will be, working or providing services in a position:

(A) In which the person has or will have access to individual Social Security numbers, dates of birth, credit card information or information that is confidential under state or federal laws, rules or regulations; or

(B) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm or make unlawful use of the information technology systems or the information contained in the systems.

SECTION 12. ORS 673.150 is amended to read:

673.150. (1) **The Oregon Board of Accountancy shall issue biennially** a permit to engage in the practice of public accountancy in this state [*shall be issued by the Oregon Board of Accountancy biennially*] to an applicant who is:

(a) A holder of the certificate of certified public accountant issued under ORS 673.040 to 673.075; or

(b) A public accountant licensed under ORS 673.100.

(2) The board by rule shall cause all permits issued under this section to be renewed biennially.

(3) Applications for permits or for renewals of permits may be submitted to the board on a form prescribed by the board within such time periods as the board prescribes by rule. Applications for permits or for renewals of permits [*shall*] **must** be accompanied by a fee [*determined by the board by rule*] **in the amount of $160**.

(4) Applications for renewals of permits [*shall*] **must** be accompanied by evidence satisfactory to the board that the applicant has complied with continuing education requirements under ORS 673.165 unless those requirements have been waived by the board.

(5) A permit that is not renewed by the close of the permit period may be restored upon payment to the board of a delinquent renewal fee in an amount determined by the board by rule. [*Any*] **A** permit that is not renewed within 60 days after the close of the permit period for which it was issued or renewed [*shall lapse*] **lapses**. The board may restore a lapsed permit upon payment [*to it*] of all past unpaid renewal fees and the delinquent renewal fee. However, the board may restore a permit issued or renewed for a permit period that ended more than five years prior to the date of the application for restoration only upon demonstration satisfactory to the board that the applicant is qualified to engage in the practice of public accountancy.

(6) Notwithstanding subsection (3) of this section, the board may by rule prescribe a reduced fee for renewal of permits of those certified public accountants and public accountants who have reached the age of 65 years.

SECTION 13. ORS 673.220 is amended to read:

673.220. (1) The Oregon Board of Accountancy may grant inactive status to [*any*] **a** licensee who does not [*hold the licensee out*] **represent** to clients or the public [*as*] **that the licensee is** a certified public accountant or a public accountant and **who** does not engage in the practice of public accountancy, if the license is not suspended or revoked.

(2) A licensee granted inactive status by the board:

(a) Must pay [*any*] **a** fee:

(A) In the amount of $50 for becoming or remaining inactive; and

(B) In an amount determined by the board by rule for [*becoming or remaining inactive or*] becoming active.

(b) May not [*hold the licensee out*] **represent** to clients or the public [*as*] **that the licensee is** a certified public accountant or a public accountant or otherwise engage in the practice of public accountancy until restored to active status.

(3) The board by rule shall adopt procedures and requirements for granting and renewing inactive status and for restoring to active status any licensee on inactive status.

(4) The board may restore a lapsed permit to inactive status upon payment [*to it*] of all past unpaid renewal fees and the delinquent renewal fee as provided in ORS 673.150 (5).

(5) The board shall maintain a current roster of all licensees granted inactive status.

SECTION 14. The Oregon Board of Accountancy may take any action before the operative date specified in section 15 of this 2009 Act that is necessary for the board to exercise, on and after the operative date specified in section 15 of this 2009 Act, all of the duties, functions and powers conferred on the board by the amendments to ORS 673.010, 673.012, 673.150, 673.153, 673.160, 673.170, 673.185, 673.220, 673.320, 673.445 and 673.455 by sections 1 to 9, 12 and 13 of this 2009 Act.

SECTION 15. The amendments to ORS 673.010, 673.012, 673.150, 673.153, 673.160, 673.170, 673.185, 673.220, 673.320, 673.400, 673.445, 673.455 and 673.465 by sections 1 to 13 of this 2009 Act become operative on January 1, 2010.

SECTION 16. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate May 7, 2009

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Secretary of Senate

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President of Senate

Passed by House June 3, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State