1	SB84

2 105680-3

3 By Senator Bedford

ACT# 2009- 620

4 RFD: Governmental Affairs

5 First Read: 03-FEB-09

6 PFD: 02/02/2009



1	SB84
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4	ENROLLED, An Act,
5	Relating to certified public accountants; to provide
6	for a practice privilege for nonresident certified public
7	accountants; to make certain technical changes, to conform
8	state law to certain federal auditing standards, and to
9	increase certain administrative fines; and for this purpose to
LO	amend Sections 34-1-2, 34-1-6, 34-1-7, 34-1-10, 34-1-12, as
l1	amended by Act 2008-133, 34-1-15, 34-1-16, 34-1-17, and
12	34-1-20 of the Code of Alabama 1975.
L3	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
L <b>4</b>	Section 1. Sections 34-1-2, 34-1-6, 34-1-7, 34-1-10,
L5	34-1-12, as amended by Act 2008-133, 34-1-15, 34-1-16,
L6	34-1-17, and 34-1-20 of the Code of Alabama 1975, are amended
L7	to read as follows:
L8	"§34-1-2.
L9	"For purposes of this chapter, the following words
20	and phrases shall have the meanings respectively ascribed in
21	this section:
22	"(1) AICPA. The American Institute of Certified
23	Public Accountants.
24	"(2) ATTEST. Providing the following financial
25	statement services:

1	"a. Any audit or other engagement to be performed in
2	accordance with the Statements on Auditing Standards (SAS).
3	"b. Any review of a financial statement to be
4	performed in accordance with the Statements on Standards for
5	Accounting and Review Services (SSARS).
6	"c. Any examination of prospective financial
7	information to be performed in accordance with the Statements
8	on Standards for Attestation Engagements (SSAE).
9	"d. Any engagement to be performed in accordance
10	with the auditing standards of the Public Company Accounting
11	Oversight Board (PCAOB).
12	"e. The statements on standards specified in this
13	definition shall be adopted by reference by the board pursuant
14	to rule making and shall be those developed for general
15	application by recognized national accountancy organizations
16	such as the AICPA and PCAOB.
17	"(3) BOARD. The Alabama State Board of Public
18	Accountancy created by Section 34-1-3, except the special
19	meaning applicable only to Section 34-1-4.
20	"(4) COMPILATION. Providing a service to be
21	performed in accordance with Statements on Standards for
22	Accounting and Review Services (SSARS) that is presenting in
23	the form of financial statements, information that is the

representation of management (owners) without undertaking to

express any assurance on the statements.

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1	"(5) FIRM. A sole proprietorship, partnership,
2	professional corporation, professional association, limited
3	liability company, limited liability partnership, or any other
4	form of business entity now or hereafter recognized by Alabama
5	law.
6	"(6) LICENSE. A certificate issued pursuant to
7	Section 34-1-4, a permit issued pursuant to Section 34-1-11,
8	registration pursuant to Section 34-1-8; or, in each case, a
9	certificate or permit issued pursuant to corresponding
10	provisions of prior law, or the practice privilege provided
11	pursuant to Section 34-1-7.
12	"(7) LICENSEE. The holder of a license.
13	"(8) OWNER. Any person who holds an ownership
14	interest in a firm.
15	"(9) PEER REVIEW. The study, appraisal or review of

- "(9) PEER REVIEW. The study, appraisal, or review of one or more aspects of the professional work of a licensee or firm that performs attest or compilation services, by a person or persons who hold licenses and who are not affiliated with the licensee or firm being reviewed.
- "(10) STATE. Any state, territory, or insular possession of the United States or the District of Columbia.
- 22 "\$34-1-6.

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"(a) A firm engaged in this state in the practice of public accounting may register with the board as a firm of

L	certified	public	accountants	provided	it	meets	all	of	the
2	following	require	ements:						

- "(1) At least 51 percent of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid certificate issued under Section 34-1-4. Although firms may include nonlicensee owners, the firm and its ownership must comply with rules promulgated by the board.
- "(2) Each certified public accountant owner regularly engaged within this state in the practice of public accounting as a member of the firm shall be a certified public accountant of this state in good standing except as provided in subdivision (4) of this subsection or when practicing pursuant to Section 34-1-7.
- "(3) Each resident manager in charge of an office of a firm in this state whose main office is outside this state shall be a certified public accountant of this state in good standing except as provided in subdivision (4) of this subsection.
- "(4) Certified public accountants (CPAs) from other jurisdictions transferring into Alabama shall be required to

1	obtain an Alabama reciprocal certificate within 24 months from
2	the date of transfer.
3	"(5) Any CPA firm as defined in this chapter may
4	include nonlicensee owners provided that:
5	"a. The firm designates a licensee of this state who
6	is responsible for the proper registration of the firm and
7	identifies that individual to the board.
8	"b. All nonlicensee owners are active individual
9	participants in the CPA firm or affiliated entities.
10	"c. A nonlicensee is prohibited from being an owner
11	if he or she has previously held a license.
12	"d. All nonlicensee owners shall register annually
13	with the board, pay an annual registration fee in an amount
14	determined by the board, and report the satisfaction of any
15	annual continuing education requirements that the board may
16	impose by rule on nonlicensee owners.
17	"e. The firm complies with such other requirements
18	as the board may impose by rule.
19	"(6) Firms which fall out of compliance with this

"(6) Firms which fall out of compliance with this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time to take such corrective action. Failure to bring the firm back into compliance within a reasonable period of time as defined by

the board will result in the suspension or revocation of the firm permit.

"(b) Application for registration shall be made upon the affidavit of an owner of the firm who is a certified public accountant of this state in good standing. The board shall in each case determine whether the firm is eligible for registration. A firm which is registered and which holds a permit issued under Section 34-1-11 may use the words "certified public accountants" or the abbreviation "CPAs" in connection with the name of the firm. Notification shall be given the board, within one month, after the admission to or withdrawal of an owner from any firm registered.

"\$34-1-7.

"(a) Subject to the requirements of subsection (b), a person who is licensed as a certified public accountant in another state whose principal place of business is not in this state shall have all the privileges of a certified public accountant in this state without the need to obtain a certificate or permit under this chapter or to notify or register with the board and may offer or render professional services in this state, whether in person or by mail, telephone, or electronic means, without any notice, fee, or other submission under this chapter.

"(b) A person exercising the practice privilege granted in subsection (a) and any firm that employs the

1	person,	as	a cond:	itic	n of	the	gı	rant	of	the	privilege,	are
2	deemed	to d	consent	to	all	of t	he	foll	Low	ing:		

- "(1) The personal and subject matter jurisdiction and disciplinary authority of the board and the courts of Alabama.
  - "(2) Compliance with this chapter and any rules promulgated by the board.
  - "(3) That the person shall cease offering or rendering professional services under the practice privilege personally and on behalf of a firm if the license of the person from the state by which the person was licensed as a certified public accountant when any professional services were offered or rendered, or began to be offered or rendered, pursuant to the practice privilege provided in this section, is no longer valid.
  - "(4) To the appointment of any out-of-state board by which the person was licensed as a certified public accountant when any professional services were offered or rendered, or began to be offered or rendered, pursuant to the practice privilege provided in this section, to be his or her agent for the purpose of service of process in any action or proceeding by the board in this state against the person.

23 "\$34-1-10.

"(a) Each office established or maintained in this state for the practice of public accounting in this state by a

1	certified public accountant, firm of certified public
2	accountants, a public accountant, firm of public accountants,
3	or by one registered under Section 34-1-5 shall be registered
4	annually under this chapter with the board, but no fee shall
5	be charged for registration. Each office shall be under the
6	direct supervision of a licensee holding a permit under
7	Section 34-1-11, which is in full force and effect.
8	Notwithstanding the foregoing, the title or designation
9	"certified public accountant" or the abbreviation "CPA" shall
10	not be used in connection with the office unless the licensee
11	is the holder of a certificate as a certified public
12	accountant under Section 34-1-4 and a permit issued under
13	Section 34-1-11, both of which are in full force and effect.
14	The licensee may serve in such capacity at one office only.
15	The board shall by regulation prescribe the procedure to be
16	followed in effecting registrations.
17	"(b) No firm or office not located in this state,
18	even if it is engaged in business in this state, shall be

20 "\$34-1-12.

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"(a) After notice and hearing as provided in Section 34-1-14, the board may suspend for a period not to exceed three years or revoke any certificate issued under Section 34-1-4, or any registration granted under Section 34-1-5 or 34-1-8, or any practice privilege granted pursuant to Section

required to register under this section.

1	34-1-7; may revoke, suspend, or refuse to renew any permit
2	issued under Section 34-1-11; or may censure the holder of any
3	permit or any practice privilege for any one or any
4	combination of the following causes:

- "(1) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accounting under this chapter.
- "(2) Dishonesty, fraud, or gross negligence in the practice of public accounting.
- 11 "(3) Any violation of Section 34-1-16.

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- "(4) Any violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter.
  - "(5) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.
  - "(6) Conviction of a felony under the laws of any state or of the United States.
    - "(7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any cause other than failure to pay an annual registration fee in the other state.

1	"(8) Suspension or revocation of the right to
2	practice before any state or federal agency.
3	"(9) Failure to be legally present in this state, or
4	to become a citizen of the United States within six years by
5	any person not a citizen of the United States when he or she
6	received a certificate as a certified public accountant or was
7	registered as a public accountant under this chapter.
8	"(10) Failure to apply for an annual permit to
9	practice or to be placed on the board's inactive roll within
10	any of the following time periods:
11	"a. One year from the expiration date of the permit
12	to practice last obtained or renewed pursuant to Section
13	34-1-11(a).
14	"b. One year from the expiration date of the last
15	annual renewal of his or her certificate pursuant to Section
16	34-1-11(b).
17	"c. One year from the date upon which the
18	certificate holder or registrant was granted his or her
19	certificate or registration, if no permit was ever issued
20	under Section 34-1-11(a) or his or her name was never placed
21	on the board's inactive roll under Section 34-1-11(b), unless
22	the failure is excused by the board pursuant to Section
23	34-1-11.
24	"(11) Conduct discreditable to the public accounting
25	profession.

1	"(12) Failure of a certificate holder or registrant
2	to furnish evidence of satisfaction of requirements of
3	continuing education as required by the board pursuant to
4	Section 34-1-11 or to meet any conditions in respect of
5	continuing education which the board may have ordered with
5	respect to the certificate holder under that section.

- "(13) Failure to comply with the provisions and requirements of the board's peer review program.
- "(14) Failure to comply with this chapter or rules promulgated by the board under this chapter or failure to comply with professional standards.
- "(15) Making any false or misleading statement or verification in support of an application for a certificate, registration, or permit filed by another.
- "(b) In addition to the disciplinary powers granted pursuant to subsection (a), the board may singly, or in combination with any other disciplinary action, levy and collect administrative fines for violations of this chapter or the rules and regulations of the board of not more than five thousand dollars (\$5,000) for each violation.

"\$34-1**-**15.

"Upon application in writing and after hearing, pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, may allow the reregistration of anyone whose

registration has been revoked, may reissue or modify the
suspension of any permit to practice public accounting which
has been revoked or suspended, or may restore or modify the
suspension of any practice privilege pursuant to Section

34-1-7 which has been revoked or suspended.

"§34-1-16.

"No person shall assume or use the title or designation "certified public accountant," the abbreviation "CPA" 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 has received a certificate as a certified public accountant under Section 34-1-4 and if in public practice, holds a permit issued under Section 34-1-11, which is not revoked or suspended, hereinafter referred to as a live permit, and all of the offices of the person in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10, or the person is practicing pursuant to Section 34-1-7; provided, however:

"(1) A foreign accountant who has registered under Section 34-1-5 and who holds a live permit issued under Section 34-1-11 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which the certificate, license, or degree was received.

"(2) No firm with an office in this state shall provide attest services or assume or use the title or designation "certified public accountants" or the abbreviation "CPAs" or any other title, designation, words, letters, signs, abbreviation, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm is registered as a firm of certified public accountants under Section 34-1-6, holds a live permit issued under Section 34-1-11, and all of the offices of the firm in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10, and ownership of the firm is in accord with this chapter and rules promulgated by the board.

designation "public accountant," the abbreviation thereof, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a public accountant, unless the person is registered as a public accountant under Section 34-1-8, holds a live permit issued under Section 34-1-11, and all of the offices of the person in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10 or unless the person has received a certificate as a certified public accountant under Section 34-1-4, holds a live permit issued under Section 34-1-11, and all of the offices of the

person in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10.

- "(4) No firm shall provide attest services or assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants, unless the firm is registered as a firm of public accountants under Section 34-1-9, or as a firm of certified public accountants under Section 34-1-5, holds a live permit issued under Section 34-1-11, and all of the offices of the firm in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10.
- "(5) No person or firm shall assume or use the title or designation "accredited accountant," "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "AA," "CA," "LA," "RA," or similar abbreviations likely to be confused with "CPA" or "PA." The title "enrolled agent" or "EA" may be used by only individuals so designated by the Internal Revenue Service. Notwithstanding the foregoing, any person who holds a live permit issued under Section 34-1-11, and all of whose offices in this state for

the practice of public accounting are maintained and registered as required under Section 34-1-10, or who is practicing pursuant to Section 34-1-7, may hold himself or herself out to the public as an "accountant" or "auditor." A foreign accountant registered under Section 34-1-5 who holds a live permit issued under Section 34-1-11 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received the certificate, license, or degree. 

"(6) No person shall sign or affix his or her name or any trade or assumed name used in the person's profession or business, with any wording indicating that he or she has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless he or she holds a live permit issued under Section 34-1-11, and all of the offices in this state for the practice of public accounting are maintained and registered under Section

34-1-10, or unless the person is practicing pursuant to Section 34-1-7. Notwithstanding the foregoing, this subdivision shall not prohibit any officer, employee, partner, or principal of any organization from affixing his or her signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization, nor shall this subdivision prohibit any act of a public official or public employee in the performance of their duties.

"(7) No person shall sign or affix the name of the firm, with any wording indicating that it is a firm composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the firm holds a live permit issued under Section 34-1-11, and all of its offices in this state for the practice of public accounting are maintained and registered as required under Section 34-1-10, or the person is practicing pursuant to Section 34-1-7.

"(8) No person shall assume or use the title or 1 2 designation "certified public accountant" or "public 3 accountant" in conjunction with names indicating or implying 4 that there is a firm, in conjunction with the designation "and 5 company" and "and co." or a similar designation if there is in 6 fact no bona fide firm registered under Section 34-1-6 or 7 Section 34-1-9, unless the person is practicing pursuant to 8 Section 34-1-7. No person holding a certificate or 9 registration or firm holding a permit under this chapter or 10 person practicing pursuant to Section 34-1-7 shall use a 11 professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are 12 partners, officers, members, managers, or shareholders of the 13 14 firm, or about any other matter. This section shall not prevent a firm or its successors from continuing to practice 15 under a firm name which consists of or includes the name or 16 17 names of one or more former owners.

"(9) Only licensees holding a valid permit to practice or practicing pursuant to Section 34-1-7 may issue a report on financial statements of any other person, firm, organization, or governmental unit or otherwise offer to render any attest service, as defined herein. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties as such; or prohibit the performance by any person of other services

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involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon. This restriction also does not apply to nonlicensees, who may prepare financial statements and issue reports thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

"(10) Licensees performing attest or compilation services must provide those services in accordance with professional standards.

"(11) Nonlicensees may not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue, by rule, safe harbor language nonlicensees may use in connection with such financial information. Notwithstanding the foregoing, nonlicensees may use the following disclaimer language in connection with financial statements to not be in violation of this chapter:

""I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

1	""I (We) have not audited or reviewed the
2	accompanying financial statements and accordingly do not
3	express an opinion or any other form of assurance on them."
4	"(12) No holder of a certificate issued under
5	Section 34-1-4 or a registration issued under Section 34-1-8,
6	except a person practicing pursuant to Section 34-1-7, shall
7	perform attest services in any firm that does not hold a valid
8	permit to practice issued under Section 34-1-11.
9	"(13) No individual licensee shall issue a report in
10	standard form upon a compilation of financial information
11	through any form of business that does not hold a valid permit
12	issued under Section 34-1-11 unless the report discloses the
13	name of the business through which the individual is issuing
14	the report, and the individual:
15	"a. Signs the compilation report identifying the
16	individual as a certified public accountant or public
17	accountant.
18	"b. Undergoes no less frequently than once every
19	three years, a peer review conducted in such manner as the
20	board shall by rule specify.
21	"(14) Nothing herein shall prohibit a practicing
22	attorney or firm of attorneys from preparing or presenting
23	records or documents customarily prepared by an attorney or
24	firm of attorneys in connection with the attorney's
25	professional work in the practice of law.

1	"§34-1-17.
1	324-1-11

"(a) Nothing contained in this chapter shall prohibit any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant, a public accountant, or a firm composed of certified public accountants or public accountants holding a permit to practice issued under Section 34-1-11; or a foreign accountant registered under Section 34-1-5, or a person practicing pursuant to Section 34-1-7; provided, that the employee or assistant shall not issue any accounting or financial statements over his or her name.

"(b) Nothing contained in this chapter shall prohibit a certified public accountant of another state, or an accountant who holds a certificate, license, or degree in a foreign country, constituting a recognized qualification for the practice of public accounting in the country, from practicing in this state in conformity with Section 34-1-7 and the regulations and rules of professional conduct promulgated by the board.

21 "\$34-1-20.

"The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any

1	abbreviation thereof, or "public accountant" or any
2	abbreviation thereof, shall be prima facie evidence in any
3	action brought under Section 34-1-18 or 34-1-19 that the
4	person whose name is so displayed caused or procured the
5	display or uttering of such card, sign, advertisement or other
6	printed, engraved or written instrument or device, and that
7	such person is holding himself out to be a certified public
8	accountant or a public accountant holding a permit to practice
9	under Section 34-1-11, or practicing pursuant to Section
10	34-1-7. In any such action, evidence of the commission of a
11	single act prohibited by this chapter shall be sufficient to
12	justify an injunction or a conviction without evidence of a
13	general course of conduct."
14	Section 2. This act shall become effective on
15	October 1, 2009, following its passage and approval by the
16	Governor, or its otherwise becoming law.

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2	J. Lou
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4	President and Presiding Officer of the Senate
5	Late In
6	Speaker of the House of Representatives
7 8 9 10 11 12 13	SB84 Senate 17-FEB-09 I hereby certify that the within Act originated in and passed the Senate, as amended.  McDowell Lee Secretary
15	
16 17 18	House of Representatives Passed: 14-MAY-09
19	
20 21	By: Senator Bedford

APPROVED May 21, 2009
TIME 7:07 a.m.

GOVERNOR

Alabama Secretary Of State

Act Num...: 2009-620 Bill Num...: S-84

Recv'd 05/21/09 02:16pmJJB