

HOUSE BILL No. 5192

December 17, 2015, Introduced by Reps. Afendoulis, Poleski, Clemente and Howrylak and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 720 and 728 (MCL 339.720 and 339.728), section
720 as amended by 2010 PA 215 and section 728 as amended by 2014 PA
177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 720. (1) As used in this article:

2 (a) "Attest" means providing **ANY OF** the following ~~financial~~
3 ~~statement~~ services, **BUT DOES NOT INCLUDE PROVIDING A COMPILATION:**

4 (i) ~~Any~~ **AN** audit or other engagement to be performed in
5 accordance with the statements on auditing standards.

6 (ii) ~~Any~~ **A** review of a financial statement to be performed in
7 accordance with the statements on standards for accounting and

1 review services.

2 (iii) ~~Any~~**AN** examination of prospective financial information
3 to be performed in accordance with the statements on standards for
4 attestation engagements.

5 (iv) ~~Any~~**AN** engagement to be performed in accordance with the
6 public company accounting oversight board auditing standards.

7 (v) **AN EXAMINATION, REVIEW, OR AGREED-UPON PROCEDURES**
8 **ENGAGEMENT TO BE PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON**
9 **STANDARDS FOR ATTESTATION ENGAGEMENTS, OTHER THAN AN EXAMINATION**
10 **DESCRIBED IN SUBPARAGRAPH (iii) .**

11 (b) "Certified public accountant" means an individual who is
12 either of the following:

13 (i) Qualified by education, examination, and experience to
14 engage or offer to engage in the practice of public accounting as
15 evidenced by the issuance of a certificate as a certified public
16 accountant under section 725 or 726 and a license or registration
17 issued under section 727.

18 (ii) An individual whose principal place of business is not in
19 this state and who satisfies the requirements set forth in section
20 727a.

21 (c) "Client" means ~~a person~~**AN INDIVIDUAL** or entity that
22 engages a licensee or licensee's employer to receive any service in
23 the practice of public accounting.

24 (d) "Compilation" means providing a service to be performed in
25 accordance with statements on standards for accounting and review
26 services that are presenting, in the form of financial statements,
27 information that is the representation of management or owners

1 without undertaking to express any assurance on the statements.

2 (e) "Firm" means a corporation, partnership, limited liability
3 company, unincorporated association, sole proprietorship operating
4 under an assumed name, or other legal entity.

5 (f) "Home office" means the location specified by the client
6 as the address to which a service described in subdivision (a) or
7 (d) is directed.

8 (g) Subject to subsection (2), "practice of public accounting"
9 means rendering or offering to render an opinion on or attesting to
10 or offering to attest to the reliability of a representation or
11 estimate, including, but not limited to, the giving of an opinion
12 in substance that ~~financial information as set forth presents~~
13 ~~fairly the condition of the entity reviewed or audited, in regard~~
14 ~~to an entity embracing 1 or more of the following:~~ **1 OR MORE OF THE**

15 **FOLLOWING TYPES OF INFORMATION CONCERNING THE ENTITY THAT IS THE**
16 **SUBJECT OF THE OPINION PRESENT FAIRLY THE CONDITION OF THE ENTITY:**

17 (i) **Financial OR OTHER information ABOUT WHICH THE OPINION IS**
18 **GIVEN.**

19 (ii) Facts respecting **THE ENTITY'S** compliance with conditions
20 established by law or contract, including, but not limited to, a
21 statute, ordinance, regulation, grant, loan, or appropriation.

22 (iii) The scope of the accounting procedures rendered in
23 connection with the presentation of ~~a~~ **THE ENTITY'S** financial
24 statement.

25 (h) "Principal place of business" means the office location
26 designated by the licensee for the purposes of substantial
27 equivalency and reciprocity.

(i) "Report", when used with reference to ~~financial statements,~~ **AN ATTEST OR COMPILATION SERVICE**, means an opinion, report, or other form of language that states or implies assurance as to the reliability of ~~any~~ **ATTESTED INFORMATION OR COMPILED** financial statements and that also includes, or is accompanied by, any statement or implication that the ~~person~~ **INDIVIDUAL** 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~~ **INDIVIDUAL** or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language ~~which~~ **THAT** disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the **ATTESTED INFORMATION OR COMPILED** financial statements referred to or special competence on the part of the ~~person~~ **INDIVIDUAL** or firm issuing ~~such~~ **THAT** language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(2) In addition to the definition set forth in subsection (1)(g), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by a ~~person~~ **AN INDIVIDUAL WHO IS** holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports ~~on financial statements.~~ **IN CONNECTION WITH ANY ATTEST OR COMPILATION SERVICES.**

(b) One or more kinds of management advisory, financial

1 advisory, or consulting services, including, but not limited to,
2 business valuation, forensic accounting, and fraud examination
3 services.

4 (c) The preparation of tax returns.

5 (d) The furnishing of advice on tax matters.

6 Sec. 728. (1) A firm shall apply for and obtain a Michigan
7 license under this article in order to engage in the practice of
8 public accounting in this state if either of the following apply:

9 (a) The firm establishes or maintains an office in this state.

10 (b) An individual who represents the firm performs any
11 engagement described in section 720(1)(a)(i), (iii), or (iv) for
12 any client that has its home office in this state.

13 ~~(2) Reports produced pursuant to engagements~~ **A REPORT PRODUCED**
14 **PURSUANT TO AN ENGAGEMENT DESCRIBED** in subsection (1)(b) may be
15 supervised or signed, or the report's signature may be authorized
16 for the firm, by an individual **WHO IS** practicing public accounting
17 in Michigan under section 727a.

18 (3) A firm that is applying for licensure under this article
19 shall meet both of the following requirements:

20 (a) At least a simple majority of the equity and voting rights
21 of the firm are held directly or beneficially by individuals who
22 are licensed in good standing as certified public accountants of
23 this state or another state or the equivalent in another licensing
24 jurisdiction acceptable to the board. Owners who are not certified
25 public accountants must be active individual participants in the
26 firm or its affiliated entities. An individual with practice
27 privileges under section 727a who performs services for which a

1 firm license is required under this section is not required to
2 obtain a certificate under section 726 or a registration or license
3 under section 727.

4 (b) All attest and compilation services provided by the firm
5 in this state are performed under the supervision of an individual
6 who is licensed and in good standing as a certified public
7 accountant in this state or another state or the equivalent in
8 another licensing jurisdiction acceptable to the board.

9 (4) A firm shall notify the department of any change in
10 address within 30 days of the change.

11 (5) A firm that is not required to obtain a Michigan license
12 under subsection (1) may perform a review engagement in accordance
13 with the statements on standards for accounting and review
14 services, **PERFORM AN EXAMINATION, OTHER THAN AN ENGAGEMENT**
15 **DESCRIBED IN SECTION 720(1)(A)(iii), A REVIEW, OR AGREED-UPON**
16 **PROCEDURES ENGAGEMENT IN ACCORDANCE WITH THE STATEMENTS ON**
17 **STANDARDS FOR ATTESTATION ENGAGEMENTS,** or **PERFORM** a compilation for
18 a client that has its home office in this state, may use the title
19 "CPA" or "CPA firm", and may practice public accountancy as
20 authorized in this section without a license issued under
21 subsection (1) only if it meets both of the following conditions:

22 (a) It has met the requirements in subsection (3)(a) and (b)
23 and section 729(2).

24 (b) It performs those services through an individual who has
25 practice privileges under section 727a.

26 (6) A firm that is not required to obtain a Michigan license
27 under subsection (1) and that is not seeking to practice under

1 subsection (5) may perform other professional services within the
2 practice of public accountancy while using the title "CPA" or "CPA
3 firm" in this state without a license issued under subsection (1)
4 only if it meets both of the following conditions:

5 (a) It performs those services through an individual with
6 practice privileges under section 727a.

7 (b) It can lawfully do so in the licensing jurisdiction where
8 those individuals with practice privilege have their principal
9 place of business.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.