

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

385B0464

HOUSE STATE AFFAIRS  
ENGROSSED NO. **HB 1057** - 1/25/2019

Introduced by: Representatives Schoenfish, Johnson (David), Lake, McCleerey, Rounds, and Willadsen and Senators Wismer, Kennedy, Langer, and Stalzer

1 FOR AN ACT ENTITLED, An Act to revise the definition of attest for the purposes of public  
2 accountancy.

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

4 Section 1. That § 36-20B-2 be amended to read:

5 36-20B-2. For the purposes of this chapter, attest means providing the following ~~financial~~  
6 ~~statement~~ services:

- 7 (1) Any audit or other engagement to be performed in accordance with the Statements  
8 on Auditing Standards (SAS);
- 9 (2) Any review of a financial statement to be performed in accordance with the  
10 Statements on Standards for Accounting and Review Services (SSARS);
- 11 (3) Any examination of prospective financial information to be performed in accordance  
12 with the Statements on Standards for Attestation Engagements (SSAE);
- 13 (4) Any engagement to be performed in accordance with the Auditing Standards of the  
14 Public Company Auditing Oversight Board (PCAOB); and



1       (5) ~~The issuance of any report prescribed by the Statements on Auditing Standards~~  
2       ~~(SAS), the Statements on Standards for Accounting and Review Services (SSARS),~~  
3       ~~or the Statements on Standards for Attestation Engagements (SSAE) on any services~~  
4       ~~to which those statements on standards apply, indicating that the service was~~  
5       ~~performed in accordance with standards established by the American Institute of~~  
6       ~~Certified Public Accountants (AICPA) Any examination, review, or agreed upon~~  
7       ~~procedures engagement to be performed in accordance with SSAE, other than an~~  
8       ~~examination described in subdivision (3).~~

9       The statements on standards specified in this definition shall be adopted by reference by the  
10      board, by rule promulgated pursuant to chapter 1-26, and shall be those developed for general  
11      application by recognized national accountancy organizations.

12      Section 2. That § 36-20B-3 be amended to read:

13      36-20B-3. For the purposes of this chapter, the term, report, if used with reference to  
14      ~~financial statements~~ any attest or compilation service, means an opinion, report, or other form  
15      of language that states or implies assurance as to the reliability of ~~any~~ the attested information  
16      or compiled financial statements or assertion. It also includes or is accompanied by any  
17      statement or implication that the person or firm issuing it has special knowledge or competence  
18      in accounting or auditing and that the service reported upon was performed under standards for  
19      such services established by the American Institute of Certified Public Accountants. Such a  
20      statement or implication of special knowledge or competence may arise from use by the issuer  
21      of the report of names or titles indicating that the person or firm is an accountant or auditor, or  
22      from the language of the report itself. The term, ~~report~~, includes any form of language ~~which~~  
23      that disclaims an opinion when such the form of language is conventionally understood to imply  
24      any positive assurance as to the reliability of the attested information or compiled financial

1 statements referred to or special competence on the part of the person or firm issuing ~~such the~~  
2 language or both; ~~and it.~~ The term includes any other form of language that is conventionally  
3 understood to imply such assurance or such special knowledge or competence or both.

4 Section 3. That § 36-20B-33 be amended to read:

5 36-20B-33. An applicant for initial issuance or renewal of a permit to practice under this  
6 chapter shall comply with the following:

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

23 (2) Any CPA or PA firm as defined in this chapter may include nonlicensee owners if  
24 the firm designates a licensee of this state, or, in the case of a firm ~~which that~~ is

1 required to obtain a permit pursuant to § 36-20B-70, a licensee of another state who  
2 meets the requirements set forth in § 36-20B-66 or 36-20B-67, who is responsible for  
3 the proper registration of the firm and identifies non-license owners to the board;

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

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

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

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

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