

1 HOUSE BILL NO. 44

2 INTRODUCED BY T. BERRY

3 BY REQUEST OF THE BOARD OF PUBLIC ACCOUNTANTS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE LICENSING OF PUBLIC
6 ACCOUNTANTS; CREATING A SINGLE LICENSE TYPE FOR PUBLIC ACCOUNTANTS; ELIMINATING THE
7 ISSUANCE OF CERTIFICATES AND PERMITS FOR PUBLIC ACCOUNTANTS; ELIMINATING THE ISSUANCE
8 OF LICENSES FOR LICENSED PUBLIC ACCOUNTANTS; REVISING REQUIREMENTS FOR CERTIFIED
9 PUBLIC ACCOUNTANTS; AMENDING SECTIONS 2-7-501, 2-15-1756, 15-61-102, 15-63-102, 37-50-101,
10 37-50-102, 37-50-203, 37-50-301, 37-50-302, 37-50-305, 37-50-309, 37-50-314, 37-50-316, 37-50-325,
11 37-50-330, 37-50-335, 37-50-341, 37-50-401, 37-50-402, 37-50-403, 80-4-502, AND 80-4-601, MCA;
12 REPEALING SECTIONS 37-50-303, 37-50-304, 37-50-310, 37-50-311, 37-50-312, 37-50-313, MCA; AND
13 PROVIDING EFFECTIVE DATES."

14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16

17 **Section 1.** Section 2-7-501, MCA, is amended to read:18 **"2-7-501. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:19 (1) "Audit" means a financial audit and includes financial statement and financial-related audits as
20 defined by government auditing standards as established by the U.S. comptroller general.

21 (2) "Board" means the Montana board of public accountants provided for in 2-15-1756.

22 (3) "Department" means the department of administration.

23 (4) (a) "Financial assistance" means assistance provided by a federal, state, or local government entity
24 to a local government entity or subrecipient to carry out a program. Financial assistance may be in the form of
25 grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct
26 appropriations, or other noncash assistance. Financial assistance includes awards received directly from federal
27 and state agencies or indirectly when subrecipients receive funds identified as federal or state funds by recipients.
28 The granting agency is responsible for identifying the source of funds awarded to recipients. The recipient is
29 responsible for identifying the source of funds awarded to subrecipients.

30 (b) Financial assistance does not include direct federal, state, or local government cash assistance to

1 individuals.

2 (5) "Financial report" means a presentation of financial statements, including applicable supplemental
3 notes and supplemental schedules, that are prepared in a format published by the department using the
4 Budgetary Accounting and Reporting System for Montana Cities, Towns, and Counties Manual and that reflect
5 a current financial position and the operating results for the 1-year reporting period.

6 (6) "Independent auditor" means:

7 (a) a federal, state, or local government auditor who meets the standards specified in the government
8 auditing standards; or

9 (b) a ~~licensed~~ certified public accountant who meets the standards in subsection (6)(a).

10 (7) (a) "Local government entity" means a county, city, district, or public corporation that:

11 (i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government
12 revenue for the purpose of serving the general public;

13 (ii) is governed by a board, commission, or individual elected or appointed by the public or representatives
14 of the public; and

15 (iii) receives local, state, or federal financial assistance.

16 (b) Local government entities include but are not limited to:

17 (i) airport authority districts;

18 (ii) cemetery districts;

19 (iii) counties;

20 (iv) county housing authorities;

21 (v) county road improvement districts;

22 (vi) county sewer districts;

23 (vii) county water districts;

24 (viii) county weed management districts;

25 (ix) drainage districts;

26 (x) fire companies;

27 (xi) fire districts;

28 (xii) fire service areas;

29 (xiii) hospital districts;

30 (xiv) incorporated cities or towns;

- 1 (xv) irrigation districts;
 2 (xvi) mosquito districts;
 3 (xvii) municipal fire departments;
 4 (xviii) municipal housing authority districts;
 5 (xix) port authorities;
 6 (xx) solid waste management districts;
 7 (xxi) rural improvement districts;
 8 (xxii) school districts, including a district's extracurricular funds;
 9 (xxiii) soil conservation districts;
 10 (xxiv) special education or other cooperatives;
 11 (xxv) television districts;
 12 (xxvi) urban transportation districts;
 13 (xxvii) water conservancy districts;
 14 (xxviii) regional resource authorities; and
 15 (xxix) other miscellaneous and special districts.
 16 (8) "Revenues" means all receipts of a local government entity from any source excluding the proceeds
 17 from bond issuances."
 18

19 **Section 2.** Section 2-15-1756, MCA, is amended to read:

20 **"2-15-1756. Board of public accountants.** (1) There is a board of public accountants.

21 (2) The board consists of seven members appointed by the governor. The members are:

22 (a) ~~except as provided in subsection (3),~~ five certified public accountants ~~certified~~ licensed under Title
 23 37, chapter 50, who are ~~certified and~~ actively engaged in the practice of public accounting and who have held
 24 a valid ~~certificate~~ license for at least 5 years before being appointed; and

25 (b) two members of the general public who are not engaged in the practice of public accounting.

26 ~~(3) The board may include four certified public accountants pursuant to subsection (2)(a) and one~~
 27 ~~licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public~~
 28 ~~accounting and who has held a valid license for at least 5 years prior to appointment.~~

29 ~~(4)~~(3) Professional associations of public accountants may submit to the governor a list of names of two
 30 candidates for each position from which the appointment pursuant to subsection (2)(a) may be made. However,

1 the governor is not restricted to the names on the list. ~~The list may include recommendations for a certified public~~
 2 ~~accountant or a licensed public accountant.~~

3 ~~(5)(4)~~ Each appointment is subject to confirmation by the senate and must be submitted for consideration
 4 at the next regular session following appointment.

5 ~~(6)(5)~~ The members shall serve staggered 4-year terms. The governor may remove a member for
 6 neglect of duty or other just cause.

7 ~~(7)(6)~~ The board is allocated to the department of labor and industry for administrative purposes only
 8 as prescribed in 2-15-121."

9

10 **Section 3.** Section 15-61-102, MCA, is amended to read:

11 **"15-61-102. Definitions.** As used in this chapter, unless it clearly appears otherwise, the following
 12 definitions apply:

13 (1) "Account administrator" means:

14 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

15 (b) a health care insurer as defined in 33-22-125;

16 (c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

17 (d) an employer if the employer has a self-insured health plan under ERISA;

18 (e) the account holder or an employee for whose benefit the account in question is established;

19 (f) a broker, insurance producer, or investment adviser regulated by the commissioner of insurance;

20 (g) an attorney licensed to practice law in this state;

21 (h) ~~a licensed public accountant~~ or a person who is an enrolled agent allowed to practice before the
 22 United States internal revenue service.

23 (2) "Account holder" means an individual who is a resident of this state and who establishes a medical
 24 care savings account or for whose benefit the account is established.

25 (3) "Dependent" means the spouse of the employee or account holder or a child of the employee or
 26 account holder if the child is:

27 (a) under 23 years of age and enrolled as a full-time student at an accredited college or university or is
 28 under 19 years of age;

29 (b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other
 30 care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated,

1 self-supporting, married, or a member of the armed forces of the United States; or

2 (c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

3 (4) "Eligible medical expense" means an expense paid by the employee or account holder for medical
4 care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the employee or account
5 holder.

6 (5) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents
7 a medical care savings account is established. The term includes a self-employed individual.

8 (6) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

9 (7) "Medical care savings account" or "account" means an account established with an account
10 administrator in this state pursuant to 15-61-201."

11

12 **Section 4.** Section 15-63-102, MCA, is amended to read:

13 **"15-63-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following
14 definitions apply:

15 (1) "Account administrator" means:

16 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

17 (b) a certified public accountant ~~or a licensed public accountant~~ licensed to practice in this state pursuant
18 to Title 37, chapter 50; or

19 (c) the account holder.

20 (2) "Account holder" means an individual who is a resident of this state and who establishes, individually
21 or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer. A
22 married taxpayer filing separately may be an account holder if the account is established separately from the
23 taxpayer's spouse. Married taxpayers filing jointly are considered as the account holder.

24 (3) "Eligible costs" means the downpayment and allowable closing costs for the purchase of a
25 single-family residence in Montana by a first-time home buyer.

26 (4) "First-time home buyer" means an individual who has never owned or purchased under contract for
27 deed, either individually or jointly, a single-family residence in Montana or out-of-state.

28 (5) "First-time home buyer savings account" or "account" means an account established with an account
29 administrator in this state pursuant to 15-63-201.

30 (6) "Single-family residence" means an owner-occupied residence in Montana, including a manufactured

1 home, trailer, or mobile home, that is an improvement to real property or a condominium unit that is owned by
2 or that has been purchased under contract for deed by a person, individually or jointly."

3

4 **Section 5.** Section 37-50-101, MCA, is amended to read:

5 **"37-50-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
6 apply:

7 (1) "Affiliated entity" means an entity owned, leased, or controlled by a firm through common employment
8 or any other service arrangement, including but not limited to financial or investment services, insurance, real
9 estate, and employee benefits services.

10 (2) "Agreed-upon procedures engagement" means an engagement performed in accordance with
11 applicable attestation standards and in which a firm or person is engaged to issue a written finding that:

12 (a) is based on specific procedures that the specified parties agree are sufficient for their purposes;

13 (b) is restricted to the specified parties; and

14 (c) does not provide an opinion or negative assurance.

15 (3) "Attest" means providing the following services:

16 (a) an audit or other engagement to be performed in accordance with the statements on auditing
17 standards;

18 (b) a review of a financial statement to be performed in accordance with the statements on standards
19 for accounting and review services;

20 (c) an examination of prospective financial information to be performed in accordance with the
21 statements on standards for attestation engagements;

22 (d) an engagement to be performed in accordance with the auditing standards of the public company
23 oversight board; and

24 (e) an agreed-upon procedures engagement to be performed in accordance with the statements on
25 standards for attestation engagements.

26 (4) "Board" means the board of public accountants provided for in 2-15-1756.

27 (5) "Compilation" means providing a service to be performed in accordance with statements on standards
28 for accounting and review services that presents, in the form of financial statements, information that is the
29 representation of owners without undertaking to express any assurance on the statements.

30 (6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

1 (7) "Firm" means a sole practice, sole proprietorship, partnership, professional corporation, or limited
2 liability company engaged in the practice of public accounting.

3 (8) "Home office" is the location specified by the client as the address where a service described in
4 37-50-325(4) is directed.

5 (9) "Peer review" means a board-approved study, appraisal, or review of one or more aspects of the
6 attest or compilation work of a ~~permitter~~ or licensee of a registered firm in the practice of public accounting, by
7 a person or persons who hold licenses in this or another jurisdiction and who are not affiliated with the person
8 or firm being reviewed.

9 (10) "Practice of public accounting" means performing or offering to perform, by a person ~~certified under~~
10 ~~37-50-302~~, licensed as a certified public accountant under 37-50-303, or holding a practice privilege under
11 37-50-325, for a client or potential client one or more types of services involving the use of accounting or auditing
12 skills, including:

13 (a) the issuance of reports or financial statements on which the public may rely;

14 (b) one or more types of management advisory or consulting services as determined by the board;

15 (c) the preparation of tax returns; or

16 (d) furnishing advice on tax matters.

17 (11) "Principal place of business" means the office location designated by the licensee for the purposes
18 of substantial equivalency.

19 (12) "Satellite office" means a secondary location of a registered public accounting firm.

20 ~~(+2)(13)~~ "Substantial equivalency" or "substantially equivalent" means a determination by the board or
21 its designee that the education, examination, and experience requirements contained in the statutes and rules
22 of another jurisdiction are comparable to or exceed the education, examination, and experience requirements
23 contained in the Uniform Accountancy Act or subsequent acts or that an individual certified public accountant's
24 education, examination, and experience qualifications are comparable to or exceed the education, examination,
25 and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency,
26 the board shall take into account the qualifications without regard to the sequence in which the experience,
27 education, and examination requirements were attained."
28

29 **Section 6.** Section 37-50-102, MCA, is amended to read:

30 "**37-50-102. Exemptions.** This chapter does not prohibit any person who is not a certified public

1 accountant ~~or licensed public accountant~~ from serving as an employee of or an assistant to a certified public
 2 accountant ~~or a licensed public accountant~~ holding a permit license to practice under ~~37-50-314~~, 37-50-302 or
 3 a firm composed of certified public accountants ~~or licensed public accountants~~ registered under this chapter, ~~or~~
 4 ~~a foreign accountant whose credentials have been recognized under 37-50-313~~. However, the employee or
 5 assistant may not issue any accounting or financial statement in the employee's or assistant's name."

6

7 **Section 7.** Section 37-50-203, MCA, is amended to read:

8 **"37-50-203. Rules of board.** (1) The board may adopt rules, consistent with the purposes of this
 9 chapter, that it considers necessary.

10 (2) The board shall adopt:

11 (a) rules of professional conduct appropriate to establish and maintain a high standard of integrity,
 12 dignity, and competency in the profession of public accounting, including competency in specific fields of public
 13 accounting;

14 ~~(b) rules of procedure governing the conduct of matters before the board;~~

15 ~~(e)(b)~~ rules governing education requirements, as provided in 37-50-305, for issuance of the certificate
 16 license of a certified public accountant ~~and the license for licensed public accountant;~~

17 ~~(d)(c)~~ rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the
 18 initial permit license; and

19 ~~(e)(d)~~ rules to enforce the provisions of this chapter. The purpose of the rules ~~must be~~ is to provide for
 20 the monitoring of the profession of public accounting and to maintain the quality of the accounting profession.

21 (3) The board may adopt rules:

22 (a) governing firms and other types of entities practicing public accounting, including but not limited to
 23 rules concerning style, name, title, and affiliation with other organizations; and

24 ~~(b) (i) establishing reasonable standards with respect to professional liability insurance and unimpaired~~
 25 ~~capital; and~~

26 ~~—— (ii) prescribing joint and several liability for torts relating to professional services for shareholders of a firm~~
 27 ~~or owners of other types of entities that fail to comply with standards established pursuant to subsection (3)(b)(i);~~
 28 ~~and~~

29 ~~—— (e)(b)~~ establishing education and experience qualifications for out-of-state and foreign accountants
 30 seeking permits, certificates, or licenses to practice in Montana."

1

2 **Section 8.** Section 37-50-301, MCA, is amended to read:

3 **"37-50-301. Illegal use of title.** (1) It is not a violation of this chapter for a firm that is not registered
4 under 37-50-335 and that does not have an office in this state to provide its professional services and to practice
5 public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the exemption
6 requirements of 37-50-335~~(2)~~(4).

7 (2) A person may not assume or use the title or designation "certified public accountant" or the
8 abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that
9 the person is a certified public accountant unless the person holds a current certificate license as a certified public
10 accountant under this chapter or qualifies for the practice privilege under 37-50-325. ~~However, a foreign~~
11 ~~accountant whose credentials are recognized under the provisions of 37-50-313 shall use the title under which~~
12 ~~the foreign accountant is generally known in the foreign country, followed by the name of the country from which~~
13 ~~the foreign accountant's certificate, license, or degree was received.~~

14 (3) A firm may not assume or use the title or designation "certified public accountant" or the abbreviation
15 "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the firm is
16 composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is registered as
17 required under 37-50-335 or meets the conditions to be exempt from registration as set forth in 37-50-335~~(2)~~(4).

18 ~~(4) A person may not assume or use the title or designation "licensed public accountant", "public~~
19 ~~accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the~~
20 ~~person is a public accountant unless the person holds a current license as a licensed public accountant under~~
21 ~~this chapter.~~

22 ~~———(5) A firm may not assume or use the title or designation "licensed public accountant", "public~~
23 ~~accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the~~
24 ~~firm is composed of public accountants unless it is registered as required under 37-50-335.~~

25 ~~(6)~~(4) A person or firm may not assume or use the title or designation "certified accountant", "chartered
26 accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or
27 designation likely to be confused with "certified public accountant", "licensed certified public accountant", "public
28 accountant" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar or any abbreviations likely to be
29 confused with "CPA". However, a foreign accountant ~~whose credentials are recognized under 37-50-313 shall~~
30 may use the title under which the foreign accountant is generally known in the foreign country, followed by the

1 name of the country from which the foreign accountant's certificate, license, or degree was received, and a person
 2 who is licensed as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the
 3 abbreviation "EA".

4 ~~(7) A person may not sign or affix the person's name or any trade or assumed name used by the person~~
 5 ~~in the person's profession or business with any wording indicating that the person has expert knowledge in~~
 6 ~~accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to~~
 7 ~~any accounting or financial statement unless the person holds a current permit issued under 37-50-314 and all~~
 8 ~~of the person's offices in this state for the practice of public accounting are maintained and registered under~~
 9 ~~37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal~~
 10 ~~of any organization from affixing a signature to any statement or report in reference to the financial affairs of that~~
 11 ~~organization with any wording designating the position, title, or office that the person holds in that organization,~~
 12 ~~nor do the provisions of this subsection prohibit any act of a public official or public employee in the performance~~
 13 ~~of the official's or employee's public duties.~~

14 ~~(8)(5)~~ A person may not sign or affix a firm name with any wording indicating that it is a firm composed
 15 of persons having expert knowledge in accounting or auditing to any accounting or financial statement or to any
 16 report on or certificate to any accounting or financial statement offering attest services and compilations unless
 17 the firm conforms to the requirements of 37-50-330 and is registered as required under 37-50-335.

18 ~~(9)(6)~~ A person may not assume or use the title or designation "certified public accountant" or "public
 19 accountant" in conjunction with names indicating or implying that there is a firm or in conjunction with the
 20 designation "and company" or "and co." or a similar designation if there is in fact no bona fide firm that has been
 21 formed subject to the provisions of 37-50-330 and registered under 37-50-335. However, it is lawful for a sole
 22 proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a
 23 reasonable period of time after the death of a former partner or co-owner."
 24

25 **Section 9.** Section 37-50-302, MCA, is amended to read:

26 **"37-50-302. Certified public accountants -- certification licensure -- qualifications and**
 27 **requirements.** The board shall grant an initial certificate licensure as a certified public accountant to any person
 28 who:

- 29 (1) is of good moral character;
 30 (2) has successfully passed the certified public accountants' examination; and

1 (3) meets the requirements of education and accounting experience set forth in this chapter and in board
2 rules; and

3 (4) has successfully completed the professional ethics for CPAs course of the American institute of
4 certified public accountants or its successor organization as defined in board rule."

5

6 **Section 10.** Section 37-50-305, MCA, is amended to read:

7 **"37-50-305. Education requirements.** (1) ~~A candidate~~ An applicant for initial ~~certification licensure~~
8 a certified public accountant ~~or licensing as a licensed public accountant~~ must have graduated from a college or
9 university ~~accredited to offer a baccalaureate degree:~~

10 ~~—— (a) with an accounting concentration or its equivalent as determined by the board; and~~

11 ~~—— (b) with at least 150 semester hours of credit, including those earned toward the baccalaureate degree~~
12 ~~or its equivalent.~~

13 (a) graduated from an accredited college or university with a baccalaureate degree and at least 150
14 semester hours of credit; and

15 (b) met the requirements for accounting and business course credit hours specified by board rule.

16 (2) For the purposes of this section, "initial ~~certification licensure~~" means that the ~~candidate~~ applicant
17 has never been ~~certified~~ licensed as a certified public accountant ~~or licensed as a licensed public accountant~~ by
18 any jurisdiction."

19

20 **Section 11.** Section 37-50-309, MCA, is amended to read:

21 **"37-50-309. Credit for examinations taken in other jurisdictions.** The board may ~~by rule provide for~~
22 ~~granting grant~~ credit to ~~a candidate~~ an applicant for the satisfactory completion of ~~an examination in any one or~~
23 ~~more of the subjects of examination given by the licensing authority~~ the uniform certified public accountant
24 examination taken in another jurisdiction."

25

26 **Section 12.** Section 37-50-314, MCA, is amended to read:

27 **"37-50-314. Permit License required -- display proof of licensure.** (1) A person may not engage in
28 the practice of public accounting in this state without a current permit license issued by the department. A permit
29 license to engage in the practice of public accounting in this state must be issued by the department to a person
30 who holds ~~a current certificate as a certified public accountant or license as a licensed public accountant and~~

1 complies with the requirements of this chapter.

2 (2) The current ~~permit license to engage in the practice of public accounting must be prominently~~
3 ~~displayed for public inspection~~ presented as proof of licensure upon request by a client.

4 (3) ~~A Upon request from a Montana client, a person qualifying for a practice privilege under 37-50-325(1)~~
5 ~~or (2) is exempt from this requirement~~ shall present proof of licensure from the state where the person is
6 licensed."

7

8 **Section 13.** Section 37-50-316, MCA, is amended to read:

9 **"37-50-316. Other license fees prohibited.** ~~No certificate, permit, or license~~ License fees shall may not
10 be imposed as a condition upon the practice of public ~~accountancy~~ accounting other than those provided for in
11 this chapter."

12

13 **Section 14.** Section 37-50-325, MCA, is amended to read:

14 **"37-50-325. Practice privilege for nonresident certified public accountant -- rules.** (1) (a) A person
15 whose principal place of business is not in this state and who holds a valid license as a certified public accountant
16 from any state that the national association of state boards of accountancy's national qualification appraisal
17 service or a successor organization has verified to be in substantial equivalence with the certified public
18 accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute
19 of certified public accountants/national association of state boards of accountancy ~~has~~ is presumed to have
20 qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding
21 a certificate and a permit license of this state without the need to obtain a certificate license under 37-50-302 or
22 a permit under 37-50-314.

23 (b) A person who offers or renders professional services under this section, whether in person, by mail,
24 by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other
25 submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection
26 (1).

27 (2) (a) A person whose principal place of business is not in this state and who holds a valid license as
28 a certified public accountant from any state that the national association of state boards of accountancy's national
29 qualification appraisal service or a successor organization has not verified to be in substantial equivalence with
30 the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the

1 American institute of certified public accountants/national association of state boards of accountancy ~~has~~ is
 2 presumed to have qualifications substantially equivalent to this state's requirements and has all the privileges of
 3 persons holding a ~~certificate and a permit~~ license of this state without the need to obtain a ~~certificate~~ license
 4 under 37-50-302 ~~or a permit under 37-50-314~~ if the person obtains verification from the national association of
 5 state boards of accountancy's national qualification appraisal service that the person's CPA qualifications are
 6 substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act of the American
 7 institute of certified public accountants/national association of state boards of accountancy.

8 (b) A person who has passed the uniform certified public accountant examination and holds a valid
 9 license issued by any other state prior to January 1, 2012, is exempt from the education requirements in the
 10 Uniform Accountancy Act or a subsequent act for purposes of this subsection (2).

11 (c) A person who offers or renders professional services under this subsection (2), whether in person,
 12 by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or
 13 other submission is required unless the person is registered pursuant to 37-50-335. The person is subject to the
 14 requirements of subsections (3) and (4) and this subsection (2).

15 (3) A licensee of another state exercising the privilege under this section and the firm that employs that
 16 person, as a condition of the grant of this privilege:

17 (a) are subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

18 (b) shall comply with this chapter and the board's rules;

19 (c) shall cease offering or rendering professional services in this state individually or on behalf of a firm
 20 if the license from the state of the person's principal place of business is no longer valid; and

21 (d) shall accept the appointment of the state board that issued the license as the agent upon whom
 22 process may be served in any action or proceeding by the board of public accountants against the licensee.

23 (4) A person who has been granted practice privileges under this section and who, for any client with
 24 its home office in this state, performs any attest services or compilations may do so only through a firm registered
 25 under 37-50-335."

26

27 **Section 15.** Section 37-50-330, MCA, is amended to read:

28 **"37-50-330. Compliance with ownership requirements -- firm registration.** (1) A firm composed of
 29 certified public accountants ~~or a firm composed of public accountants that is or plans to become~~ that is engaged
 30 in the practice of public accounting may include persons who are not licensed ~~as public accountants or certified~~

1 as certified public accountants if:

2 (a) the firm designates an accountant who is licensed ~~or certified~~ in this state or, in the case of a firm that
3 ~~must be registered~~ practices under the practice privilege pursuant to 37-50-335, a licensee of another state who
4 meets the requirements set out in 37-50-325(1) or (2) to be responsible for the proper registration of the firm;

5 (b) a simple majority of ownership in the firm, in terms of equity and voting rights, is held by accountants
6 who are licensed ~~or certified accountants~~ in this state or in another substantially equivalent jurisdiction or meet
7 the requirements of 37-50-325~~(2)~~; and

8 (c) all persons with an ownership interest in the firm are individuals actively participating in the business
9 of the firm or its affiliated entities; ~~and~~

10 ~~—— (d) any person with an ownership interest in the firm who is not licensed or certified as an accountant~~
11 ~~and who holds a professional license, registration, or certification issued by this state or another jurisdiction is~~
12 ~~in compliance with the requirements for that license, registration, or certification.~~

13 (2) An accountant licensed ~~or certified~~ in this state or a person qualifying for practice privileges under
14 37-50-325 who holds an ownership interest in a firm, who is responsible for supervising attest or compilation
15 services, and who signs or authorizes someone to sign the accountant's report on the financial statements on
16 behalf of the firm is responsible for all attest or compilation services.

17 (3) A person licensed ~~or certified~~ in this state and a person qualifying for practice privileges under
18 37-50-325 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf
19 of the firm must meet the competency requirements of 37-50-203(2)(a).

20 (4) (a) A firm that is no longer in compliance with the ownership requirements of subsection (1)(b) shall
21 give notice to the board within 90 days of the noncompliance.

22 (b) The board shall grant the firm a reasonable amount of time to reestablish compliance with the
23 ownership requirements of subsection (1)(b). The time granted by the board to a firm to reestablish compliance
24 may not be less than 90 days from the date the board receives the firm's notice of noncompliance.

25 (c) The failure of a firm to reestablish compliance with the ownership requirements of subsection (1)(b)
26 is grounds for the board to suspend or revoke the firm's registration required by 37-50-335."
27

28 **Section 16.** Section 37-50-335, MCA, is amended to read:

29 **"37-50-335. Registration of firms -- exemptions.** (1) ~~The following~~ All firms that establish or maintain
30 offices in this state for the practice of public accounting shall register annually with the department.

- 1 ~~(a) those with an office in this state performing attest services and compilations;~~
 2 ~~(b) those with an office in this state that use the title "CPA" or "CPA firm"; and~~
 3 ~~(c)(2) those All firms that do not have an office in this state but perform attest services and compilations~~
 4 ~~for a client having its home office in this state shall register annually with the department.~~
 5 ~~(d)(3) A fee may not be charged for the annual registration required in subsection (1)(c) of firms.~~
 6 ~~(2) A firm that undergoes a board-sanctioned compliance or peer review process and receives an~~
 7 ~~acceptable, a pass, or a pass with deficiencies rating for these services and completes all remediation in its~~
 8 ~~principal place of business is exempt from registration.~~
 9 ~~(3)(4) A firm that is not subject to the requirements of subsection (1) (2) may perform other professional~~
 10 ~~services while using the title "CPA" or "CPA firm" in this state without registering with the department only if:~~
 11 ~~(a) it performs the services through a person with practice privileges under 37-50-325; and~~
 12 ~~(b) it can lawfully perform the services in the state where persons with practice privileges have their~~
 13 ~~principal place of business.~~
 14 ~~(4)(5) Each office established or maintained firm that establishes or maintains satellite offices in this state~~
 15 ~~for the practice of public accounting in this state by a certified public accountant, by a firm of certified public~~
 16 ~~accountants, by a licensed public accountant, by a firm of licensed public accountants, or by a foreign accountant~~
 17 ~~recognized under 37-50-313 shall register annually with the department shall provide a list of the location of each~~
 18 ~~satellite office in this state at the time of annual registration. A fee may not be charged for this registration.~~"

- 19
 20 **Section 17.** Section 37-50-341, MCA, is amended to read:
 21 **"37-50-341. Initiation of proceedings -- hearings and rulemaking.** (1) The board may initiate
 22 proceedings under this chapter upon its own motion, upon a complaint made by the board of accountancy of
 23 another state, or upon the complaint of a person.
 24 (2) A person licensed ~~or certified~~ in this state offering or rendering services or using a "CPA" title in
 25 another state is subject to disciplinary action in this state for an act committed in another state where the licensee
 26 would be subject to discipline for the act committed in the other state.
 27 (3) A person licensed ~~or certified~~ in another state offering or rendering services or using a "CPA" title in
 28 this state is subject to disciplinary action in this state for an act committed in this state for which a licensee in this
 29 state would be subject to discipline.
 30 (4) Hearings and rulemaking proceedings are governed by the Montana Administrative Procedure Act."

1

2 **Section 18.** Section 37-50-401, MCA, is amended to read:

3 **"37-50-401. False statements by certified public accountants -- misdemeanor -- penalty.** Any
4 person practicing as ~~an accountant, public accountant, or a~~ certified public accountant in this state who, because
5 of negligence, gross inefficiency, or willfulness, issues or permits the issuance of any false statement of the
6 financial transactions, standing, or condition of any firm or individual business undertaking is guilty of a
7 misdemeanor and upon conviction shall be fined not less than \$500 or more than \$2,000, be imprisoned for a
8 period of not less than 90 days or more than 1 year, or both."

9

10 **Section 19.** Section 37-50-402, MCA, is amended to read:

11 **"37-50-402. Privileged communications -- exceptions.** (1) Except by permission of the client, person,
12 or firm engaging a certified ~~or licensed~~ public accountant or an employee of the accountant or by permission of
13 the heirs, successors, or personal representatives of the client, person, or firm and except for the expression of
14 opinions on financial statements, a certified public accountant, ~~licensed public accountant,~~ or employee may not
15 be required to disclose or divulge or voluntarily disclose or divulge information that the certified ~~or licensed~~ public
16 accountant or an employee may have relative to and in connection with any professional services as a certified
17 public accountant. The information derived from or as a result of professional services is considered confidential
18 and privileged.

19 (2) The provisions of this section do not apply to the testimony or documents of a certified public
20 accountant furnished pursuant to a subpoena in a court of competent jurisdiction, pursuant to a board proceeding,
21 or in the process of any board-approved practice review program."

22

23 **Section 20.** Section 37-50-403, MCA, is amended to read:

24 **"37-50-403. Nonliability -- evidential privilege -- application to nonprofit corporations.** (1) A
25 member of a peer review, professional standards review, or ethics review committee of a society composed of
26 persons licensed to practice ~~the accounting profession as~~ certified public accountants is not liable in damages
27 to any person for any action taken or recommendation made within the scope of the functions of the committee
28 if the committee member acts without malice and in the reasonable belief that the action or recommendation is
29 warranted by the facts known to the member after reasonable effort to obtain the facts.

30 (2) The proceedings and records of peer review, professional standards review, and ethics review

1 committees are not subject to discovery or introduction into evidence in any proceeding. However, information
2 otherwise discoverable or admissible from an original source is not to be construed as immune from discovery
3 or use in any proceeding merely because it was presented during proceedings before the committee, nor is a
4 member of the committee or other person appearing before it to be prevented from testifying as to matters within
5 that person's knowledge. However, the person may not be questioned about the person's testimony or other
6 proceedings before the committee or about opinions or other actions of the committee or any member of the
7 committee.

8 (3) This section also applies to a member, agent, or employee of a nonprofit corporation engaged in
9 performing the functions of a peer review, professional standards review, or ethics review committee with respect
10 to the profession of accounting."
11

12 **NEW SECTION. Section 21. Existing license or certificate transition.** (1) A person who holds a
13 licensed public accountant license and permit to practice on July 1, 2015, issued under the laws of this state may
14 renew the person's existing license and is not required to obtain a certified public accountant license under this
15 chapter. The person must otherwise be subject to all provisions of this chapter.

16 (2) A person who holds a certified public accountant certificate or licensed public accountant license on
17 July 1, 2015, issued under the laws of this state but who has not met the qualifications for a permit to practice
18 must meet the accounting experience requirement set forth in this chapter and in board rule by December 31,
19 2017, in order to be licensed. Failure to meet the accounting experience requirement by the deadline must result
20 in termination of the certified public accountant certificate or licensed public accountant license.
21

22 **Section 22.** Section 80-4-502, MCA, is amended to read:

23 **"80-4-502. Licenses to warehouse operator -- issuance -- renewal -- conditions precedent.** (1) The
24 department is authorized to issue or renew, upon application, a license to any warehouse operator for the conduct
25 of a warehouse or warehouses in accordance with parts 5 and 6 of this chapter, provided the following conditions
26 are met:

27 (a) Each applicant shall file and maintain satisfactory evidence of an effective policy of insurance issued
28 by an insurance company authorized to do business in this state, insuring all agricultural commodities that are
29 stored in the warehouse, including agricultural commodities owned by the warehouse operator. The insurance
30 must insure the commodities for the full market value at the time of loss of the commodities against loss by fire,

1 internal explosion, lightning, or tornado.

2 (b) Each warehouse must be found suitable for the proper storage of the particular agricultural
3 commodity stored in the warehouse.

4 (c) A license fee must be submitted to the department as prescribed by 80-4-503.

5 (d) A current drawing of the warehouse, showing storage facilities and capacity of the warehouse, must
6 be submitted to the department.

7 (e) A sufficient and valid bond must be filed and maintained as required by 80-4-504 and 80-4-505.

8 (f) (i) Except as provided in subsection (1)(f)(ii), the applicant has submitted to the department a current
9 financial statement prepared by a ~~licensed~~ certified public accountant according to generally accepted accounting
10 principles, showing that the applicant has and maintains positive working capital.

11 (ii) An applicant without positive working capital may provide the department with additional bonding, or
12 an equivalent in the form of a certificate of deposit or irrevocable letter of credit, in the amount of \$2,000 for each
13 \$1,000 of deficit. The bond or equivalent required in this subsection (1)(f)(ii) is in addition to the bond amount
14 required in 80-4-505.

15 (g) The applicant must submit a sample warehouse receipt and subsequent revisions to the department
16 for approval and filing.

17 (h) The applicant must have complied with the terms of this part and the rules prescribed thereunder.

18 (2) All documents required for renewal of a license must be received by the department prior to the
19 expiration date of the warehouse license. An expired warehouse license may be reinstated by the department
20 upon receipt of all required licensing documents and a penalty fee of \$50 if the documents are filed within 30 days
21 from the date of expiration of the warehouse license. All license applications received after the 30-day penalty
22 period must be considered original applications and an initial license fee must be assessed according to
23 80-4-503."

24

25 **Section 23.** Section 80-4-601, MCA, is amended to read:

26 **"80-4-601. Commodity dealer license requirements -- financial responsibility.** (1) A person may not
27 engage in the business of a commodity dealer in this state without first having obtained a license issued by the
28 department.

29 (2) An application for a license to engage in business as a commodity dealer must be filed with the
30 department and must be on a form prescribed by the department.

- 1 (3) (a) A license application must include the following:
- 2 (i) the name of the applicant;
- 3 (ii) the names of the officers and directors if the applicant is a corporation;
- 4 (iii) the names of the partners if the applicant is a partnership;
- 5 (iv) the location of the principal places of business;
- 6 (v) a sufficient and valid bond as specified in 80-4-604, plus the bond specified in subsection (5)(a)(i)
- 7 or (5)(a)(ii) if applicable, or as specified in subsection (5)(a)(iii);
- 8 (vi) a complete financial statement prepared by a ~~licensed~~ certified public accountant according to
- 9 generally accepted accounting principles, setting forth the applicant's assets, liabilities, and equity; and
- 10 (vii) any other reasonable information the department finds necessary to carry out the provisions and
- 11 purpose of this part.
- 12 (b) In determining the value of assets for the purposes of commodity dealer licensing:
- 13 (i) the value of the assets must be shown at original cost less depreciation, except that upon written
- 14 request filed with the department, the director may allow asset valuations in accordance with a competent
- 15 appraisal; and
- 16 (ii) credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise
- 17 inventory, only to the extent that the insurable property is protected against loss or damage by fire by insurance
- 18 in the form of lawful policies issued by one or more insurance companies authorized to do business and subject
- 19 to service of process in suits brought in this state.
- 20 (4) Except as provided in subsection (5), in order to receive and retain a commodity dealer's license, a
- 21 commodity dealer shall have and maintain:
- 22 (a) equity of \$50,000;
- 23 (b) positive working capital; and
- 24 (c) the bond required under 80-4-604.
- 25 (5) (a) An applicant for a commodity dealer's license:
- 26 (i) that meets the condition specified in subsection (4)(c) and has maintained positive equity but does
- 27 not meet the condition specified in subsection (4)(a) shall provide the department with additional bonding in the
- 28 amount of \$2,000 for each \$1,000 or fraction of \$1,000 that the applicant's equity is less than \$50,000; and
- 29 (ii) that meets the condition specified in subsection (4)(c) but does not meet the condition specified in
- 30 subsection (4)(b) shall provide the department with additional bonding in the amount of \$2,000 for each \$1,000

1 or fraction of \$1,000 that the applicant's current liabilities exceed the applicant's current assets; or
 2 (iii) that cannot or chooses not to meet the requirements of subsections (4)(a), (4)(b), and (4)(c) may, at
 3 the applicant's discretion and with the consent of the department, provide the department with a bond in the
 4 amount of 110% of the value of commodities the applicant or dealer intends to purchase during the term of the
 5 license or 110% of the value of commodities the dealer purchased during the preceding 12 months, whichever
 6 is greater. The minimum bond is \$20,000.

7 (b) An applicant or commodity dealer that provides a bond under subsection (5)(a)(iii) is exempt from
 8 the bonding requirement in 80-4-604(2).

9 (c) If a commodity dealer posts a bond or equivalent under subsection (5)(a)(iii) and at any time has
 10 unpaid contracts that exceed 90% of the dealer's bond or equivalent, the dealer shall either pay off contracts of
 11 sufficient value or increase the bond amount so that the total value of the unpaid contracts is less than 90% of
 12 the bond or equivalent.

13 (6) The department shall adopt rules relating to the form and time of filing of financial statements. The
 14 department may require additional information or verification regarding the financial resources of the applicant
 15 and the applicant's ability to pay producers for agricultural commodities purchased from them."
 16

17 **NEW SECTION. Section 24. Repealer.** The following sections of the Montana Code Annotated are
 18 repealed:

- 19 37-50-303. Public accountants -- licensure -- qualifications and requirements.
 20 37-50-304. Public accountants -- licensure without examination of former military personnel -- examination
 21 otherwise required.
 22 37-50-310. Existing certificates sufficient.
 23 37-50-311. Certified public accountants -- waiver of examination.
 24 37-50-312. Public accountants -- waiver of examination for holders of out-of-state license.
 25 37-50-313. Recognition of credentials of foreign accountants -- restriction on title used -- practice.
 26

27 **NEW SECTION. Section 25. Codification instruction.** [Section 21] is intended to be codified as an
 28 integral part of Title 37, chapter 50, part 3, and the provisions of Title 37, chapter 50, part 3, apply to [section 21].
 29

30 **NEW SECTION. Section 26. Effective date.** (1) Except as provided in subsection (2), [this act] is

1 effective October 1, 2015.

2 (2) [Section 21] and this section are effective July 1, 2015.

3 - END -