

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

400U0292

## SENATE BILL NO. 63

Introduced by: The Committee on Commerce and Energy at the request of the South Dakota  
Board of Accountancy

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for certified public  
2 accountant firms licensed in South Dakota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-20B-1 be amended to read as follows:

5 36-20B-1. Terms as used in this chapter mean:

- 6 (1) "Board," the South Dakota Board of Accountancy established pursuant to this chapter  
7 or its predecessor;
- 8 (2) "Certificate," a certificate as a certified public accountant issued pursuant to this  
9 chapter or corresponding provisions of prior law, or a corresponding certificate as  
10 certified public accountant issued after examination under the law of any other state;
- 11 (3) "Client," a person or entity that agrees with a licensee to receive any professional  
12 service other than an employer-employee relationship;
- 13 (4) "CPA firm" and "PA firm," a sole proprietorship, a corporation, a partnership, or any  
14 other form of organization permitted by law issued a permit under this chapter;
- 15 (5) "Compilation," providing a service to be performed in accordance with Statements

1 on Standards for Accounting and Review Services (SSARS) that is presenting in the  
2 form of financial statements, information that is the representation of management  
3 (owners) without undertaking to express any assurance on the statements;

4 (6) "Domestic," referring to a jurisdiction of a state;

5 (7) "Foreign," referring to a jurisdiction outside of the United States;

6 (8) "Home office," the location specified by a client as the address to which a service is  
7 directed;

8 (9) "License," a certificate issued pursuant to this chapter, a permit issued pursuant to  
9 this chapter, or a registration pursuant to this chapter; or in each case, a certificate,  
10 license, or permit issued under corresponding provisions of prior law;

11 (10) "Licensee," the holder of a certificate issued pursuant to this chapter or of a license  
12 issued under prior law, or of a permit issued pursuant to this chapter; or in each case,  
13 a certificate, license, or permit issued under corresponding provisions of prior law;

14 (11) "Manager," manager of a limited liability company;

15 (12) "Member," a member of a limited liability company;

16 (12A) "Owner," a licensee or nonlicensee as a proprietor, partner, officer, shareholder, or  
17 member with financial rights in the CPA firm or PA firm;

18 (13) "Peer review," a study, appraisal, or review of one or more aspects of the professional  
19 work of a certificate holder or CPA firm that performs attest or compilation services,  
20 by a qualified person or persons who hold certificates and who are not affiliated with  
21 the certificate holder or CPA firm being reviewed;

22 (14) "Permit," a permit to practice public accountancy issued to a firm pursuant to this  
23 chapter or corresponding provisions of prior law or under corresponding provisions  
24 of the laws of other states;

- 1 (15) "Practice privilege," the privilege for a person to practice public accountancy;
- 2 (16) "Principal place of business," the office location designated by the licensee for
- 3 purposes of substantial equivalency and reciprocity;
- 4 (17) "Professional," arising out of or related to the specialized knowledge or skills
- 5 associated with CPAs or PAs;
- 6 (18) "Public accountant," a person holding a public accountant license issued pursuant to
- 7 provisions of prior law;
- 8 (19) "State," any state of the United States, the District of Columbia, Puerto Rico, the U.S.
- 9 Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands;
- 10 (20) "Substantial equivalency," a determination by the board or its designee that the
- 11 education, examination, and experience requirements contained in the statutes and
- 12 administrative rules of another jurisdiction are comparable to, or exceed the
- 13 education, examination, and experience requirements contained in this chapter or that
- 14 an individual CPA's education, examination, and experience qualifications are
- 15 comparable to or exceed the education, examination, and experience requirements
- 16 contained in this chapter. In ascertaining substantial equivalency, the board or its
- 17 designee shall take into account the qualifications without regard to the sequence in
- 18 which experience, education, or examination requirements were attained.

19 Section 2. That § 36-20B-12 be amended to read as follows:

20 36-20B-12. The board may promulgate rules, pursuant to chapter 1-26, governing its

21 administration and enforcement of this chapter and the conduct of licensees, including:

- 22 (1) Rules governing the board's meetings and the conduct of its business;
- 23 (2) Rules of procedure governing the conduct of investigations and hearings by the
- 24 board;

- 1       (3)   Rules specifying the fees, educational and experience qualifications required for the  
2           issuance of certificates, the date for renewal of firm permits and certificates, and the  
3           continuing professional education required for renewal of certificates. The fee for  
4           issuance of a certificate may not exceed fifty dollars;
- 5       (4)   Rules of professional conduct to control the quality and integrity of the practice of  
6           public accountancy by licensees, covering such areas as independence, integrity, and  
7           objectivity; competence and technical and professional standards; responsibilities to  
8           the public; and responsibilities to clients;
- 9       (5)   Rules governing the manner and circumstances of use by holders of certificates who  
10          do not practice public accountancy, as defined under this chapter, of the titles  
11          certified public accountant and CPA;
- 12      (6)   Rules specifying procedures and fees, not to exceed fifty dollars, for registration of  
13          certificate holders who do not practice public accountancy, as defined under this  
14          chapter;
- 15      (7)   Rules governing the manner and circumstances of use by holders of licenses issued  
16          under prior law who do not practice public accountancy, as defined under this  
17          chapter, of the titles public accountant and PA;
- 18      (8)   Rules specifying procedures and fees, not to exceed fifty dollars, for registration of  
19          license holders who do not practice public accountancy, as defined under this  
20          chapter;
- 21      (9)   Rules regarding peer review pursuant to this chapter;
- 22      (10)   Rules specifying peer review administrative fees, not to exceed one hundred twenty-  
23           five dollars;
- 24      (11)   Rules specifying procedures and fees, not to exceed fifty dollars for required peer

1 review documentation not filed in a timely manner;

2 (12) Rules specifying fees for examination and reexamination, not to exceed three  
3 hundred fifty dollars per examination section, and issuance of a certificate, not to  
4 exceed fifty dollars;

5 (13) Rules specifying procedures and fees, not to exceed fifty dollars, for proctoring  
6 applicants from another jurisdiction;

7 (14) Rules specifying the procedures and fees, not to exceed sixty-five dollars for each  
8 ~~person holding a certificate to practice~~ owner, plus fifty dollars for each firm ~~office~~  
9 practicing public accountancy in this state, for initial issuance or renewal of a firm  
10 permit. Any rule regarding a fee promulgated pursuant to this subdivision may be  
11 either a flat fee or tier based;

12 (15) Rules governing the application and fees for a modification of a disciplinary action,  
13 not to exceed one thousand dollars, or reissue of a certificate, not to exceed one  
14 hundred dollars, or firm permit, not to exceed sixty-five dollars for each ~~person~~  
15 ~~holding a certificate to practice~~ owner, plus one hundred dollars for each firm ~~office~~  
16 practicing public accountancy in this state. Any rule regarding a fee promulgated  
17 pursuant to this subdivision may be either a flat fee or tier based;

18 (16) Rules governing the methods, eligibility, and requirements for applying for  
19 examination and reexamination;

20 (17) Rules specifying procedures and fees for renewal of certificates, not to exceed one  
21 hundred dollars, and firm permits, not to exceed sixty-five dollars for each ~~person~~  
22 ~~holding a certificate to practice~~ owner, plus one hundred dollars for each firm ~~office~~  
23 practicing public accountancy in this state not filed in a timely manner. Any rule  
24 regarding a fee promulgated pursuant to this subdivision may be either a flat fee or

1           tier based;

2           (18) Rules specifying procedures and fees, not to exceed twenty-five dollars, for  
3           replacement of a certificate or permit;

4           (19) Rules specifying methods and requirements for conducting the examination;

5           (20) Rules specifying methods, eligibility, and requirements of applying for a certificate;

6           (21) Rules specifying procedures and fees for issuance of certificates, not to exceed one  
7           hundred dollars, and firm permits, not to exceed sixty-five dollars for each ~~person~~  
8           ~~holding a certificate to practice~~ owner, plus one hundred dollars for each firm ~~office~~  
9           practicing public accountancy in this state, not filed within the required period of  
10          time. Any rule regarding a fee promulgated pursuant to this subdivision may be either  
11          a flat fee or tier based;

12          (22) Rules defining active and inactive status of both certificate and PA license holders  
13          who are not practicing public accountancy; and

14          (23) Rules specifying procedures and fees, not to exceed one hundred dollars, on  
15          substantial equivalency.

16          Section 3. That § 36-20B-32 be amended to read as follows:

17          36-20B-32. The board shall grant or renew a permit to practice as a CPA firm or PA firm  
18          to an entity that makes application and demonstrates its qualifications in accordance with this  
19          chapter. ~~A firm with multiple locations shall obtain a permit for each location.~~

20          A permit shall be initially issued and renewed for periods of not more than one year.  
21          However, a permit expires on the date as established by the board, by rule promulgated pursuant  
22          to chapter 1-26 following issuance or renewal. An application for a permit shall be made in such  
23          form, and in the case of an application for renewal, between such dates as the board may, by rule  
24          promulgated pursuant to chapter 1-26, specify. If the applicant seeks the opportunity to show

1 that issuance or renewal of a permit was mistakenly denied or if the board is not able to  
2 determine whether it should be granted or denied, the board may issue to the applicant a  
3 provisional permit, which expires ninety days after its issuance, or when the board determines  
4 whether to issue or renew the permit for which the application was made, whichever occurs  
5 first.

6 Section 4. That § 36-20B-33 be amended to read as follows:

7 36-20B-33. An applicant for initial issuance or renewal of a permit to practice under this  
8 chapter shall comply with the following:

- 9 (1) Notwithstanding any other provision of law, a majority of the owners of the firm, in  
10 terms of financial interests and voting rights, are holders of a certificate and are  
11 licensed in some state, and such owners whose principal place of business is in this  
12 state and who perform professional services in this state hold a valid certificate  
13 issued under this chapter or the corresponding provision of prior law or are public  
14 accountants registered under this chapter. Firms may include nonlicensee owners.  
15 However, such firms shall be controlled by the majority vote of owners who are  
16 holders of a certificate and who are licensed in some state, and such control may not  
17 be relinquished by contract, such as through veto rights held by owners of less than  
18 a majority of the owners. The firm and its ownership shall comply with rules  
19 promulgated by the board pursuant to chapter 1-26. For firms of public accountants,  
20 at least a majority of the owners of the firm shall be holders of registrations under  
21 this chapter. An individual who has practice privileges under the provisions of § 36-  
22 20B-66 or 36-20B-67 who performs services for which a firm permit is required  
23 pursuant to § 36-20B-70 is not required to obtain a certificate from this state pursuant  
24 to § 36-20B-13;

(2) Any CPA or PA firm as defined in this chapter may include nonlicensee owners if the firm designates a licensee of this state, or, in the case of a firm which is required to obtain a permit pursuant to § 36-20B-70, a licensee of another state who meets the requirements set forth in § 36-20B-66 or 36-20B-67, who is responsible for the proper registration of the firm and identifies non-license owners to the board;

(3) All nonlicensee owners are active individual participants in the CPA or PA firm or an affiliated entity;

(4) The firm complies with such other requirements as the board may establish by rule promulgated pursuant to chapter 1-26;

(5) Any individual licensee or individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67 who is responsible for supervising attest or compilation services and signs or authorizes another individual to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience requirements set out in the professional standards for such services; and

(6) Any individual licensee or individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67 who signs or authorizes an individual to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience requirement of this chapter.

An applicant for initial issuance or renewal of a permit to practice shall register ~~each office~~ of the firm within this state with the board and show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate issued under this chapter or the corresponding provision of prior law or some other state.

Section 5. That § 36-20B-35 be amended to read as follows:

36-20B-35. Each holder of or applicant for a permit under this chapter shall notify the board



1 in writing, within thirty days after its occurrence, of any change in the identity of any partner,  
2 officer, shareholder, member, or manager whose principal place of business is in this state, ~~any~~  
3 ~~change in the number or location of offices within this state,~~ any change in the identity of the  
4 person in charge of ~~such offices~~ the firm, and any issuance, denial, revocation, or suspension  
5 of a permit by any other state.

6 Firms failing to comply with the provisions of this chapter due to changes in firm ownership  
7 ~~or personnel~~, after receiving or renewing a permit, shall take immediate corrective action to  
8 return the firm to compliance. The board may grant a reasonable period of time for a firm to take  
9 corrective action as specified by rule promulgated pursuant to chapter 1-26. Failure of the firm  
10 to comply within a reasonable period as defined by the board shall result in the suspension or  
11 revocation of the firm permit.

12 Section 6. That § 36-20B-37 be amended to read as follows:

13 36-20B-37. The board shall charge a fee for each application for initial issuance or renewal  
14 of a permit in an amount, not to exceed sixty-five dollars for each ~~person holding a certificate~~  
15 ~~to practice~~ owner, plus fifty dollars for each firm ~~office~~ practicing public accountancy in this  
16 state, prescribed by the board, by rule promulgated pursuant to chapter 1-26. The fee  
17 promulgated pursuant to this section may be either a flat fee or tier based.