

HOUSE BILL No. 2758

By Committee on Appropriations

2-20

1 AN ACT concerning the board of accountancy; relating to the special
2 litigation reserve fund; authorizing transfers from the board of
3 accountancy fee fund; prescribing guidelines, limitations and duties
4 with respect thereto; *relating to the definition of home office;*
5 *amending K.S.A. 2011 Supp. 1-321 and repealing the existing section.*
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 *New* Section 1. (a) The special litigation reserve fund in the state
9 treasury shall be administered by the board of accountancy in accordance
10 with this section. Subject to the provisions of this section, all expenditures
11 from the ~~board of accountancy fee~~ **special litigation reserve** fund shall be
12 made in accordance with appropriation acts upon warrants of the director
13 of accounts and reports issued pursuant to vouchers approved by the
14 chairperson of the board of accountancy or by a person or persons
15 designated by the chairperson.

16 (b) No expenditures shall be made from the special litigation reserve
17 fund, except upon the approval of the director of the budget acting after
18 ascertaining that:

19 (1) An unforeseeable occurrence or unascertainable effects of a
20 foreseeable occurrence characterize the need for the requested expenditure,
21 and delay until the next legislative session on the requested action would
22 be contrary to paragraph (3) of this subsection;

23 (2) the requested expenditure is not one that was rejected in the next
24 preceding session of the legislature and is not contrary to known
25 legislative policy; and

26 (3) the requested action will assist the board of accountancy in
27 attaining an objective or goal which bears a valid relationship to powers
28 and functions of the board of accountancy.

29 (c) Subject to the provisions of appropriation acts, the executive
30 director of the board of accountancy, with the approval of the director of
31 the budget, may transfer moneys from the board of accountancy fee fund
32 to the special litigation reserve fund of the board of accountancy. The
33 executive director of the board of accountancy shall certify each such
34 transfer of moneys to the director of accounts and reports and shall

1 transmit a copy of each such certification to the director of the budget and
2 the director of legislative research.

3 *Sec. 2. K.S.A. 2011 Supp. 1-321 is hereby amended to read as*
4 *follows: 1-321. When used in chapter 1 of the Kansas Statutes*
5 *Annotated, and amendments thereto, the following terms shall have the*
6 *meanings indicated:*

7 (a) *"Actively participate" means participation that is continuous as*
8 *one's primary occupation.*

9 (b) *"Affiliated entity" means one that provides services to the CPA*
10 *firm or provides services to the public that are complementary to those*
11 *provided by the CPA firm.*

12 (c) *"AICPA" means the American institute of certified public*
13 *accountants.*

14 (d) *"Attest" means providing the following financial statement*
15 *services:*

16 (1) *Any audit or other engagement to be performed in accordance*
17 *with the statements on auditing standards (SAS);*

18 (2) *any audit to be performed in accordance with the Kansas*
19 *municipal audit guide;*

20 (3) *any review of a financial statement to be performed in*
21 *accordance with the statements on standards for accounting and review*
22 *services (SSARS);*

23 (4) *any engagement, except a compilation, to be performed in*
24 *accordance with the statements on standards for attestation*
25 *engagements (SSAE); and*

26 (5) *any engagement to be performed in accordance with the*
27 *standards of the PCAOB.*

28 (e) *"Board" means the Kansas board of accountancy established*
29 *under K.S.A. 1-201, and amendments thereto.*

30 (f) *"Certificate" means a certificate as a certified public accountant*
31 *issued under K.S.A. 1-302, and amendments thereto, or a certificate as a*
32 *certified public accountant issued after examination under the law of*
33 *any other state.*

34 (g) *"Client" means a person or entity that agrees with a permit*
35 *holder to receive any professional service.*

36 (h) *"Compilation" means providing a service to be performed in*
37 *accordance with the statements on standards for accounting and review*
38 *services (SSARS) or the statements on standards for attestation*
39 *engagements (SSAE) the objective of which is to present in the form of*
40 *financial statements, information that is the representation of*
41 *management or owners, or both, without undertaking to express any*
42 *assurance on the statements.*

43 (i) *"Directed" means the location to which the engagement letter is*

1 *sent.*

2 (j) *"Equity capital" means (1) capital stock, capital accounts,*
3 *capital contributions or undistributed earnings of a registered firm as*
4 *referred to in K.S.A. 1-308, and amendments thereto; and (2) loans and*
5 *advances to a registered firm made or held by its owners. "Equity*
6 *capital" does not include an interest in bonuses, profit sharing plans,*
7 *defined benefit plans or loans to a registered firm from banks, financial*
8 *institutions or other third parties that do not actively participate in such*
9 *registered firm.*

10 (k) *"Firm" means:*

11 (1) *An individual who operates as a sole practitioner and who*
12 *issues reports subject to peer review; or*

13 (2) *any business organization including, but not limited to, a*
14 *general partnership, limited liability partnership, general corporation,*
15 *professional corporation or limited liability company.*

16 (l) *"Good moral character" means lack of a history of professional*
17 *dishonesty or other felonious acts.*

18 (m) *"Home office" means the location specified by the client as the*
19 *address to which a service described in subsection ~~(d)~~ (e) of K.S.A. 1-*
20 *322, and amendments thereto, is directed.*

21 (n) *"Active license" means a certificate or a permit to practice*
22 *issued by another state that is currently in force and authorizes the*
23 *holder to practice certified public accountancy.*

24 (o) *"Licensee" means the holder of a certificate or a permit to*
25 *practice issued by this state or another state.*

26 (p) *"Manager" means a manager of a limited liability company.*

27 (q) *"Member" means a member of a limited liability company.*

28 (r) *"NASBA" means the national association of state boards of*
29 *accountancy.*

30 (s) *"Nonattest" means providing the following services:*

31 (1) *The preparation of tax returns and providing advice on tax*
32 *matters;*

33 (2) *the preparation of any compilation;*

34 (3) *management advisory, consulting, litigation support and*
35 *assurance services, except for attest services;*

36 (4) *financial planning;*

37 (5) *valuation services; and*

38 (6) *any other financial service not included in the statements on*
39 *auditing standards, the statements on standards for accounting and*
40 *review services, the standards for attestation engagements as developed*
41 *by the American institute of certified public accountants or as defined by*
42 *the board.*

43 (t) *"PCAOB" means the public company accounting oversight*

1 *board created by the Sarbanes-Oxley act of 2002.*

2 (u) *"Practice of certified public accountancy" means performing or*
3 *offering to perform attest or nonattest services for the public while using*
4 *the designation "certified public accountant" or CPA in conjunction*
5 *with such services.*

6 (v) *"Practice of public accountancy" means performing or offering*
7 *to perform attest or nonattest services for the public by a person not*
8 *required to have a permit to practice or a firm not required to register*
9 *with the board.*

10 (w) *"Principal place of business" means the office location*
11 *designated by the licensee for purposes of substantial equivalency and*
12 *reciprocity.*

13 (x) *"Professional" means arising out of or related to the specialized*
14 *knowledge or skills associated with CPAs.*

15 (y) *"Report," when used with reference to financial statements,*
16 *means an opinion, report or other form of language that states or*
17 *implies assurance as the reliability of any financial statements and that*
18 *also includes or is accompanied by any statement or implication that the*
19 *person or firm issuing it has special knowledge or competence in*
20 *accounting or auditing. Such a statement or implication of special*
21 *knowledge or competence may arise from use, by the issuer of the report,*
22 *of names or titles indicating that the person or firm is an accountant or*
23 *auditor or from the language of the report itself. The term report*
24 *includes any form of language which disclaims an opinion when such*
25 *form of language is conventionally understood to imply any positive*
26 *assurance as to the reliability of the financial statements referred to or*
27 *special competence on the part of the person or firm issuing such*
28 *language; and it includes any other form of language that is*
29 *conventionally understood to imply such assurance or such special*
30 *knowledge or competence.*

31 (z) *"Rule" means any rule or regulation adopted by the board.*

32 (aa) *"State" means any state of the United States, the District of*
33 *Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that*
34 *"this state" means the state of Kansas.*

35 (bb) *"Substantial equivalency" is a determination by the board of*
36 *accountancy or its designee that the education, examination and*
37 *experience requirements contained in the statutes and administrative*
38 *rules of another jurisdiction are comparable to, or exceed the education,*
39 *examination and experience requirements contained in the uniform*
40 *accountancy act or that an individual CPA's education, examination and*
41 *experience qualifications are comparable to or exceed the education,*
42 *examination and experience requirements contained in the uniform*
43 *accountancy act. In ascertaining substantial equivalency as used in this*

1 *act, the board shall take into account the qualifications without regard*
2 *to the sequence in which experience, education or examination*
3 *requirements were attained.*

4 *(cc) "Uniform accountancy act" means model legislation issued by*
5 *the AICPA and NASBA in existence on July 1, 2007.*

6 *Sec. 3. K.S.A. 2011 Supp. 1-321 is hereby repealed.*

7 *Sec. ~~2~~ 4. This act shall take effect and be in force from and after its*
8 *publication in the statute book.*