

## **Chapter 93.**

### **Certified Public Accountants.**

#### **§ 93-1. Definitions; practice of law.**

- (a) Definitions. – As used in this Chapter certain terms are defined as follows:
- (1) An "accountant" is a person engaged in the public practice of accountancy who is not a certified public accountant as defined in this Chapter.
  - (2) "Board" means the Board of Certified Public Accountant Examiners as provided in this Chapter.
  - (3) A "certified public accountant" is a person who holds a certificate as a certified public accountant issued under the provisions of this Chapter.
  - (4) Repealed by Session Laws 1993, c. 518, s. 2.
  - (5) A person is engaged in the "public practice of accountancy" who holds himself out to the public as a certified public accountant or an accountant and in consideration of compensation received or to be received offers to perform or does perform, for other persons, services which involve the auditing or verification of financial transactions, books, accounts, or records, or the preparation, verification or certification of financial, accounting and related statements intended for publication or renders professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or the recording, presentation or certification and the interpretation of such service through statements and reports.
- (b) Practice of Law. – Nothing in this Chapter shall be construed as authorizing certified public accountants or accountants to engage in the practice of law, and such person shall not engage in the practice of law unless duly licensed so to do. (1925, c. 261, s. 1; 1929, c. 219, s. 1; 1951, c. 844, s. 1; 1979, c. 750, s. 3; 1983, c. 185, ss. 1, 2; 1993, c. 518, s. 2; 2009-347, s. 1.)

#### **§ 93-2. Qualifications.**

Any person who is a citizen of the United States, has declared the intention of becoming a citizen, is a resident alien, or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, and who is over 18 years of age and of good moral character, and who has received from the State Board of Certified Public Accountant Examiners a certificate of qualification to practice as a certified public accountant shall be licensed to practice and be styled and known as a certified public accountant. (1925, c. 261, s. 2; 1979, c. 750, s. 4; 1993, c. 518, s. 3.)

#### **§ 93-3. Unlawful use of title "certified public accountant" by individual.**

It shall be unlawful for any person who has not received a certificate of qualification or not been granted a practice privilege under G.S. 93-10 admitting the person to practice as a certified public accountant to assume or use such a title, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that the person using same has been admitted to practice as a certified public accountant. (1925, c. 261, s. 3; 2009-347, s. 2.)

#### **§ 93-4. Use of title by firm.**

It shall be unlawful for any firm, copartnership, or association to assume or use the title of certified public accountant, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that the members of such firm, copartnership or association have been admitted to practice as certified public accountants, unless each of the members of such firm, copartnership or association first shall have received a certificate of qualification from the State Board of Certified Public Accountant Examiners or been granted a practice privilege admitting each member of the firm, copartnership, or association to practice as a certified public accountant; provided, however, that the Board may exempt those persons who do not actually practice in or reside in the State of North Carolina from registering and receiving a certificate of qualification under this section. (1925, c. 261, s. 4; 1979, c. 750, s. 5; 2009-347, s. 3.)

**§ 93-5. Use of title by corporation.**

It shall be unlawful for any corporation to assume or use the title of certified public accountant, or to use any words, letters, abbreviations, symbols or other means of identification to indicate that such corporation has received a certificate of qualification from the State Board of Certified Public Accountant Examiners admitting it to practice as a certified public accountant. (1925, c. 261, s. 5.)

**§ 93-6. Practice as accountants permitted; use of misleading titles prohibited.**

It shall be unlawful for any person to engage in the public practice of accountancy in this State who is not a holder of a certificate as a certified public accountant issued by the Board, unless such person uses the term "accountant" and only the term "accountant" in connection with his name on all reports, letters of transmittal, or advice, and on all stationery and documents used in connection with his services as an accountant, and refrains from the use in any manner of any other title or designation in such practice. (1925, c. 261, ss. 6, 8; 1951, c. 844, s. 2; 1993, c. 518, s. 4.)

**§ 93-7: Repealed by Session Laws 1993, c. 518, s. 5.**

**§ 93-8. Public practice of accounting by corporations prohibited.**

It shall be unlawful for any certified public accountant to engage in the public practice of accountancy in this State through any corporate form, except as provided in General Statutes Chapter 55B. (1925, c. 261, s. 6; 1951, c. 844, s. 3; 1969, c. 718, s. 17; 1983, c. 185, s. 3.)

**§ 93-9. Assistants need not be certified.**

Nothing contained in this Chapter shall be construed to prohibit the employment by a certified public accountant or by any person, firm, copartnership, association, or corporation permitted to engage in the practice of public accounting in the State of North Carolina, of persons who have not received certificates of qualification admitting them to practice as certified public accountants, as assistant accountants or clerks: Provided, that such employees work under the control and supervision of certified public accountants and do not certify to anyone the accuracy or verification of audits or statements; and provided further, that such employees do not hold themselves out as engaged in the practice of public accounting. (1925, c. 261, s. 9; 1993, c. 518, s. 6.)

**§ 93-10. Practice privileges.**

(a) An individual whose principal place of business is outside this State is granted the privilege to perform or offer to perform services, whether in person or by mail, telephone, or electronic means, in this State as a certified public accountant without notice to the Board, the submission of any other documentation, or the payment of any fee if the individual meets all of the following conditions:

- (1) Holds a valid and unrevoked certificate as a certified public accountant, or its equivalent, issued by another state, a territory of the United States, or the District of Columbia.
- (2) Holds a valid and unrevoked license or permit to practice as a certified public accountant issued by another state, a territory of the United States, or the District of Columbia.
- (3) Has passed The Uniform CPA Examination.
- (4) Has not been convicted of a felony under the laws of the United States, any state, a territory of the United States, or the District of Columbia and has never been convicted of a crime, an essential element of which is dishonesty, deceit, or fraud unless the jurisdiction in which the individual is licensed has determined the felony or other crime has no effect on the individual's license.
- (5),(6) Repealed by Session Laws 2009-347, s. 4, effective July 27, 2009.

(b) An individual who satisfies the requirements of subsection (a) of this section and exercises the privilege afforded under this section by performing or offering to perform services as a certified public accountant in this State simultaneously consents as a condition of the grant of this privilege to:

- (1) Comply with the laws of this State, the provisions of this Chapter, and rules adopted by the Board.
- (2) Have an administrative notice of hearing served on the licensing board in the individual's principal state of business, notwithstanding the individual notice requirements of G.S. 150B-38.
- (3) Be subject to personal jurisdiction, subject matter jurisdiction, and disciplinary authority of the Board.

(c) A firm whose principal place of business is outside this State and has no office in this State is granted the privilege to perform or offer to perform services, whether in person or by mail, telephone, or electronic means, in this State as a firm without notice to the Board, submission of any other documentation, or payment of any fee, except as otherwise provided in subdivision (3) of this subsection. A firm that exercises the privilege afforded under this section simultaneously consents as a condition of the grant of the privilege to:

- (1) Comply with the laws of this State, the provisions of this Chapter, and rules adopted by the Board.
- (2) Be subject to personal jurisdiction, subject matter jurisdiction, and disciplinary authority of the Board.
- (3) Provide notice without a fee to the Board if any individual with the firm who has been granted privileges in North Carolina to practice as a certified public accountant performs any of the following services for a client in this State:
  - a. A financial statement audit or other engagement performed in accordance with the Statements on Auditing Standards.

- b. An examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements.
- c. An engagement performed in accordance with the Public Company Accounting Oversight Board auditing standards. (1925, c. 261, s. 10; 1993, c. 518, s. 7; 2001-313, s. 1; 2009-347, s. 4.)

**§ 93-11. Not applicable to officers of State, county or municipality.**

Nothing herein contained shall be construed to restrict or limit the power or authority of any State, county or municipal officer or appointee engaged in or upon the examination of the accounts of any public officer, his employees or appointees. (1925, c. 261, s. 12.)

**§ 93-12. Board of Certified Public Accountant Examiners.**

The name of the State Board of Accountancy is hereby changed to State Board of Certified Public Accountant Examiners and said name State Board of Certified Public Accountant Examiners is hereby substituted for the name State Board of Accountancy wherever the latter name appears or is used in Chapter 93 of the General Statutes. Said Board is created as an agency of the State of North Carolina and shall consist of seven members to be appointed by the Governor, five persons to be holders of valid and unrevoked certificates as certified public accountants issued under the provisions of this Chapter and two persons who are not certified public accountants who shall represent the interest of the public at large. Members of the Board shall hold office for the term of three years and until their successors are appointed. Appointments to the Board shall be made under the provisions of this Chapter as and when the terms of the members of the present State Board of Accountancy expire; provided, that all future appointments to said Board shall be made for a term of three years expiring on the thirtieth day of June. All Board members serving on June 30, 1980, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1980, shall serve more than two complete consecutive terms. The powers and duties of the Board shall be as follows:

- (1) To elect from its members a president, vice-president and secretary-treasurer. The members of the Board shall receive compensation and reimbursement for travel expenses in accordance with G.S. 93B-5.
- (2) To employ legal counsel, clerical and technical assistance and to fix the compensation therefor, and to incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Chapter. Upon request the Attorney General of North Carolina will advise the Board with respect to the performance of its duties and will assign a member of his staff, or approve the employment of counsel, to represent the Board in any hearing or litigation arising under this Chapter. The Board may, in the exercise of its discretion, cooperate with similar boards of other states, territories and the District of Columbia in activities designed to bring about uniformity in standards of admission to the public practice of accountancy by certified public accountants, and may employ a uniform system of preparation of examinations to be given to candidates for certificates as certified public accountants, including the services and facilities of the American Institute of Certified Public Accountants, or of any other persons or organizations of

recognized skill in the field of accountancy, in the preparation of examinations and assistance in establishing and maintaining a uniform system of grading of examination papers, provided however, that all examinations given by said Board shall be adopted and approved by the Board and that the grade or grades given to all persons taking said examinations shall be determined and approved by the Board.

- (3) To formulate rules for the government of the Board and for the examination of applicants for certificates of qualification admitting such applicants to practice as certified public accountants.
- (4) To hold written, oral, and computer-based examinations of applicants for certificates of qualification at least once a year, or more often, as may be deemed necessary by the Board.
- (5) To issue certificates of qualification admitting to practice as certified public accountants, each applicant who, having the qualifications herein specified, has passed an examination to the satisfaction of the Board, in "accounting," "auditing," "business law," and other related subjects.

A person is eligible to take the examination given by the Board, or to receive a certificate of qualification to practice as a certified public accountant, if the person is a citizen of the United States, has declared the intention of becoming a citizen, is a resident alien, or is a citizen of a foreign jurisdiction which extends to citizens of this State like or similar privileges to be examined or certified, is 18 years of age or over, and is of good moral character.

To be eligible to take the examination given by the Board, a person shall submit evidence satisfactory to the Board that the person holds a bachelors degree from a college or university that is accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards that are substantially equivalent to a regionally accredited institution. The degree studies shall include a concentration in accounting as prescribed by the Board or shall be supplemented with courses that are determined by the Board to be substantially equivalent to a concentration in accounting.

The Board may, in its discretion, waive the education requirement of any candidate if the Board is satisfied from the result of a special written examination given the candidate by the Board to test the candidate's educational qualifications that the candidate is as well qualified as if the candidate met the education requirements specified above. The Board may provide by regulation for the general scope of such examinations and may obtain such advice and assistance as it deems appropriate to assist it in preparing, administering and grading such special examinations.

To be eligible to receive a certificate of qualification to practice as a certified public accountant, a person shall submit evidence satisfactory to the Board that:

- a. The person has completed 150 semester hours and received a bachelors degree with a concentration in accounting and other courses that the Board may require from a college or university that is accredited by a regional accrediting association or from a college or university

determined by the Board to have standards that are substantially equivalent to those of a regionally accredited institution.

- b. The person has the endorsement as to the person's eligibility of three certified public accountants who currently hold licenses in any state or territory of the United States or the District of Columbia.
- c. The person has one of the following:
  - 1. One year's experience in the field of accounting under the direct supervision of a certified public accountant who currently holds a valid license in any state or territory of the United States or the District of Columbia.
  - 2. Four years of experience teaching accounting in a four-year college or university accredited by one of the regional accrediting associations or in a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution.
  - 3. Four years of experience in the field of accounting.
  - 4. Four years of experience teaching college transfer accounting courses at a community college or technical institute accredited by one of the regional accrediting associations.
  - 5. Any combination of such experience determined by the Board to be substantially equivalent to the foregoing.

The Board may permit persons otherwise eligible to take its examinations and withhold certificates until the person has had the required experience.

- (6) In its discretion to grant certificates of qualification admitting to practice as certified public accountants such applicants who shall be the holders of valid and unrevoked certificates as certified public accountants, or the equivalent, issued by or under the authority of any state, or territory of the United States or the District of Columbia, when in the judgment of the Board the requirements for the issuing or granting of such certificates or degrees are substantially equivalent to the requirements established by this Chapter: Provided, however, that the state or political subdivision of the United States upon whose certificate the reciprocal action is based grants the same privileges to holders of certificates as certified public accountants issued pursuant to the provisions of this Chapter. The Board, by general rule, may grant temporary permits to applicants under this subsection pending their qualification for reciprocal certificates.
- (7) To charge for each examination provided for in this Chapter a fee not exceeding four hundred dollars (\$400.00). In addition to the examination fee, if the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services. The applicant shall pay all fees and costs associated with the examination at the time the application is filed with the Board. Examination fees and costs shall not be refunded unless the Board deems the applicant ineligible for examination.
- (7a) To charge for each initial certificate of qualification provided for in this Chapter a fee not exceeding one hundred fifty dollars (\$150.00).

- (7b) To require an annual registration of each firm and to charge an annual registration fee not to exceed two hundred dollars (\$200.00) for each firm with one office, and a fee not to exceed twenty-five dollars (\$25.00) for each additional North Carolina office of the firm, to defray the administrative costs of accounting practice review programs. The Board may charge an annual fee not to exceed twenty-five dollars (\$25.00) for each firm application for exemption from the accounting practice review program.
- (8) To require the renewal of all certificates of qualification annually on the first day of July, and to charge an annual renewal fee not to exceed one hundred dollars (\$100.00).
- (8a) To require the registration of certified public accountant firms which have offices both within and outside of North Carolina, and the payment by such firms of an annual registration fee based on the total number of partners in each such firm, but not to exceed two thousand five hundred dollars (\$2,500) per firm per year.
- (8b) To formulate rules for the continuing professional education of all persons holding the certificate of certified public accountant, subject to the following provisions:
  - a. After January 1, 1983, any person desiring to obtain or renew a certificate as a certified public accountant must offer evidence satisfactory to the Board that the person has complied with the continuing professional education requirement approved by the Board. The Board may grant a conditional license for not more than 12 months for persons who are being licensed for the first time, or moving into North Carolina, or for other good cause, in order that the person may comply with the continuing professional education requirement.
  - b. The Board shall adopt rules for the administration of the continuing professional education requirement with a minimum number of hours of 20 and a maximum number of hours of 40 per year, and the Board may exempt persons who are retired or inactive from the continuing professional education requirement. The Board may also permit any certified public accountant to accumulate hours of continuing professional education in any calendar year of as much as two additional years annual requirement in advance of or subsequent to the required calendar year.
  - c. Any applicant who offers satisfactory evidence on forms promulgated by the Board that the applicant has participated in a continuing professional education program of the type required by the Board shall be deemed to have complied with this subdivision.
- (8c) The Board may formulate rules and regulations for report review and peer review of audits, reviews, compilations, and other reports issued on financial information in the public practice of accountancy of all firms, as herein defined, subject to the following provisions:
  - a. After June 30, 1992, any firm desiring to obtain or maintain a registration as a firm must offer satisfactory evidence to the Board that such firm has complied with the peer review and report review

requirements approved by the Board; provided, however, that the Board shall give to every firm subject to this section not less than 12 months advance notice of each peer review and report review required of the firm.

- b. The Board may grant a conditional registration for not more than 24 months for firms which are being registered for the first time, or moving into North Carolina, or for other good cause, in order that such firm may comply with the report review and peer review requirements, and in order that the Board may develop a system of review rotation among the various firms that must comply with this section.
  - c. The peer review and report review shall be valid for a minimum of three years subject to the power of the Board to require remedial action by any firm with a deficiency in the review according to the rules established by the Board.
  - d. The Board shall promulgate rules and regulations for the administration of the report review and peer review requirements and the Board shall exempt firms that show to the satisfaction of the Board that they are not engaged in the public practice of accountancy or that the scope of their practice does not come within the peer review and report review guidelines established by the Board.
  - e. Any firm that offers satisfactory evidence to the Board that the firm has satisfactorily participated in and successfully completed a peer review or a report review of the type required by the Board shall be deemed to have complied with this section and the Board shall promulgate rules and regulations for the administration of this procedure.
  - f. For purposes of this section, a firm means an entity, sole proprietorship, partnership, registered limited liability partnership, professional limited liability company, or professional corporation through which one or more certificate holders engage in the public practice of accountancy through an office.
- (9) Adoption of Rules of Professional Conduct; Disciplinary Action. – The Board shall have the power to adopt rules of professional ethics and conduct to be observed by certified public accountants in this State and persons exercising the practice privilege authorized by this Chapter. The Board shall have the power to revoke, either permanently or for a specified period, any certificate issued under the provisions of this Chapter to a certified public accountant or any practice privilege authorized by the provisions of this Chapter or to censure the holder of any such certificate or person exercising the practice privilege authorized by this Chapter. The Board also shall have the power to assess a civil penalty not to exceed one thousand dollars (\$1,000) for any one or combination of the following causes:
- a. Conviction of a felony under the laws of the United States or of any state of the United States.
  - b. Conviction of any crime, an essential element of which is dishonesty, deceit or fraud.
  - c. Fraud or deceit in obtaining a certificate as a certified public accountant.



- d. Dishonesty, fraud or gross negligence in the public practice of accountancy.
- e. Violation of any rule of professional ethics and professional conduct adopted by the Board.

Any disciplinary action taken shall be in accordance with the provisions of Chapter 150B of the General Statutes. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

- (10), (11) Repealed by Session Laws 1993, c. 518, s. 8.
- (12) To submit annually on or before the first day of May to the Secretary of Revenue the names of all persons who have qualified under this Chapter as certified public accountants. Privilege license issued under G.S. 105-41 shall designate whether such license is issued to a certified public accountant or an accountant.
- (13) The Board shall keep a complete record of all its proceedings and shall annually submit a full report to the Governor.
- (14) All fees collected on behalf of the Board and all receipts of every kind and nature, as well as the compensation paid the members of the Board and the necessary expenses incurred by them in the performance of the duties imposed upon them, shall be reported annually to the State Treasurer. All fees and other moneys received by the Board pursuant to the provisions of the General Statutes shall be kept in a separate fund by the treasurer of the Board, to be held and expended only for such purposes as are proper and necessary to the discharge of the duties of the Board and to enforce the provisions of this Chapter. No expense incurred by the Board shall be charged against the State.
- (15) Any certificate of qualification issued under the provisions of this Chapter, or issued under the provisions of Chapter 157 of the Public Laws of 1913, shall be forfeited for the failure of the holder to renew same and to pay the renewal fee therefor to the State Board of Accountancy within 30 days after demand for such renewal fee shall have been made by the State Board of Accountancy.
- (16) To apply to the courts, in its own name, for injunctive relief to prevent violations of this Chapter or violations of any rules adopted pursuant to this Chapter. Any court may grant injunctive relief regardless of whether criminal prosecution or any other action is instituted as a result of the violation. A single violation is sufficient to invoke the injunctive relief under this subdivision.
- (17) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board. (1925, c. 261, s. 11; 1939, c. 218, s. 1; 1951, c. 844, ss. 4-9; 1953, c. 1041, s. 20; 1959, c. 1188; 1961, c. 1010; 1971, c. 738, ss. 1-3; 1973, c. 476, s. 193; c. 1331, s. 3; 1975, c. 107; 1975, 2nd Sess., c. 983, s. 69; 1977, c. 804, ss. 1, 2; 1979, c. 750, ss. 6-10; 1979, 2nd Sess., c. 1087, ss. 1, 2; 1981, c. 10; 1983, c. 185, ss. 4-11; 1985, c. 149; 1987, c. 353; c. 827, ss. 1, 79; 1989, c. 624; 1991, c. 214, s. 1; 1991 (Reg. Sess., 1992), c. 1011,

s. 6; 1993, c. 518, s. 8; 1995, c. 137, s. 1; 1997-157, s. 1; 1997-284, s. 1; 1998-215, s. 130; 1998-216, s. 6; 1998-217, s. 51; 1999-440, s. 3; 2001-313, ss. 2, 3, 4, 5; 2009-347, s. 5.)

**§ 93-12.1. Effect of new requirements.**

Any person who applies to the Board of Certified Public Accountant Examiners before July 1, 1983, to take the examination, who meets the educational requirement as it existed prior to June 4, 1979, and complies with any of the experience requirements of this Chapter shall be deemed to have met the prerequisites to taking such examination. (1979, c. 750, s. 11.)

**§ 93-12.2. Board records are confidential.**

Records, papers, and other documents containing information collected or compiled by the Board, its members, or employees, as a result of a complaint, investigation, inquiry, or interview in connection with an application for examination, certification, or registration, or in connection with a certificate holder's professional ethics and conduct, shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges against a certificate holder or applicant, or any notice to a certificate holder or applicant of a hearing to be held by the Board is a public record, even though it may contain information collected and compiled as a result of a complaint, investigation, inquiry, or interview conducted by the Board. If any record, paper, or other document containing information collected and compiled by the Board is admitted into evidence in a hearing held by the Board, it shall then be a public record within the meaning of Chapter 132 of the General Statutes. (1997-157, s. 2.)

**§ 93-13. Violation of Chapter; penalty.**

A violation of G.S. 93-3, 93-4, 93-5, 93-6, or 93-8 shall be a Class 1 misdemeanor. (1925, c. 261, s. 11; 1983, c. 185, s. 12; 1993, c. 539, s. 656; 1994, Ex. Sess., c. 24, s. 14(c); 2007-83, s. 1.)