

ENROLLED ACT NO. 50, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to certified public accountants; providing definitions; providing for fees; providing for educational, examination and experience requirements; providing for practice privileges for accountants licensed in other states; providing for permitting of accounting firms; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-3-102(a)(vi), by creating new paragraphs (x) through (xiv) and by renumbering (x) as (xv), 33-3-108(a)(v), 33-3-109(a)(v)(intro), (d), (e), (f) through (h) and by creating new subsections (k) through (p), 33-3-115, 33-3-116, 33-3-118(b)(intro), by creating new paragraphs (xiii) through (xvii) and (d), 33-3-119, 33-3-120(a) and (b), 33-3-121(a)(intro), (iii), (iv), (b) and (c), 33-3-124, 33-3-125, 33-3-127, 33-3-132(a)(i) and 33-3-201(a) are amended to read:

33-3-102. Definitions.

(a) As used in this act:

(vi) "Attest service" means any of the financial statement services described in the following subparagraphs. The statements on standards specified in the following subparagraphs shall be adopted by reference by the board pursuant to the Wyoming Administrative Procedure Act and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants and the public company accounting oversight board:

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(A) Any audit or other engagement performed in accordance with the statements on auditing standards;~~;~~

(B) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services;~~;~~

(C) Any examination of prospective financial information to be performed in accordance with the statement on standards for attestation engagements;~~;~~ or

~~(D) The statements on standards specified in this definition shall be adopted by reference by the board pursuant to the Wyoming Administrative Procedure Act and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants; Any engagement to be performed in accordance with the auditing standards of the public company accountancy oversight board.~~

(x) "Home office" means the location specified by the client as the address to which a service described in W.S. 33-3-116(a)(iv) is directed;

(xi) "License" means an active certified public accountant certificate or any other comparable document issued by any other state based on completing education, examination and experience requirements;

(xii) "NASBA" means the national association of state boards of accountancy;

(xiii) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity;

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(xiv) "Substantial equivalency" is a determination by the board or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements of W.S. 33-3-116(c)(i) or that an individual certified public accountant's education, examination and experience are comparable to or exceed the education, examination and experience requirements of W.S. 33-3-116(c)(i). In ascertaining substantial equivalency the board shall take into account the qualifications without regard to the sequence in which experience, education or examination requirements were attained;

~~(x)~~ (xv) "This act" means W.S. 33-3-101 through 33-3-201.

33-3-108. Rules and regulations; procedure.

(a) The board shall prescribe rules and regulations not inconsistent with the provisions of this act as it deems consistent with, or required by, the public welfare. The rules and regulations shall include:

(v) Rules governing the determination of substantial equivalence for practice privileges or the issuance of certificates; ~~under W.S. 33-3-116 to individuals who hold valid certified public accountant certificates, licenses or foreign credentials when the issuing state's or foreign country's certificate, licensure or credentialing requirements are substantially equivalent to those under this act as determined by the board;~~

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**33-3-109. Certified public accountant;
qualifications.**

(a) An active certificate of "certified public accountant" shall be granted by the board to any person:

(v) Who, prior to January 1, 2012, meets the requirements of subparagraphs (A) and (B) or subparagraphs (C) and (D) of this paragraph or, on or after January 1, 2012, meets the requirements of subparagraphs (C) and (D) of this paragraph:

(d) There shall be ~~an a reasonable~~ annual certificate fee ~~not exceeding three hundred dollars (\$300.00)~~ to be ~~determined~~ established by ~~the~~ board rules in accordance with W.S. 33-1-201. All certificates shall expire on the last day of December of each year and may be renewed annually for a period of one (1) year by certificate holders and registrants who meet the requirements specified in subsection ~~(a)~~ (e) of this section and upon payment of the annual fee. If the annual certificate fee is not paid by the first day of November, a late renewal fee as set by ~~the board not to exceed one hundred fifty dollars (\$150.00)~~ shall rule in accordance with W.S. 33-1-201 may be added to the renewal fee.

(e) Applications for renewal of an active certificate shall be accompanied by evidence of satisfaction of the continuing education requirements during the three (3) years preceding the application. Failure by an individual applicant to furnish this evidence shall constitute grounds for nonrenewal under W.S. 33-3-121, unless the board determines the failure is due to reasonable cause or excusable neglect. The board may renew a certificate despite the failure to furnish evidence of satisfaction of the requirements of continuing education upon the condition

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that the applicant follow a particular future program or schedule of continuing education. In issuing rules, regulations and individual orders regarding requirements of continuing education, the board may use and rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe the content, duration and organization of courses, shall take into account the applicant's access to continuing education courses and any impediments to the interstate practice of certified public accounting which may result from differences in these requirements in other states and may provide for relaxation or suspension of the requirements for applicants who certify that they do not intend to engage in the practice of certified public accountancy or for instances of individual hardship.

(f) Persons holding a certificate issued under W.S. 33-3-109 or 33-3-116 but who do not practice public accounting in Wyoming and have not lost the right to active status shall place the certificate on an inactive status. A person classified as inactive shall pay an annual inactive fee not exceeding one-half (1/2) the annual fee charged to active certificate holders. If the fee is not paid by December 31, a late fee as set by ~~the board~~ rule in accordance with W.S. 33-1-201, not in excess of seventy-five dollars (\$75.00), shall ~~may~~ be added to the annual fee. A person classified as inactive may assume or use the title or designation "certified public accountant" or the abbreviation "CPA" and shall use the words "inactive" adjacent to the designation "CPA" or "certified public accountant".

(g) The board by regulation may allow persons to retire the certificate. A person classified as retired shall pay a ~~one-time fee of fifty dollars (\$50.00) to be~~ established by board rule in accordance with W.S. 33-1-201.

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A person classified as retired may assume or use the title or designation "certified public accountant" or the abbreviation "CPA" and shall use the words "retired" adjacent to the designation "CPA" or "certified public accountant".

(h) Any individual certificate holder or individual with practice privileges who is responsible for supervising attestation services or compilation services or who signs or authorizes someone to sign the accountant's report on the financial statements shall meet the experience or competency requirements set forth in the professional standards for such services.

(k) The board shall issue a certificate to a holder of a substantially equivalent foreign designation provided that:

(i) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain the foreign authority's comparable designation; and

(ii) The foreign designation:

(A) Was issued by a foreign authority that regulates the practice of certified public accountancy and the foreign designation has not expired or been revoked or suspended;

(B) Entitles the holder to issue reports upon financial statements; and

(C) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

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(iii) The applicant:

(A) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(B) Completed an experience requirement substantially equivalent to the requirements of subparagraph (a)(v)(D) of this section in the jurisdiction which granted the foreign designation or has completed four (4) years of professional experience in this state or meets equivalent requirements within the ten (10) years immediately preceding the application as prescribed by board rule; and

(C) Passed a uniform qualifying examination in national standards acceptable to the board.

(m) An applicant for a certificate under subsection (k) of this section shall list in the application all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a certificate issued under subsection (k) of this section shall notify the board in writing within thirty (30) days after its occurrence of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

(n) The board has sole authority to interpret the application of the provisions of subsections (k) and (m) of this section.

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(o) An active certificate of "certified public accountant" shall be granted by the board to any person who makes application and demonstrates eligibility under the substantial equivalency standard when the person establishes a principal place of business in this state. Qualifications may be established through a designee as provided in board rule.

(p) An active certificate of "certified public accountant" may be granted by the board to any person who makes application but does not meet the eligibility under the substantial equivalency standard upon a showing:

(i) The applicant passed the uniform certified public accountant examination; and

(ii) The applicant had four (4) years of experience of the type set forth in subparagraph (a)(v)(D) of this section within the ten (10) years immediately preceding the application as prescribed by board rule.

33-3-115. Certified public accountants; certificates under prior law.

Persons who hold certified public accountant certificates issued under prior laws of Wyoming are not required to obtain additional certificates or register under the provisions of this act, but are subject to all other provisions of this act. Certificates issued under prior law shall be considered certificates issued under the provisions of this act. All certificate holders who maintained the certificate on inactive status under prior law may continue to hold the certificate pursuant to the terms of this act without meeting additional experience requirements under W.S. 33-3-109(a)(v). All certificate holders whose principal place of business is in this state

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and who provide services in Wyoming as defined in W.S. 33-3-109(c) shall maintain the certificate on active status. All certificate holders whose principal place of business is not in this state and who are not eligible for practice privileges as provided in W.S. 33-3-116 and who provide service in this state as defined in W.S. 33-3-109(c) shall maintain the certificate on active status. Certificate holders who are eligible for practice privileges as provided in W.S. 33-3-116 may elect to maintain the Wyoming certificate pursuant to W.S. 33-3-109(d) through (f).

33-3-116. Certified public accountant; holders of certificates in sister states.

(a) The board may ~~issue a certificate as a certified public accountant to any person who holds a certificate of a certified public accountant or a similar recognized credential, then in full force and effect, issued under the laws of any state or foreign country when that person meets requirements which are substantially equivalent to the requirements set forth in W.S. 33-3-109(a)(ii) through (v).~~ allow practice privileges as follows:

(i) An individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state which the board, or its designee as determined by board rule and as provided in W.S. 33-3-109(o), has determined to be in substantial equivalence with subsection (c) of this section shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders of this state without the need to obtain a certificate under W.S. 33-3-109. Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in

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person or by mail, telephone or electronic means, under this subsection shall be granted practice privileges in this state and no notice, fee or other submission shall be required of the individual. Any individual practicing under this paragraph shall be subject to the requirements of paragraph (a)(iii) of this section;

(ii) An individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state which the board, or its designee as determined by board rule and as provided in W.S. 33-3-109(o), has not determined to be in substantial equivalence with the certified public accountant licensure requirements of subsection (c) of this section shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders of this state without the need to obtain a certificate under W.S. 33-3-109 if the individual obtains from the board or its designee verification that the individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of subsection (c) of this section. Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone or electronic means, under this subsection shall be granted practice privileges in this state and no notice, fee or other submission shall be required of the individual. Any individual practicing under this paragraph shall be subject to the requirements of paragraph (a)(iii) of this section;

(iii) An individual licensee of another state exercising the privileges afforded under this subsection and the firm which employs that licensee simultaneously consents as a condition of the grant of this privilege:

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(A) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(B) To comply with this act and any board rules;

(C) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and

(D) To the appointment of the state board which issued their license as their agent upon whom process may be served in any action or proceeding by the board against the licensee.

(iv) An individual who qualifies for practice privileges under this subsection shall only provide services through a firm which has obtained a permit issued under W.S. 33-3-118 when performing the following services for any entity with its home office in this state:

(A) Providing any financial statement audit or other engagement to be performed in accordance with statements on auditing standards;

(B) Providing any examination of prospective financial information to be performed in accordance with statements on standards for attestation engagements; or

(C) Providing any engagement to be performed in accordance with public company accounting oversight board auditing standards.

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(b) A licensee of this state offering or rendering services or using his certified public accountant title in another state shall be subject to disciplinary action in this state for any act committed in another state for which the licensee would be subject to discipline. Notwithstanding W.S. 33-3-123, the board shall investigate any complaint made by the board of accountancy of another state.

(c) An individual shall be deemed to meet the substantial equivalency requirements of this state if he meets the requirements of paragraph (i) or (ii) of this subsection:

(i) The individual holds a valid license as a certified public accountant from any state that requires as a condition of licensure that the individual:

(A) Completes at least one hundred fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by a college or university;

(B) Achieves a passing grade on the uniform certified public accountant examination; and

(C) Possesses at least one (1) year experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills, which may be obtained through government, industry, academic or public practice verified by a licensee or the equivalent of a licensee as determined by the board.

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(ii) The individual holds a valid license as a certified public accountant from any state that does not meet the requirements of paragraph (i) of this subsection but the individual has otherwise met the requirements of paragraph (i) of this subsection or substantially similar requirements. Any individual who passed the uniform certified public accountant examination prior to January 1, 2012 may be exempted from the educational requirements in subparagraph (c)(i)(A) of this subsection for purposes of this paragraph.

(d) Nothing in this section shall be interpreted to prohibit an individual who qualifies for practice privileges under this section from applying for a Wyoming certified public accountant certificate.

33-3-118. Certified public accountant firms.

(b) The board shall grant or renew a permit to a certified public accounting firm ~~engaged in the practice of public accounting if it meets all of the qualifications specified in the following paragraphs~~ demonstrating its qualifications in accordance with this section:

(xiii) Except as otherwise provided in this section, the following shall be required to hold a permit issued under this section:

(A) Any firm with an office in this state performing any attest services as defined in W.S. 33-3-102(a)(vi);

(B) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; and

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(C) Any firm that does not have an office in this state but performs attest services described in W.S. 33-3-102(a)(vi)(A), (C) or (D) for a client having its home office in this state.

(xiv) A firm which does not have an office in this state may perform services described in W.S. 33-3-102(a)(vi)(B) or 33-3-102(a)(ix) for a client having its home office in this state and may use the title "CPA or "CPA firm" without a permit issued under this section if:

(A) The firm has the qualifications described in paragraph (xvi) of this subsection and W.S. 33-3-132; and

(B) The firm performs the services through an individual with practice privileges under W.S. 33-3-116(a).

(xv) A firm which is not subject to the requirements of paragraph (xiii) or (xiv) of this subsection may perform other professional services while using the title "CPA" or "CPA firm" without a permit if:

(A) The firm performs the services through an individual with practice privileges under W.S. 33-3-116(a); and

(B) The firm can lawfully perform those services in the state where the individual with practice privileges has his principal place of business.

(xvi) Notwithstanding any other provision of law, at least a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers,

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shall belong to holders of a certificate who are licensed in some state and those partners, officers, shareholders, members or managers whose principal place of business is in this state and who perform professional services in this state shall hold a valid certificate issued under W.S. 33-3-109 or the corresponding provision of prior law. Firms may include noncertificate holder owners but the firm and its ownership shall comply with rules promulgated by the board;

(xvii) Any firm may include nonlicensed owners provided that:

(A) The firm designates a certificate holder of this state, or in the case of a firm which is required to have a permit pursuant to W.S. 33-3-116(a)(iv) a licensee of another state who meets the requirements of W.S. 33-3-116(a), who is responsible for the proper registration of the firm and the firm identifies that individual to the board;

(B) All nonlicensed owners shall be active individual participants in the firm or the firm's affiliated entities;

(C) The firm complies with any other requirements imposed by board rules;

(D) Any firm which is not in compliance with the requirements of this paragraph 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. The board, through rule and regulation, shall specify a period of time for firms to take corrective action. Failure to take corrective action may be grounds

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for suspension or revocation of the permit issued under this section.

(d) ~~All attest services as defined in this act and performed by certificate holders shall be performed within firms permitted under this section.~~ This section shall not be applied to prohibit any officer or employee of the state or federal government or political subdivision thereof from performing his official duties.

33-3-119. Accounting offices; registration.

~~Each office of a certified public accountant established or maintained in Wyoming for the practice of public accounting which is advertised as an office of a certified public accountant shall be registered annually with the board. No fee shall be charged for the registration of offices. Each office shall be under the direct supervision of a resident manager who holds an active Wyoming certificate.~~ An applicant for initial issuance or renewal of a permit to practice under W.S. 33-3-118 shall register each office of the firm within the state with the board and shall provide evidence that all attest and compilation services rendered in the state are under the charge of a person holding a valid license issued under W.S. 33-3-109 or the corresponding provision of prior law or the laws of some other state. The board shall by regulation prescribe the procedure to be followed in effecting these registrations.

33-3-120. Permits; annual fee; renewal; requirements.

(a) Permits to engage in the practice of public accounting as a certified public accountant firm in Wyoming shall be issued by the board to certified public accountant firms registered under this act if all offices of the

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registrant in Wyoming are maintained and registered as required under W.S. 33-3-119.

(b) There shall be an annual permit fee ~~not exceeding three hundred dollars (\$300.00)~~ to be determined by the board in accordance with W.S. 33-1-201. All permits shall expire on the last day of December of each year and may be renewed annually for a period of one (1) year by registrants who meet the requirements specified in subsection (a) of this section and upon payment of the annual permit fee. If the annual permit fee is not paid by the first day of November, a late renewal fee as set by the board, ~~not to exceed one hundred fifty dollars (\$150.00),~~ in accordance with W.S. 33-1-201 shall be added to the renewal fee.

33-3-121. Certificates and permits; disciplinary action; grounds.

(a) After notice and hearing, the board may revoke, refuse to renew, reprimand, censure, limit the scope of practice, place on probation with or without terms, conditions or limitations, or may suspend for a period not to exceed two (2) years, any certificate issued under this act or practice privilege or may revoke, suspend, limit the scope of practice, or refuse to renew any permit issued under this act or may censure the holder of a permit for any of the following causes:

(iii) Violation of any of the provisions of ~~W.S. 33-3-125 through 33-3-127~~ this act;

(iv) Violation of ~~a~~ any rule ~~of professional conduct~~ promulgated by the board under the authority granted by this act;

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(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a certificate or permit issued by the board or a practice privilege, the board shall notify the party named in the court order of the withholding, suspension or restriction of the certificate, practice privilege or permit in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a certificate, practice privilege or permit withheld, suspended or restricted under this subsection.

(c) In lieu of or in addition to any disciplinary action specifically provided in subsection (a) of this section, the board may require a certificate, practice privilege or permit holder to complete such continuing professional education programs as the board may specify or undergo peer review as the board may specify.

33-3-124. Reinstatement of certificate or permit for good cause shown.

Upon written application and after hearing and for good cause shown, the board may issue a new certificate to a certified public accountant whose certificate has been revoked or may reissue or modify the suspension of any certificate, practice privilege or permit which has been revoked or suspended. A certificate, practice privilege or permit suspended or restricted under W.S. 33-3-121(b) may be reissued without the hearing required under this section if the department of family services provides notice that the applicant has complied with the terms of the court order that resulted in the suspension or restriction of the certificate, practice privilege or permit.

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33-3-125. Certified public accountant; use of designation; requirements.

(a) Except as permitted by the board under W.S. 33-3-109(f) and (g), no person shall assume or use the title or designation "certified public accountant" or 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 the provisions of this act or has a practice privilege under W.S. 33-3-116(a).

(b) No organization shall use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the organization is composed of certified public accountants unless the organization is registered as a certified public accountant firm under the provisions of this act and the certified public accountant firm holds a permit or is exempt from registration under W.S. 33-3-118(b) (xiv) or (xv).

(c) A person who does not hold a certificate or practice privilege under this act and who completes a review shall only use the following safe harbor language or other nonstatements on standards for accounting and review services language, "I (We) have reviewed the accompanying (financial statement) of the (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."

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(d) A person who does not hold a certificate or practice privilege under this act and completes a compilation service shall only use the following safe harbor language or other nonstatements on standards for accounting and review services language, "I (We) have compiled the accompanying (financial statement) of (name entity) as of (time period) for the (period) then ended. This compilation is limited to preparing in the form of financial statements information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."

(e) Notwithstanding any other provision of law, it shall not be a violation of this act for a firm which does not hold a valid permit under W.S. 33-3-118 and which does not have an office in this state to provide its professional services and practice public accounting in this state if it complies with the requirements of W.S. 33-3-118(b)(xiv) or (xv).

33-3-127. Certified public accountant firm; wording used; requirements.

No person shall assume or use the title or designation "certified public accountant" in conjunction with names indicating or implying that there is an organization, or in conjunction with the designation "and Company" or "and Co." or a similar designation if there is in fact no bona fide organization registered under the provisions of this act or under the provisions of a similar state act.

33-3-132. Practice monitoring program.

(a) As used in this article:

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(i) "Peer review" means a study, appraisal or review of one (1) or more aspects of the professional work of a person or firm in the practice of certified public accountancy by a person who holds certificates and who is not affiliated with the person or firm being reviewed;

33-3-201. Accountants; liability; definitions.

(a) As used in this article, "accountant" means:

(i) Any individual holding a certificate as a certified public accountant under W.S. 33-3-109;~~or~~

(ii) Any individual holding a practice privilege under W.S. 33-3-116;~~or~~

(iii) Any certified public accountant firm registered with the state board of certified public accountants under W.S. 33-3-118;

(iv) Any firm that is exempt from registration pursuant to W.S. 33-3-118(b)(xiv) or (xv); or

(v) Any employee, agent, partner, manager, member, officer or shareholder of any partnership, corporation or any other allowable form of organization registered with the state board of certified public accountants.

Section 2. W.S. 33-3-118(b)(ix) through (xii) is repealed.

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Section 3. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk