

**STATUS:**

**A11696-A** Rules (Glick) Same as [S 7497-B](#) LAVALLE

Education Law

TITLE....Relates to public accountancy definitions, practice and licenses

06/19/08 referred to higher education  
 06/20/08 amend (t) and recommit to higher education  
 06/20/08 print number 11696a  
 06/23/08 reported referred to codes  
 06/23/08 reported referred to ways and means  
 06/23/08 reported referred to rules  
 06/23/08 reported  
 06/23/08 rules report cal.710  
 06/23/08 ordered to third reading rules cal.710  
 06/23/08 passed assembly  
 06/23/08 delivered to senate  
 06/23/08 REFERRED TO RULES  
 12/15/08 SUBSTITUTED FOR S7497B  
 12/15/08 3RD READING CAL.1529  
 12/15/08 PASSED SENATE  
 12/15/08 RETURNED TO ASSEMBLY  
 12/30/08 delivered to governor  
 01/27/09 signed chap.651

**SUMMARY:**

RULES COM (Request of Glick)

Amd Ed L, generally

Relates to public accountancy definitions, practice and licenses; allows for temporary practice permits; allows for non-attest services by out-of-state certified public accountants.

EFF. DATE 07/26/2009 (SEE TABLE)

**VOTING:**

[12/15/08](#) A11696-A Senate Vote Aye: 59 Nay: 0  
 12/15/08 A11696-A Senate Vote Aye: 59 Nay: 0

<b>Aye</b> Adams	<b>Aye</b> Alesi	<b>Aye</b> Aubertine	<b>Aye</b> Bonacic
<b>Aye</b> Breslin	<b>Aye</b> Connor	<b>Aye</b> DeFrancisco	<b>Aye</b> Diaz
<b>Aye</b> Dilan	<b>Aye</b> Duane	<b>Aye</b> Farley	<b>Aye</b> Flanagan
<b>Aye</b> Fuschillo	<b>Aye</b> Golden	<b>Aye</b> Gonzalez	<b>Aye</b> Griffo
<b>Aye</b> Hannon	<b>Aye</b> Hassell-Thompson	<b>Aye</b> Huntley	<b>Aye</b> Johnson C
<b>Aye</b> Johnson O	<b>Aye</b> Klein	<b>Aye</b> Krueger	<b>Aye</b> Kruger
<b>Aye</b> Lanza	<b>Aye</b> Larkin	<b>Aye</b> LaValle	<b>Aye</b> Leibell
<b>Aye</b> Libous	<b>Aye</b> Little	<b>Aye</b> Maltese	<b>Aye</b> Marcellino
<b>Aye</b> Maziarz	<b>Aye</b> Montgomery	<b>Aye</b> Morahan	<b>Aye</b> Nozzolio
<b>Aye</b> Onorato	<b>Aye</b> Oppenheimer	<b>Aye</b> Padavan	<b>Aye</b> Parker
<b>Aye</b> Perkins	<b>Aye</b> Rath	<b>Aye</b> Robach	<b>Aye</b> Saland
<b>Aye</b> Sampson	<b>Aye</b> Savino	<b>Aye</b> Schneiderman	<b>Exc</b> Serrano
<b>Aye</b> Seward	<b>Aye</b> Skelos	<b>Aye</b> Smith	<b>Aye</b> Stachowski
<b>Aye</b> Stavisky	<b>Aye</b> Stewart-Cousins	<b>Aye</b> Thompson	<b>Aye</b> Trunzo
<b>Aye</b> Valesky	<b>Aye</b> Volker	<b>Aye</b> Winner	<b>Aye</b> Young

**BILL TEXT:****STATE OF NEW YORK**

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**IN ASSEMBLY**

June 19, 2008

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Glick) --  
 read once and referred to the Committee on Higher Education -- commit-  
 tee discharged, bill amended, ordered reprinted as amended and recom-  
 mitted to said committee

AN ACT to amend the education law, in relation to the practice of public  
 accountancy

The People of the State of New York, represented in Senate and Assem-  
 bly, do enact as follows:

- 1 Section 1. Section 7401 of the education law, as amended by chapter  
 2 994 of the laws of 1971, is amended to read as follows:  
 3 § 7401. Definition of practice of public accountancy. The practice of  
 4 the profession of public accountancy is defined as [~~holding one's self~~  
 5 ~~out to the public, in consideration of compensation received or to be~~  
 6 ~~received, offering to perform or performing for other persons, services~~  
 7 ~~which involve signing, delivering or issuing or causing to be signed,~~  
 8 ~~delivered or issued any financial, accounting or related statement or~~  
 9 ~~any opinion on, report on, or certificate to such statement if, by~~  
 10 ~~reason of the signature, or the stationery or wording employed, or~~  
 11 ~~otherwise, it is indicated or implied that the practitioner has acted or~~  
 12 ~~is acting, in relation to said financial, accounting or related state-~~  
 13 ~~ment, or reporting as an independent accountant or auditor or as an~~  
 14 ~~individual having or purporting to have expert knowledge in accounting~~  
 15 ~~or auditing~~]:  
 16 1. offering to perform or performing attest and/or compilation  
 17 services, as defined in section seventy-four hundred one-a of this arti-  
 18 cle;  
 19 2. incident to the services described in subdivision one of this  
 20 section, offering to perform or performing professional services for  
 21 clients, in any or all matters relating to accounting concepts and to  
 22 the recording, presentation, or certification of financial information  
 23 or data; or  
 24 3. offering to perform or performing, for other persons one or more  
 25 types of the following services including but not limited to accounting,  
 26 management advisory, financial advisory, and tax exclusive of services

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
 [-] is old law to be omitted.

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1 within subdivisions one and two of this section, involving the use of  
2 professional skills or competencies of the licensed accountant as  
3 described in the rules of the board of regents, including professional  
4 services rendered to one's employer not required to register under  
5 section seventy-four hundred eight of this article, in any and all  
6 matters related to accounting concepts and to the recording of financial  
7 data or information or the preparation or presentation of financial  
8 statements.

9 § 2. The education law is amended by adding a new section 7401-a to  
10 read as follows:

11 § 7401-a. Definitions. As used in this article:

12 1. "Attest" means providing the following public accountancy services  
13 which all require the independence of licensees:

14 a. any audit to be performed in accordance with generally accepted  
15 auditing standards or other similar standards, developed by a federal  
16 governmental agency, commission or board or a recognized international  
17 or national professional accountancy organization, that are acceptable  
18 to the department in accordance with the commissioner's regulations;

19 b. any review of a financial statement to be performed in accordance  
20 with standards, developed by a federal governmental agency, commission  
21 or board or a recognized international or national professional accoun-  
22 tancy organization, that are acceptable to the department in accordance  
23 with the commissioner's regulations;

24 c. any examination to be performed in accordance with attestation  
25 standards developed by a federal governmental agency, commission or  
26 board or a recognized international or national professional accountancy  
27 organization, that are acceptable to the department in accordance with  
28 the commissioner's regulations; or

29 d. any engagement to be performed in accordance with the auditing  
30 standards of the public company accounting oversight board.

31 2. "Certified public accountant" or "CPA" means any person who has  
32 received a license from the department or any other state as a certified  
33 public accountant for the practice of public accountancy.

34 3. "Compilation" means providing a service that presents, in the form  
35 of financial statements, information that is the representation of the  
36 management or owners of the client without undertaking to express any  
37 assurance of the accuracy of the information in the statements, to be  
38 performed in accordance with standards, developed by a federal govern-  
39 mental agency, commission or board or a recognized international or  
40 national professional accountancy organization, that are acceptable to  
41 the department in accordance with the commissioner's regulations.

42 4. "Firm" means a domestic or foreign entity organized as a sole  
43 proprietorship, a professional service corporation, a partnership, a  
44 professional service limited liability company, a foreign professional  
45 service limited liability company, a registered limited liability part-  
46 nership, a foreign registered limited liability partnership, or any  
47 other form of organization that is established for the business purpose  
48 of lawfully engaging in the practice of public accountancy.

49 5. "Principal place of business" means the office location designated  
50 by the licensee from which the person directs, controls, and coordinates  
51 his or her professional services.

52 6. "Public accountant" or "PA" means any person who has received a  
53 license from the department as a public accountant for the practice of  
54 public accountancy.

55 7. "State" means any state of the United States, the District of  
56 Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

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1 § 3. Section 7402 of the education law, as amended by chapter 994 of  
2 the laws of 1971, is amended to read as follows:

3 § 7402. Practice of public accountancy and use of title "certified  
4 public accountant" or "public accountant". Only a person licensed or  
5 otherwise authorized to practice under this article shall practice  
6 public accountancy ~~and~~ or use the title "certified public accountant"  
7 or the designation ~~["C.P.A."]~~ CPA or "public accountant" or the desig-  
8 nation PA or any other derivative or designation provided in section  
9 seventy-four hundred eight of this article.

10 § 4. Paragraphs 2, 3 and 4 of subdivision 1 and subdivision 2 of  
11 section 7404 of the education law, as added by chapter 987 of the laws  
12 of 1971, paragraph 4 of subdivision 1 as added by chapter 988 of the  
13 laws of 1971, are amended to read as follows:

14 (2) Education: have received an education, including a bachelor's or  
15 higher degree or a foreign equivalent based on a program in accountancy,  
16 in accordance with the commissioner's regulations;

17 (3) Experience: have experience satisfactory to the board of regents  
18 and in accordance with the commissioner's regulations;

19 (4) Examination: pass a written examination satisfactory to the board  
20 and in accordance with the commissioner's regulations and the require-  
21 ment with respect to such examination may not be waived~~[ ]~~;

22 2. In lieu of professional requirements specified in [~~subparagraphs~~  
23 ~~(2)~~] paragraphs two and [~~(3)~~] three of subdivision one of this section,  
24 fifteen years in the practice of public accountancy satisfactory to the  
25 board may be accepted by the department.

26 § 5. Section 7406 of the education law, as added by chapter 987 of the  
27 laws of 1971, subdivision 2 as amended by chapter 62 of the laws of  
28 1989, is amended to read as follows:

29 § 7406. Limited permits and temporary practice permits. 1. Limited  
30 permits. On recommendation of the board, the department may issue a  
31 limited permit to an applicant of good moral character, who is the hold-  
32 er of a certificate, license or degree in a foreign country constituting  
33 a recognized qualification for the performance in such country of the  
34 acts set forth in section seventy-four hundred one of this article,  
35 provided the applicant has professional qualifications [~~satisfactory to~~  
36 ~~the board~~] that are determined by the board to be significantly compara-  
37 ble to the licensure requirements for certified public accountancy  
38 pursuant to this article, and the applicant resides or has a place for  
39 the regular transaction of business within the state, and equal recogni-  
40 tion is granted by the foreign country concerned to certified public  
41 accountants ~~and~~ or public accountants licensed in [~~this state~~] the  
42 United States. Such limited permit shall be valid for a period of two  
43 years and may be renewed on recommendation of the board. Such permit  
44 shall authorize the applicant to use only the title or designation under  
45 which he or she is generally known in his or her own country, followed  
46 by the name of the country from which he or she received his or her  
47 certificate, license or degree, notwithstanding the provisions of subdi-  
48 vision two of section seventy-four hundred eight of this article.

49 2. Temporary practice permits. a. On recommendation of the board, a  
50 certified public accountant, licensed by another state which the board  
51 of regents has determined to have significantly comparable certified  
52 public accountant licensure requirements, or whose individual licensure  
53 qualifications are verified by the department to be significantly compa-  
54 rable to New York's requirements, and in good standing, who intends to  
55 perform the services in subdivisions one and two of section seventy-four

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1 hundred one of this article may temporarily practice public accountancy  
2 in this state, if the certified public accountant:

3 (1) holds a valid license to practice public accountancy in the other  
4 state,

5 (2) practices public accountancy in another state that is his or her  
6 principal place of business, and

7 (3) obtains from the department a temporary practice permit.

8 b. The temporary practice permit allows such certified public account-  
9 ant, who meets the requirements of paragraph a of this subdivision to  
10 practice public accountancy in this state. Each temporary practice  
11 permit shall allow the holder to practice in this state for an aggregate  
12 total of one hundred eighty days during the twelve month period begin-  
13 ning on the effective date of the permit.

14 c. Applications for the temporary practice permit shall be submitted  
15 to the department through an electronic means as prescribed by the  
16 commissioner. After the department renders a timely initial determi-  
17 nation that the applicant has submitted the information necessary to  
18 verify that the requirements of paragraph a of this subdivision are  
19 satisfied, applications for temporary practice permits shall be proc-  
20 essed by the department within thirty days. During such thirty day proc-  
21 essing period, the applicant may practice; provided, however, that if  
22 the application is denied the applicant shall cease the practice of  
23 public accountancy in the state of New York.

24 d. Any certified public accountant who practices in this state pursu-  
25 ant to this section, and any firm that employs such certified public  
26 accountant to provide such services in New York, consents to all of the  
27 following as a condition of the exercise of such temporary practice  
28 privilege:

29 (1) to the personal and subject matter jurisdiction and disciplinary  
30 authority of the board of regents;

31 (2) to comply with this article, the rules of the board of regents and  
32 the regulations of the commissioner; and

33 (3) to the appointment of the secretary of state or other public offi-  
34 cial acceptable to the department, in the certified public accountant's  
35 state of licensure or the state in which the firm has its principal  
36 place of business, as the certified public accountant or firm's agent  
37 upon whom process may be served in any action or proceeding by the  
38 department against such certified public accountant or firm.

39 e. No more than one temporary practice permit may be issued to any  
40 individual applicant provided that each permit may be renewed by the  
41 department up to three times such that an individual shall practice for  
42 no more than four years within a five year time period under the  
43 provisions of this section. Such renewals may be granted upon receipt of  
44 written notice from the permit holder, provided that the applicant  
45 remains in good standing and in compliance with all applicable laws,  
46 rules and regulations.

47 f. (1) A person who wishes to practice public accountancy in this  
48 state but does not meet the requirements of paragraph a of this subdivi-  
49 sion is subject to the full licensing and registration requirements of  
50 this article.

51 (2) In the event the license from the other state of the certified  
52 public accountant's principal place of business is no longer valid or in  
53 good standing, or that the certified public accountant has had any final  
54 disciplinary action taken against his or her license by the licensing or  
55 disciplinary authority of any other state concerning the practice of  
56 public accountancy, the certified public accountant shall cease offering

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1 to perform or performing such services in this state individually and on  
2 behalf of his or her firm.

3 g. (1) Notwithstanding subparagraph two of paragraph a of this subdivi-  
4 vision or any other inconsistent law or rule to the contrary, a certi-  
5 fied public accountant licensed by another state and in good standing  
6 who obtains a temporary practice permit under this section and files an  
7 application for licensure under section seventy-four hundred four of  
8 this article on or before the expiration date of such temporary practice  
9 permit may continue to practice under such permit for a period cotermi-  
10 nous with the period during which his or her application for licensure  
11 remains pending with the department.

12 (2) Nothing in this section shall limit the applicability of section  
13 seventy-four hundred seven of this article.

14 h. Fees. The fee for each limited permit and temporary practice permit  
15 and each renewal shall be [~~one hundred five dollars~~] established in  
16 regulation by the board of regents.

17 § 6. The education law is amended by adding a new section 7406-a to  
18 read as follows:

19 § 7406-a. Non-attest services by out-of-state certified public  
20 accountants. 1. Notwithstanding any other provision of law to the  
21 contrary, a certified public accountant, licensed by another state and  
22 in good standing, may perform the services described in subdivision  
23 three of section seventy-four hundred one of this article within this  
24 state, if the certified public accountant:

25 a. holds a valid license to practice public accountancy in the other  
26 state; and

27 b. practices public accountancy in another state that is his or her  
28 principal place of business.

29 2. Any certified public accountant licensed by another state perform-  
30 ing services pursuant to subdivision one of this section and any firm  
31 that employs such certified public accountant to provide such services  
32 in this state consents to all of the following:

33 a. to be subject to the disciplinary authority of the board of  
34 regents;

35 b. to comply with this article, the rules of the board of regents and  
36 the regulations of the commissioner;

37 c. to the appointment of the secretary of state or other public offi-  
38 cial acceptable to the department, in the certified public accountant's  
39 state of licensure or the state in which the firm has its principal  
40 place of business, as the certified public accountant or firm's agent  
41 upon whom process may be served in any action or proceeding by the  
42 department against such certified public accountant or firm; and

43 d. that in the event the license from the other state of the certified  
44 public accountant's principal place of business is no longer valid or in  
45 good standing, or that the certified public accountant has had any final  
46 disciplinary action taken against his or her license by the licensing or  
47 disciplinary authority of any other state concerning the practice of  
48 public accountancy, the certified public accountant shall cease offering  
49 to perform or performing such services in this state individually and on  
50 behalf of his or her firm.

51 § 7. Section 7407 of the education law, as added by chapter 987 of the  
52 laws of 1971, is amended to read as follows:

53 § 7407. Exempt persons. Nothing contained in this article shall be  
54 construed to prohibit:

55 a. Any [~~person~~] individual other than a certified public accountant or  
56 public accountant who is an officer of a corporation or partner of a

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1 partnership or sole proprietor of a business enterprise or member of a  
2 joint venture or member of a committee appointed by stockholders, credi-  
3 tors, courts, trustees, executors or administrators, or an employee of  
4 any of the foregoing, in his capacity as such, from signing, delivering,  
5 or issuing any financial, accounting or related statement or report  
6 thereon, relating to said corporation, partnership, business venture,  
7 joint venture, committee, trust or estate, provided, however, that in so  
8 doing such person does not hold himself or herself out to be a certified  
9 public accountant or public accountant;

10 b. An attorney-at-law, or a partnership, limited liability partner-  
11 ship, limited liability company or professional service corporation of  
12 attorneys-at-law from signing a financial, accounting or related state-  
13 ment or report thereon, prepared by [~~him or them~~] such attorney or  
14 organizations of attorneys as incidental to the practice of law;

15 c. Any individual from serving as an employee of a certified public  
16 accountant, public accountant or [~~partnership~~] firm licensed under this  
17 article;

18 d. Any individual, not engaged in practice as a certified public  
19 accountant or public accountant within the state, from performing  
20 services within the state which are incidental to the practice conducted  
21 by him outside the state;

22 e. Any official or employee of a governmental unit, agency or instru-  
23 mentality other than a certified public accountant or public accountant  
24 in the performance of his official duties from signing, delivering or  
25 issuing any financial, accounting, or related statement or report there-  
26 on relating to said unit, agency or instrumentality; or

27 f. A corporation chartered in the state of New York to engage in the  
28 practice of public accountancy and so engaged as its principal activity  
29 on and before the first day of July, nineteen hundred fifty-nine, from  
30 continuing in such practice as long as its corporate acts comply with  
31 the board of regents rules, provided all employees of such corporation  
32 performing any acts constituting the practice of public accountancy as  
33 defined herein and who are not certified public accountants or public  
34 accountants licensed under this article shall in the performance of such  
35 acts be under the supervision of certified public accountants or public  
36 accountants licensed in this state[]; or

37 g. An individual other than a certified public accountant or public  
38 accountant, or an entity not required to register under paragraph a of  
39 subdivision three of section seventy-four hundred eight of this article,  
40 from offering to perform or performing the types of services set forth  
41 in subdivision three of section seventy-four hundred one of this article  
42 or preparing financial statements in accordance with subdivision five of  
43 section seventy-four hundred eight of this article.

44 § 8. Section 7408 of the education law, as added by chapter 987 of the  
45 laws of 1971, the opening paragraph of subdivision 1 and subdivision 2  
46 as amended by chapter 994 of the laws of 1971 and paragraph e of subdi-  
47 vision 1 as amended by chapter 62 of the laws of 1989, is amended to  
48 read as follows:

49 § 7408. Special provisions. 1. Nothing contained in this article  
50 shall be deemed to prohibit [~~two~~] one or more certified public account-  
51 ants or [~~two~~] one or more public accountants, or any combination there-  
52 of, from forming a [~~partnership, provided, however, that no partnership~~]  
53 firm.

54 2. No firm shall use the words "certified public accountant" or  
55 "certified public accountants" or the letters [~~"C.P.A.'s"~~] "CPA" or  
56 "CPAs" in connection with its name unless the sole proprietor of such

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1 ~~firm or each partner [of such partnership, resident or]~~ of a partnership  
2 ~~or limited liability partnership, member of a limited liability company~~  
3 ~~or shareholder of a professional service corporation~~ engaged within the  
4 United States in the practice of public accountancy is in good standing  
5 as a certified public accountant of one or more of the states [~~or poli-~~  
6 ~~tical subdivisions]~~ of the United States[~~, and each partner thereof~~  
7 ~~resident or engaged in practice within the state is licensed under this~~  
8 ~~article~~].

9 3. a. Any firm that is established for the business purpose of  
10 lawfully engaging in the practice of public accountancy pursuant to  
11 subdivisions one and two of section seventy-four hundred one of this  
12 article or uses the title "CPA" or "CPA firm" or the title "PA" or "PA  
13 firm" must register with the department. A firm of certified public  
14 accountants or public accountants engaged in the practice of public  
15 accountancy pursuant to subdivision three of section seventy-four  
16 hundred one of this article, but not engaged in the practice of public  
17 accountancy pursuant to subdivisions one and two of section seventy-four  
18 hundred one of this article, may register with the department under this  
19 subdivision. As a condition of registration or renewal, the firm shall  
20 affirm that it has not violated the provisions of this article, any  
21 other applicable laws and such other requirements as the department may  
22 impose, consistent with this article, except that the provisions of  
23 section seventy-four hundred ten of this article shall not apply on  
24 initial registration.

25 b. A registration shall be issued to a [~~partnership~~] firm upon payment  
26 of the fee prescribed by the commissioner upon application showing that:

27 (1) At least one partner of [~~such~~] a partnership or limited liability  
28 partnership, member of a limited liability company or shareholder of a  
29 professional service corporation or the sole proprietor is licensed or  
30 otherwise authorized to practice under this article and his or her  
31 license to practice is not currently suspended, annulled or revoked in  
32 any jurisdiction and he or she is regularly engaged in practice on  
33 behalf of the [~~partnership~~] firm within the state;

34 (2) The [~~partnership~~] firm, other than a sole proprietorship, consists  
35 of at least two present [~~members~~] partners, members or shareholders;  
36 [~~and~~]

37 (3) The [~~partnership~~] firm, other than a sole proprietorship, contains  
38 at least as many present partners, members or shareholders as the total  
39 number of names in the firm name, or, where the word "company" or abbre-  
40 viation "co." is used, the number of present partners, members or share-  
41 holders shall be greater than the number of names in the firm name[~~-~~];

42 (4) Such application includes a list of the location of all offices  
43 within this state, including the names of the persons in charge of such  
44 offices; and

45 (5) Such application includes a list of all states in which the firm  
46 has applied for or holds registrations, licenses, or permits as a public  
47 accounting firm and a list of any past denial, revocation, or suspension  
48 of a license, registration or permit by any other state or jurisdiction  
49 within the last three years.

50 [~~b. Such registration may be revoked~~] c. In addition to authority  
51 granted under any other provision of law, the board of regents may  
52 revoke such registration or take other action pursuant to a consent  
53 order or surrender of registration in accordance with this title and the  
54 rules of the board of regents, in the same manner and to the same extent  
55 as is provided with respect to individuals licensed pursuant to this  
56 article, or pursuant to a settlement in which the firm neither admits

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1 nor denies the allegations of professional misconduct, or after a hear-  
2 ing conducted in accordance with the provisions of section sixty-five  
3 hundred ten of this title upon proof:

4 (1) That the registration was obtained by either misrepresentation or  
5 suppression of any material fact;

6 (2) That the license or authorization to practice of any sole proprie-  
7 tor, partner of a partnership or limited liability partnership, member  
8 of a limited liability company or shareholder of a professional service  
9 corporation is suspended, annulled or revoked in any jurisdiction;

10 (3) That any sole proprietor, partner of a partnership or limited  
11 liability partnership, member of a limited liability company or share-  
12 holder of a professional service corporation in such [~~a partnership~~]  
13 firm is or has been engaged in the practice of public accountancy in  
14 this state who is not licensed or otherwise authorized to practice in  
15 this state; [~~or~~]

16 (4) That the [~~partnership~~] firm failed to file the written notifica-  
17 tion required pursuant to paragraph [~~d~~] e of this subdivision [~~of this~~  
18 ~~section~~];

19 (5) That the firm failed to undergo a quality review of its attest  
20 services pursuant to section seventy-four hundred ten of this article at  
21 least once every three years; or

22 (6) That the firm has engaged in professional misconduct pursuant to  
23 section sixty-five hundred nine of this title.

24 [~~c~~] d. Personal service on a sole proprietor, any general partner of  
25 a partnership or limited liability partnership, member of a limited  
26 liability company or shareholder of a professional service corporation  
27 licensed in this state of a notice of a hearing to revoke [~~a partner-~~  
28 ship] the registration of, or take other disciplinary action against a  
29 firm registered hereunder shall be deemed service on the [~~partnership~~]  
30 firm.

31 [~~d~~] e. A [partnership] firm registered to practice pursuant to this  
32 section shall file with the department annually on or before [~~July first~~  
33 of each year] the anniversary of the date of the firm's first registra-  
34 tion written notification of:

35 (1) Any admission of a partner, member or shareholder,

36 (2) Any resignation, termination, retirement or death of a partner,  
37 member or shareholder,

38 (3) Any termination of [~~partnership~~] a firm, [~~or~~]

39 (4) Any change in the number or location of offices within this state  
40 and any change in the identity of the persons in charge of such offices,  
41 or

42 (5) Any occurrence of any event or events which would eliminate as to  
43 such [~~partnership~~] firm conformity with the applicable requirements of  
44 this section.

45 [~~e. Partnerships~~] f. The commissioner shall establish in regulations a  
46 registration process for certified public accountancy firms and public  
47 accountancy firms, including the imposition of application and registra-  
48 tion fees and procedures to suspend or revoke a registration or take  
49 other disciplinary action for cause.

50 g. Firms shall register triennially [~~and pay a fee of fifty dollars~~].

51 [~~2~~] 4. Any person shall be guilty of a class A misdemeanor who shall  
52 use, in connection with the practice of public accountancy, or in any  
53 manner tending to imply that he or she is an independent accountant or  
54 auditor, the designations "chartered accountant", "certified account-  
55 ant", "expert accountant", "certified tax accountant", "tax accountant",  
56 "enrolled accountant", "enrolled public accountant", "registered

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1 accountant", "licensed accountant", "incorporated accountant", "regis-  
2 tered public accountant", "licensed public accountant", or any abbrevi-  
3 ation thereof, or the letters "C.A.", "E.A.", "C.T.A.", "T.A.",  
4 "E.P.A.", "R.A.", "L.A.", "I.A.", "P.A.", "R.P.A.", or, "L.P.A.", except  
5 as provided elsewhere in this article, or any other designation tending  
6 to imply that he or she has expert knowledge in accounting or auditing.

7 The title "enrolled agent" or the designation "E.A." may only be used by  
8 individuals so designated by the United States Internal Revenue Service.

9 5. An individual not licensed as a certified public accountant or  
10 public accountant or otherwise authorized to practice public accountan-  
11 cy, or an entity not required to register under this section may prepare  
12 a financial statement so long as it is not accompanied by any statement,  
13 report, or wording indicating such individual is a certified public  
14 accountant or public accountant or that such entity is registered to  
15 practice public accountancy under this article. Such non-licensed indi-  
16 viduals and non-registered entities shall include the following written  
17 language when preparing financial statements:

18 a. "(I, We) have prepared the accompanying financial statement(s) of  
19 (name of business or organization) as of the (time period) and for the  
20 (period) then ended. This presentation is limited to preparing, in the  
21 form of a financial statement(s), information that is the representation  
22 of (name of business or organization)"; and

23 b. "(I, We) have not audited or reviewed the accompanying financial  
24 statement(s) and accordingly do not express an opinion or any other form  
25 of assurance on them."

26 § 9. Section 7409 of the education law, as added by chapter 805 of the  
27 laws of 1990, is amended to read as follows:

28 § 7409. Mandatory continuing education. 1. [~~(a)~~] a. Each [~~licensed~~]  
29 certified public accountant and public accountant required under article  
30 one hundred thirty of this [~~chapter~~] title to register triennially with  
31 the department to practice in the state shall comply with the provisions  
32 of the mandatory continuing education requirements except as set forth  
33 in paragraphs (b) and (c) of this subdivision. [~~Certified~~] Such certi-  
34 fied public accountants and public accountants who do not satisfy the  
35 mandatory continuing education requirements shall not practice until  
36 they have met such requirements, they have paid all applicable fees, and  
37 they have been issued a registration or conditional registration certifi-  
38 cate.

39 [~~(b)~~] b. Certified public accountants and public accountants shall be  
40 exempt from the mandatory continuing education requirement for the  
41 triennial registration period during which they are first licensed by  
42 the department. In accordance with the intent of this section, adjust-  
43 ments to the mandatory continuing education requirement may be granted  
44 by the department for reasons of health certified by a physician, for  
45 extended active duty with armed forces of the United States, or for  
46 other good cause acceptable to the department which may prevent compli-  
47 ance.

48 [~~(c)~~] ~~A licensed certified public accountant and a public accountant~~  
49 ~~not engaged in public practice as an individual practitioner, a partner~~  
50 ~~of a partnership, a shareholder of a professional service corporation,~~  
51 ~~or an employee of such practice units, shall be exempt from the mandato-~~  
52 ~~ry continuing education requirement and payment of the mandatory contin-~~  
53 ~~uing education fee upon the filing of a statement with the department~~  
54 ~~declaring such status. Any licensee who returns to the public practice~~  
55 ~~of certified public accountancy or public accountancy during the trien-~~  
56 ~~nal registration period shall notify the department prior to reentering~~

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~~1 the profession and shall pay the current mandatory continuing education  
2 fee and shall meet such mandatory continuing education requirements as  
3 shall be prescribed by regulations of the commissioner.]~~

4 c. Certified public accountants or public accountants not engaged in  
5 practice as defined in section seventy-four hundred one of this article,  
6 shall be exempt from the mandatory continuing education requirement upon  
7 the filing of a written statement with the department declaring such  
8 status pursuant to subdivision four of section sixty-five hundred two of  
9 this title. Any certified public accountant or public accountant who  
10 resumes practice during the triennial registration period shall notify  
11 the department prior to resuming practice and shall pay the current  
12 mandatory continuing education fee and shall meet such mandatory contin-  
13 uing education requirements as shall be prescribed by regulations of the  
14 commissioner.

15 2. a. During each year of the triennial registration period beginning  
16 September first, nineteen hundred ninety and ending September first,  
17 nineteen hundred ninety-three and each registration period thereafter  
18 but ending on the period that ends on December thirty-first, two thou-  
19 sand ten, an applicant for registration shall have the option of [~~(a)~~]:  
20 (1) completing a minimum of forty contact hours of acceptable formal  
21 continuing education in recognized areas of study, or [~~(b)~~] (2) complet-  
22 ing a minimum of twenty-four contact hours of acceptable formal continu-  
23 ing education concentrated in any one of the following three subject  
24 areas: auditing, accounting, or taxation.

25 b. For applicants whose triennial registration date occurs on or after  
26 January first, two thousand nine, for each calendar year beginning with  
27 the two thousand nine calendar year, an applicant for registration shall  
28 have the option of (1) completing a minimum of forty contact hours of  
29 acceptable formal continuing education in recognized areas of study  
30 pursuant to subdivision four of this section, or (2) completing a mini-  
31 mum of twenty-four contact hours of acceptable formal continuing educa-  
32 tion concentrated in any one of the recognized areas of study pursuant  
33 to subdivision four of this section; provided, however, that any contin-  
34 uing education contact hours earned between September first, two thou-  
35 sand eight and December thirty-first, two thousand eight may be credited  
36 toward the minimum contact hours required for the calendar year begin-  
37 ning January first, two thousand nine.

38 c. A [~~licensee~~] certified public accountant or public accountant who  
39 has not satisfied the mandatory continuing education requirements shall  
40 not be issued a triennial registration certificate by the department and  
41 shall not practice unless and until a registration or conditional regis-  
42 tration certificate is issued as provided in subdivision three of this  
43 section. No hourly credits may be transferred from one year to a subse-  
44 quent year except as provided in paragraph b of this subdivision. The  
45 individual [~~licensee~~] certified public accountant or public accountant  
46 shall determine the selection of courses or programs of study pursuant  
47 to subdivision four of this section.

48 3. The department, in its discretion, may issue a conditional regis-  
49 tration to a [~~licensee~~] certified public accountant or public accountant  
50 who fails to meet the continuing education requirements established in  
51 subdivision two of this section but who agrees to make up any deficien-  
52 cies and take any additional education which the department may require.  
53 The fee for such a conditional registration shall be the same as, and in  
54 addition to, the fee for the triennial registration. The duration of  
55 such conditional registration shall be determined by the department.  
56 Any [~~licensee~~] certified public accountant or public accountant who is

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1 notified of the denial of registration for failure to submit evidence,  
2 satisfactory to the department, of required continuing education and who  
3 practices public accountancy without such registration, may be subject  
4 to disciplinary proceedings pursuant to section [~~six thousand five~~  
5 sixty-five hundred ten of this [~~chapter~~] title.

6 4. As used in subdivision two of this section, "acceptable formal  
7 continuing education" shall mean formal programs of learning which  
8 contribute to [~~professional practice and which meet the standards~~  
9 prescribed by regulations of the commissioner] the growth in the profes-  
10 sional knowledge and professional competence of the licensee which meet  
11 the standards prescribed by regulations of the commissioner. Recognized  
12 areas of study shall include but not be limited to: accounting, attest,  
13 auditing, taxation, advisory services, specialized knowledge and appli-  
14 cations related to specialized industries, and such other [~~technical~~]  
15 areas appropriately related to the practice of accounting as may be  
16 acceptable to the department. To fulfill the mandatory continuing educa-  
17 tion requirement, programs must be taken from sponsors approved by the  
18 department, pursuant to the regulations of the commissioner.

19 5. The mandatory continuing education fee shall be determined by the  
20 regents, shall be payable on or before the first day of each triennial  
21 registration period, and shall be paid in addition to the triennial  
22 registration fee required by section [~~seven thousand four~~] seventy-four  
23 hundred four of this article.

24 § 10. The education law is amended by adding a new section 7410 to  
25 read as follows:

26 § 7410. Mandatory quality review. 1. The department shall require as  
27 a condition to renewal of registrations under section seventy-four  
28 hundred eight of this article, that unless otherwise exempted by the  
29 department, applicants for firm registrations, with the exception of  
30 sole proprietorship firms or firms with two or fewer accounting profes-  
31 sionals, including certified public accountants or public accountants,  
32 or any combination thereof, undergo, no more frequently than once every  
33 three years, except pursuant to a disciplinary action brought under  
34 section seventy-four hundred eight of this article, quality reviews of  
35 the firm's attest services conducted in such manner as the commissioner  
36 shall specify in regulations, and such review shall include a verifica-  
37 tion that individuals in the firm who are responsible for supervising  
38 attest services sign or authorize someone to sign the accountant's  
39 report on the financial statements on behalf of the firm meet the compe-  
40 tency requirements set out in the professional standards for such  
41 services, provided that any such regulations:

42 a. shall include reasonable provisions for compliance by an applicant  
43 for firm registration showing that it has, within the preceding three  
44 years, undergone a quality review in this state or a peer review in  
45 another state that is a satisfactory equivalent to quality review  
46 required pursuant to this section;

47 b. shall require, with respect to any organization administering qual-  
48 ity review programs contemplated by paragraph a of this subdivision,  
49 that it be subject to evaluations by the department or its designee, to  
50 periodically assess the effectiveness of the quality review program  
51 under its charge;

52 c. shall require the quality review to be conducted by reviewers  
53 acceptable to the department in accordance with the commissioner's regu-  
54 lations, from a roster of qualified reviewers established by the depart-  
55 ment; and

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1 d. may require with respect to quality reviews contemplated by para-  
2 graph a of this subdivision that firms undergoing quality reviews and  
3 organizations administering quality review programs timely remit such  
4 quality review reports to the state board for public accountancy and  
5 such reports shall be maintained by the board in a manner consistent  
6 with subdivision three of this section.

7 2. Except as provided for in subdivision four of this section, nothing  
8 in this section shall be construed to require sole proprietorship firms  
9 or firms with two or fewer accounting professionals, including certified  
10 public accountants or public accountants, or any combination thereof, to  
11 undergo quality review, however, such firms may choose to voluntarily  
12 undergo quality review in accordance with this section.

13 3. Notwithstanding any provision of law to the contrary, the reports  
14 submitted in accordance with subdivision one of this section shall be  
15 confidential and shall not constitute a public record and shall not be  
16 subject to disclosure under articles six and six-A of the public offi-  
17 cers law. However, when any such report is admitted into evidence in a  
18 hearing held by the department, it shall then be a public record subject  
19 to disclosure under articles six and six-A of the public officers law.

20 4. Notwithstanding any provision of law or regulation to the contrary,  
21 a firm that performs attest services for any New York state or municipal  
22 department, board, bureau, division, commission, committee, public  
23 authority, public corporation, council, office, or other governmental  
24 entity performing a governmental or proprietary function for New York  
25 state or any one or more municipalities thereof, or performs attest  
26 services specifically required to be performed pursuant to New York  
27 state law, shall be required to undergo an external peer review in  
28 conformity with the requirements pursuant to the government auditing  
29 standards of the comptroller general of the United States.

30 § 11. This act shall take effect on the one hundred eightieth day  
31 after it shall have become a law; provided, that section ten of this act  
32 shall take effect January 1, 2012 and effective immediately, the addi-  
33 tion, amendment and/or repeal of any rule or regulation necessary for  
34 the implementation of such section on its effective date are authorized  
35 and directed to be made and completed by the commissioner of education  
36 on or before January 1, 2011.

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**SPONSORS MEMO:**

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(e)**

**BILL NUMBER:** A11696A

**SPONSOR:** Rules (Glick)

**TITLE OF BILL:** An act to amend the education law, in relation to the practice of public accountancy

**PURPOSE OF THE BILL:** This bill would enhance public protection by ensuring that certified public accountants (CPAs) and public accountants (PAs) are professionally accountable for functions they currently perform by clarifying and expanding the regulated scope of practice.

Public protection would be enhanced by: requiring all licensees and firms to be registered with the department when providing attest and compilation services; providing for temporary practice when out-of-state licensed CPAs perform attest and compilation services in New York; providing an exemption from participation in continuing professional education only for licensees who are not engaged in the practice of public accountancy; and requiring firms to participate in a mandatory quality review program.

**SUMMARY OF THE PROVISIONS OF THE BILL:** Section 1 would amend Education Law §7401, relating to the scope of practice of public accountancy, to clarify the definitions of attest functions and other services performed by CPAs and PAs. The bill would add three new subdivisions to §7401. Subdivisions 1 and 2 would clarify the existing language of §7401, specifying that offering to perform or performing attest and compilation services and incidental professional services relating to accounting concepts and the recording, presentation, or certification of financial information or data are within the scope of practice. Subdivision 3 would expand the scope to include the types of services that involve the use of professional skills and competencies in matters related to accounting concepts or the recoding of financial data or information or the preparation or presentation of financial statements, including but not limited to management advisory, financial advisory, and tax preparation and advisory services. The bill would clarify that such professional services rendered for one's employer not required to register as a CPA or PA firm are within the scope of practice of public accountancy.

Section 2 would add a new §7401-a to define various terms used in Article 149, including "attest," "certified public accountant," "compilation," "firm," "principal place of business," "public accountant," and "state."

Section 3 would amend §7402 to expand oversight to include the use of a professional title or the performance of professional services by a licensed CPA or PA.

Section 4 would amend paragraphs 2 and 3 of subdivision 1 of §7404 of the Education Law. Paragraph 2 would be amended to recognize foreign education as an alternative to meeting the education requirements for licensure as a CPA. Paragraph 3 would be amended to specify that the experience requirements for licensure as a CPA are determined by the Board of Regents. Due to the expansion of the scope of the practice of public accountancy under this act, it would be appropriate for the Board of Regents to also expand the experience requirements which may include accounting, attest, compilation, management advisory, financial advisory, tax preparation and advisory services, or other professional services involving the use of professional skills or competencies of a licensed accountant.

Section 5 would amend §7406 to provide greater clarity regarding the issuance of foreign limited permits and add a provision for the issuance of temporary practice permits. The bill would designate the existing language in §7406 as subdivision 1 and amend this subdivision to reference that equal recognition must be granted by a foreign country to United States-licensed CPAs and PAs instead of equal recognition to New York-licensed CPAs and PAs because such recognition is granted at the national, not the state, level. Subdivision 1 would also be amended by allowing the issuance of a foreign limited permit if the applicant has professional qualifications determined to be significantly comparable to

the license requirements of certified public accountancy pursuant to Article 149. Subdivision 2 would be added to allow CPAs licensed by another state, that the Board of Regents has determined to have significantly comparable CPA licensure requirements, and in good standing to apply for a temporary practice permit to provide the services defined in subdivisions 1 and 2 of §7401. This permit would be valid for up to 180 days during a 12-month period and could be renewed a minimum of three times. Any CPA practicing under a temporary practice permit and any firm employing such a CPA to perform services in New York would have to consent to be subject to the disciplinary authority of the Board of Regents and the appointment of the secretary of state or other official in the CPA's state of licensure or the state in which the firm's principal place of business is located, as the agent acceptable to the Department upon whom process may be served.

Section 6 would add a new §7406-a to permit out-of-state licensed CPAs to provide the services defined in §7401(3) in this state without a temporary practice permit so long as the CPA agrees to be subject to the jurisdiction and disciplinary authority of the Board of Regents, comply with the laws, rules and regulations of New York, agrees to the appointment of the secretary of state, or other public official, in the applicant's state of licensure as the agent for service, and ceases to practice in New York if his/her license to practice is no longer valid in his/her principal place of business, or if he/she is subject to any final disciplinary action in another state concerning the practice of public accountancy.

Section 7 would amend subdivisions a and e of §7407 to limit the corporate officer and governmental employee exemption to individuals other than CPAs or PAs. Subdivision g of §7407 is also amended to exempt unlicensed individuals and entities not required to register under Education Law §7408 that offer to perform or perform the types of services defined in subdivision 3 of §7401 from preparing financial statements in accordance with subdivision 5 of §7408.

Section 8 would amend Education Law 57408 as follows: Subdivision 1 of §7408 would be divided into three subdivisions, and amended to apply the provisions of §7408 to all registered firms rather than only partnerships.

Subdivision 3 of §7408 would require all firms engaged in the practice of public accountancy as defined in subdivisions 1 and 2 of § 7401 or using the term "CPA firm" or "PAfirm" to maintain a current registration with the Department.

Current paragraph a of subdivision 1 of §7408 would be renumbered as paragraph b of subdivision 3 and amended to require that firms applying for registration with the Department demonstrate that at least one partner, member, or shareholder is licensed, or otherwise authorized to practice, under this Article, demonstrate that the firm, other than a sole proprietorship, contains at least two partners, members or shareholders, and that the firm contains at least as many or more present partners, members or shareholders as the total number of names in the firm name. Firms applying for registration with the Department must additionally provide a list of the location of all offices within the state, and provide a list of all states in which the firm has applied for or holds registrations, licenses, or permits as a public accounting firm. This section would also require firms to list any past denial, revocation or suspension of a registration or permit by any other state or jurisdiction.

Current paragraph b of subdivision 1 of §7408 would be renumbered as paragraph c of subdivision 3 and amended to provide that the Board of Regents may revoke a firm's registration or take other action pursuant to a consent order or surrender of registration or pursuant to a settlement in which the firm neither admits nor denies the allegations of professional misconduct, or pursuant to a hearing based on proof, including that the firm failed to undergo the required quality review every three years or that the firm engaged in professional misconduct.

Current paragraph c of subdivision 1 of §7408 would be renumbered as paragraph d of subdivision 3 and amended to reflect the more inclusive definition of "firm" with respect to service of disciplinary notices.

Current paragraph d of subdivision 1 of §7408 would be renumbered as paragraph e of subdivision 3 and amended to require firms to provide annual notification to the Department of any admission of a partner, member or shareholder, any termination of a firm, any change in the number or location of offices within the state including any change in the identity of the persons in charge of such office, and any event of nonconformity with the requirements of §7408.

A new paragraph f would be added to subdivision 3 of §7408 to authorize the Commissioner to promulgate regulations to establish a registration process for certified public accountancy firms and public accountancy firms and procedures to suspend or revoke a registration or take other disciplinary action for cause.

Current paragraph e of subdivision 1 of §7408 would be renumbered as paragraph g of subdivision 3 and amended to eliminate the registration fee provision now contained in §7408(3)(f).

Current subdivision 2 of §7408 would be renumbered as subdivision 4, and amended to provide that the title "enrolled agents" or the designation "E.A." may only be used by individuals so designated by the United States Internal Revenue Service.

A new subdivision 5 would be added to §7408 to require language that must be used by non-licensed individuals and entities for financial statements. This language would be distinct from the standard reporting language used by CPAs so the public can differentiate between licensed and non-licensed practice.

Section 9 would make several amendments to Education Law §7409. Paragraph c of subdivision 1 would be repealed, a new paragraph c would be added to exempt CPAs and PAs not engaged in professional practice, as defined in §7401, from mandatory continuing education if they file a written statement with the Department. Subdivision 2 would be amended also to allow CPAs and PAs to take 24 hours of concentrated continuing education in any of the recognized areas of study including accounting, attest, auditing, taxation, advisory services, specialized knowledge and applications related to specialized industries, and such other areas appropriately related to the practice of accounting as acceptable to the Department.

Section 10 would add a new §7410 to the Education Law to require firms, other than sole proprietorship firms and firms with two or fewer accounting professionals, to participate in a mandatory quality review based on standards promulgated by the Department. This section also would authorize the Department to evaluate and approve quality review

providers and establish a process for the timely submission of quality review reports. Additionally, any firm that performs attest services for a New York State governmental entity (including New York State or municipal departments, boards, bureaus, divisions, commissions, committees, public authorities, public corporations, councils, offices, or other governmental entities performing a governmental or proprietary function for New York State or any one or more municipalities thereof) or a firm that performs attest services specifically required pursuant to New York State law, must undergo an external peer review in conformity with the government auditing standards of the Comptroller General of the United States.

Section 12 would be the effective date.

**STATEMENT IN SUPPORT OF THE BILL:** The current public accountancy law was enacted in 1947 and fails to adequately reflect present practice. This bill would expand the definition of scope of practice to include all types of professional services that involve the use of professional skills and competencies, including professional services rendered for one's employer not required to register as a CPA firm. The additional services would fall under the regulatory and disciplinary framework of the Education Law and improper conduct committed by licensees practicing in those areas would be subject to discipline.

This bill would reflect changes in the business practice of public accountancy. CPAs and PAs, as employees of business corporations or other unlicensed entities, provide a number of necessary services, including tax, management and financial planning. This bill would provide additional public protection by imposing necessary regulatory safeguards on licensees performing these services.

Certified public accountants, licensed by and in good standing in a state or jurisdiction whose licensure standards are deemed to be significantly comparable to New York's, would be allowed to apply for a temporary practice permit to practice in New York for up to 180 days during a 12-month period. This temporary practice permit could be renewed three times. CPAs would have to acknowledge that they would abide by New York State laws, rules and regulations and subject themselves to discipline by the Board of Regents.

Regulation of the profession would be facilitated by requiring that all firms providing public accountancy attestation and compilation services in New York be registered. Professional service limited liability companies register with the Department when initially established but currently sole proprietorships have no registration requirement. By requiring all types of firms to register with the Department, they would be held to the same standard of oversight.

The Education Law exempts from mandatory continuing education licensees who are not engaged in public practice (including licensees who are employed in private industry, government and academia). This bill would require all CPAs and PAs to participate in mandatory continuing education as part of the continuum of learning throughout their career, unless they are not engaged in the practice of public accountancy. The 24 hour concentrated study provision would be expanded to include all recognized areas of study.

Effective January 2012, all registered public accounting firms, other than sole proprietorships or firms with two or fewer accounting professionals, that perform attest services would be required to participate in a mandatory quality review and all firms that perform attest services for New York State governmental entities or perform attest services specifically required to be performed under New York State law would be required to undergo an external peer review in conformity with the government auditing standards of the Comptroller General of the United

States.

**BUDGETARY IMPLICATIONS OF THE BILL:** Undetermined.

**PRIOR LEGISLATIVE HISTORY:** This is a new bill.

**EFFECTIVE DATE:** This bill would take effect 180 days after becoming; provided that section ten amending §7410, relating to the mandatory quality review process, would take effect on January 1, 2012, with the Commissioner of Education promulgating any rule or regulation necessary to implement such section on or before January 1, 2011.

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## CHAPTER TEXT:

LAWS OF NEW YORK, 2008

CHAPTER 651

AN ACT to amend the education law, in relation to the practice of public accountancy

Became a law January 27, 2009, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 7401 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

§ 7401. Definition of practice of public accountancy. The practice of the profession of public accountancy is defined as [~~holding one's self out to the public, in consideration of compensation received or to be received, offering to perform or performing for other persons, services which involve signing, delivering or issuing or causing to be signed, delivered or issued any financial, accounting or related statement or any opinion on, report on, or certificate to such statement if, by reason of the signature, or the stationery or wording employed, or otherwise, it is indicated or implied that the practitioner has acted or is acting, in relation to said financial, accounting or related statement, or reporting as an independent accountant or auditor or as an individual having or purporting to have expert knowledge in accounting or auditing~~]:

1. offering to perform or performing attest and/or compilation services, as defined in section seventy-four hundred one-a of this article;

2. incident to the services described in subdivision one of this section, offering to perform or performing professional services for clients, in any or all matters relating to accounting concepts and to the recording, presentation, or certification of financial information or data; or

3. offering to perform or performing, for other persons one or more types of the following services including but not limited to accounting, management advisory, financial advisory, and tax exclusive of services within subdivisions one and two of this section, involving the use of professional skills or competencies of the licensed accountant as described in the rules of the board of regents, including professional services rendered to one's employer not required to register under

section seventy-four hundred eight of this article, in any and all matters related to accounting concepts and to the recording of financial data or information or the preparation or presentation of financial statements.

§ 2. The education law is amended by adding a new section 7401-a to read as follows:

§ 7401-a. Definitions. As used in this article:

1. "Attest" means providing the following public accountancy services which all require the independence of licensees:

EXPLANATION--Matter in *italics* is new; matter in brackets [-] is old law to be omitted.

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a. any audit to be performed in accordance with generally accepted auditing standards or other similar standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;

b. any review of a financial statement to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;

c. any examination to be performed in accordance with attestation standards developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations; or

d. any engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

2. "Certified public accountant" or "CPA" means any person who has received a license from the department or any other state as a certified public accountant for the practice of public accountancy.

3. "Compilation" means providing a service that presents, in the form of financial statements, information that is the representation of the management or owners of the client without undertaking to express any assurance of the accuracy of the information in the statements, to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations.

4. "Firm" means a domestic or foreign entity organized as a sole proprietorship, a professional service corporation, a partnership, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign registered limited liability partnership, or any other form of organization that is established for the business purpose of lawfully engaging in the practice of public accountancy.

5. "Principal place of business" means the office location designated by the licensee from which the person directs, controls, and coordinates his or her professional services.

6. "Public accountant" or "PA" means any person who has received a license from the department as a public accountant for the practice of public accountancy.

7. "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

§ 3. Section 7402 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

§ 7402. Practice of public accountancy and use of title "certified public accountant" or "public accountant". Only a person licensed or otherwise authorized to practice under this article shall practice public accountancy ~~and~~ or use the title "certified public accountant" or the designation ~~["C.P.A."] CPA~~ CPA or "public accountant" or the designation PA or any other derivative or designation provided in section seventy-four hundred eight of this article.

§ 4. Paragraphs 2, 3 and 4 of subdivision 1 and subdivision 2 of section 7404 of the education law, as added by chapter 987 of the laws of 1971, paragraph 4 of subdivision 1 as added by chapter 988 of the laws of 1971, are amended to read as follows:

(2) Education: have received an education, including a bachelor's or higher degree or a foreign equivalent based on a program in accountancy, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board of regents and in accordance with the commissioner's regulations;

(4) Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations and the requirement with respect to such examination may not be waived[~~+~~];

2. In lieu of professional requirements specified in [~~subparagraphs~~ ~~(2)~~] paragraphs two and [~~(3)~~] three of subdivision one of this section, fifteen years in the practice of public accountancy satisfactory to the board may be accepted by the department.

§ 5. Section 7406 of the education law, as added by chapter 987 of the laws of 1971, subdivision 2 as amended by chapter 62 of the laws of 1989, is amended to read as follows:

§ 7406. Limited permits and temporary practice permits. 1. Limited permits. On recommendation of the board, the department may issue a limited permit to an applicant of good moral character, who is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the performance in such country of the acts set forth in section seventy-four hundred one of this article, provided the applicant has professional qualifications [~~satisfactory to the board~~] that are determined by the board to be significantly comparable to the licensure requirements for certified public accountancy pursuant to this article, and the applicant resides or has a place for the regular transaction of business within the state, and equal recognition is granted by the foreign country concerned to certified public accountants [~~and~~] or public accountants licensed in [~~this state~~] the United States. Such limited permit shall be valid for a period of two years and may be renewed on recommendation of the board. Such permit shall authorize the applicant to use only the title or designation under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received his or her certificate, license or degree, notwithstanding the provisions of subdivision two of section seventy-four hundred eight of this article.

2. Temporary practice permits. a. On recommendation of the board, a certified public accountant, licensed by another state which the board of regents has determined to have significantly comparable certified public accountant licensure requirements, or whose individual licensure qualifications are verified by the department to be significantly comparable to New York's requirements, and in good standing, who intends to perform the services in subdivisions one and two of section seventy-four hundred one of this article may temporarily practice public accountancy in this state, if the certified public accountant:

(1) holds a valid license to practice public accountancy in the other state,

(2) practices public accountancy in another state that is his or her principal place of business, and

(3) obtains from the department a temporary practice permit.

b. The temporary practice permit allows such certified public accountant, who meets the requirements of paragraph a of this subdivision to practice public accountancy in this state. Each temporary practice permit shall allow the holder to practice in this state for an aggregate total of one hundred eighty days during the twelve month period beginning on the effective date of the permit.

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c. Applications for the temporary practice permit shall be submitted to the department through an electronic means as prescribed by the commissioner. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraph a of this subdivision are satisfied, applications for temporary practice permits shall be processed by the department within thirty days. During such thirty day processing period, the applicant may practice; provided, however, that if the application is denied the applicant shall cease the practice of public accountancy in the state of New York.

d. Any certified public accountant who practices in this state pursuant to this section, and any firm that employs such certified public accountant to provide such services in New York, consents to all of the following as a condition of the exercise of such temporary practice privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board of regents;

(2) to comply with this article, the rules of the board of regents and the regulations of the commissioner; and

(3) to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm.

e. No more than one temporary practice permit may be issued to any individual applicant provided that each permit may be renewed by the department up to three times such that an individual shall practice for no more than four years within a five year time period under the provisions of this section. Such renewals may be granted upon receipt of written notice from the permit holder, provided that the applicant remains in good standing and in compliance with all applicable laws, rules and regulations.

f. (1) A person who wishes to practice public accountancy in this state but does not meet the requirements of paragraph a of this subdivision is subject to the full licensing and registration requirements of this article.

(2) In the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken against his or her license by the licensing or disciplinary authority of any other state concerning the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of his or her firm.

g. (1) Notwithstanding subparagraph two of paragraph a of this subdivision or any other inconsistent law or rule to the contrary, a certified public accountant licensed by another state and in good standing who obtains a temporary practice permit under this section and files an application for licensure under section seventy-four hundred four of this article on or before the expiration date of such temporary practice permit may continue to practice under such permit for a period coterminous with the period during which his or her application for licensure remains pending with the department.

(2) Nothing in this section shall limit the applicability of section seventy-four hundred seven of this article.

h. Fees. The fee for each limited permit and temporary practice permit and each renewal shall be [~~one hundred five dollars~~] established in regulation by the board of regents.

§ 6. The education law is amended by adding a new section 7406-a to read as follows:

§ 7406-a. Non-attest services by out-of-state certified public accountants. 1. Notwithstanding any other provision of law to the contrary, a certified public accountant, licensed by another state and in good standing, may perform the services described in subdivision three of section seventy-four hundred one of this article within this state, if the certified public accountant:

a. holds a valid license to practice public accountancy in the other state; and

b. practices public accountancy in another state that is his or her principal place of business.

2. Any certified public accountant licensed by another state performing services pursuant to subdivision one of this section and any firm that employs such certified public accountant to provide such services in this state consents to all of the following:

a. to be subject to the disciplinary authority of the board of regents;

b. to comply with this article, the rules of the board of regents and the regulations of the commissioner;

c. to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm; and

d. that in the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken against his or her license by the licensing or disciplinary authority of any other state concerning the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of his or her firm.

§ 7. Section 7407 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 7407. Exempt persons. Nothing contained in this article shall be construed to prohibit:

a. Any [~~person~~] individual other than a certified public accountant or public accountant who is an officer of a corporation or partner of a partnership or sole proprietor of a business enterprise or member of a joint venture or member of a committee appointed by stockholders, creditors, courts, trustees, executors or administrators, or an employee of any of the foregoing, in his capacity as such, from signing, delivering, or issuing any financial, accounting or related statement or report thereon, relating to said corporation, partnership, business venture, joint venture, committee, trust or estate, provided, however, that in so doing such person does not hold himself or herself out to be a certified public accountant or public accountant;

b. An attorney-at-law, or a partnership, limited liability partnership, limited liability company or professional service corporation of attorneys-at-law from signing a financial, accounting or related state-

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ment or report thereon, prepared by [~~him or them~~] such attorney or organizations of attorneys as incidental to the practice of law;

c. Any individual from serving as an employee of a certified public accountant, public accountant or [~~partnership~~] firm licensed under this article;

d. Any individual, not engaged in practice as a certified public accountant or public accountant within the state, from performing services within the state which are incidental to the practice conducted by him outside the state;

e. Any official or employee of a governmental unit, agency or instrumentality other than a certified public accountant or public accountant in the performance of his official duties from signing, delivering or issuing any financial, accounting, or related statement or report thereon relating to said unit, agency or instrumentality; or

f. A corporation chartered in the state of New York to engage in the practice of public accountancy and so engaged as its principal activity on and before the first day of July, nineteen hundred fifty-nine, from continuing in such practice as long as its corporate acts comply with the board of regents rules, provided all employees of such corporation performing any acts constituting the practice of public accountancy as defined herein and who are not certified public accountants or public accountants licensed under this article shall in the performance of such acts be under the supervision of certified public accountants or public accountants licensed in this state[~~-~~]; or

g. An individual other than a certified public accountant or public accountant, or an entity not required to register under paragraph a of subdivision three of section seventy-four hundred eight of this article, from offering to perform or performing the types of services set forth in subdivision three of section seventy-four hundred one of this article or preparing financial statements in accordance with subdivision five of section seventy-four hundred eight of this article.

§ 8. Section 7408 of the education law, as added by chapter 987 of the laws of 1971, the opening paragraph of subdivision 1 and subdivision 2 as amended by chapter 994 of the laws of 1971 and paragraph e of subdivision 1 as amended by chapter 62 of the laws of 1989, is amended to read as follows:

§ 7408. Special provisions. 1. Nothing contained in this article shall be deemed to prohibit [~~two~~] one or more certified public accountants or [~~two~~] one or more public accountants, or any combination thereof, from forming a [~~partnership; provided, however, that no partnership~~] firm.

2. No firm shall use the words "certified public accountant" or "certified public accountants" or the letters [~~"C.P.A.'s"~~] "CPA" or "CPAs" in connection with its name unless the sole proprietor of such firm or each partner [~~of such partnership, resident or~~] of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation engaged within the United States in the practice of public accountancy is in good standing as a certified public accountant of one or more of the states [~~or political subdivisions~~] of the United States[~~, and each partner thereof resident or engaged in practice within the state is licensed under this article~~].

3. a. Any firm that is established for the business purpose of lawfully engaging in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article or uses the title "CPA" or "CPA firm" or the title "PA" or "PA

firm" must register with the department. A firm of certified public accountants or public accountants engaged in the practice of public accountancy pursuant to subdivision three of section seventy-four hundred one of this article, but not engaged in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article, may register with the department under this subdivision. As a condition of registration or renewal, the firm shall affirm that it has not violated the provisions of this article, any other applicable laws and such other requirements as the department may impose, consistent with this article, except that the provisions of section seventy-four hundred ten of this article shall not apply on initial registration.

b. A registration shall be issued to a [~~partnership~~] firm upon payment of the fee prescribed by the commissioner upon application showing that:

(1) At least one partner of [~~such~~] a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation or the sole proprietor is licensed or otherwise authorized to practice under this article and his or her license to practice is not currently suspended, annulled or revoked in any jurisdiction and he or she is regularly engaged in practice on behalf of the [~~partnership~~] firm within the state;

(2) The [~~partnership~~] firm, other than a sole proprietorship, consists of at least two present [~~members~~] partners, members or shareholders; [~~and~~]

(3) The [~~partnership~~] firm, other than a sole proprietorship, contains at least as many present partners, members or shareholders as the total number of names in the firm name, or, where the word "company" or abbreviation "co." is used, the number of present partners, members or shareholders shall be greater than the number of names in the firm name[];

(4) Such application includes a list of the location of all offices within this state, including the names of the persons in charge of such offices; and

(5) Such application includes a list of all states in which the firm has applied for or holds registrations, licenses, or permits as a public accounting firm and a list of any past denial, revocation, or suspension of a license, registration or permit by any other state or jurisdiction within the last three years.

[~~b. Such registration may be revoked~~] c. In addition to authority granted under any other provision of law, the board of regents may revoke such registration or take other action pursuant to a consent order or surrender of registration in accordance with this title and the rules of the board of regents, in the same manner and to the same extent as is provided with respect to individuals licensed pursuant to this article, or pursuant to a settlement in which the firm neither admits nor denies the allegations of professional misconduct, or after a hearing conducted in accordance with the provisions of section sixty-five hundred ten of this title upon proof:

(1) That the registration was obtained by either misrepresentation or suppression of any material fact;

(2) That the license or authorization to practice of any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation is suspended, annulled or revoked in any jurisdiction;

(3) That any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation in such [~~a partnership~~]

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firm is or has been engaged in the practice of public accountancy in this state who is not licensed or otherwise authorized to practice in this state; ~~[or]~~

(4) That the ~~[partnership]~~ firm failed to file the written notification required pursuant to paragraph ~~[d]~~ e of this subdivision ~~[of this section.];~~

(5) That the firm failed to undergo a quality review of its attest services pursuant to section seventy-four hundred ten of this article at least once every three years; or

(6) That the firm has engaged in professional misconduct pursuant to section sixty-five hundred nine of this title.

~~[c.]~~ d. Personal service on a sole proprietor, any general partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation licensed in this state of a notice of a hearing to revoke ~~[a partnership]~~ the registration of, or take other disciplinary action against a firm registered hereunder shall be deemed service on the ~~[partnership]~~ firm.

~~[d.]~~ e. A [partnership] firm registered to practice pursuant to this section shall file with the department annually on or before [July first of each year] the anniversary of the date of the firm's first registration written notification of:

(1) Any admission of a partner, member or shareholder,

(2) Any resignation, termination, retirement or death of a partner, member or shareholder,

(3) Any termination of ~~[partnership]~~ a firm, ~~[or]~~

(4) Any change in the number or location of offices within this state and any change in the identity of the persons in charge of such offices, or

(5) Any occurrence of any event or events which would eliminate as to such [partnership] firm conformity with the applicable requirements of this section.

~~[e. Partnerships]~~ f. The commissioner shall establish in regulations a registration process for certified public accountancy firms and public accountancy firms, including the imposition of application and registration fees and procedures to suspend or revoke a registration or take other disciplinary action for cause.

g. Firms shall register triennially ~~[and pay a fee of fifty dollars].~~

~~[2.]~~ 4. Any person shall be guilty of a class A misdemeanor who shall use, in connection with the practice of public accountancy, or in any manner tending to imply that he or she is an independent accountant or auditor, the designations "chartered accountant", "certified accountant", "expert accountant", "certified tax accountant", "tax accountant", "enrolled accountant", "enrolled public accountant", "registered accountant", "licensed accountant", "incorporated accountant", "registered public accountant", "licensed public accountant", or any abbreviation thereof, or the letters "C.A.", "E.A.", "C.T.A.", "T.A.", "E.P.A.", "R.A.", "L.A.", "I.A.", "P.A.", "R.P.A.", or, "L.P.A.", except as provided elsewhere in this article, or any other designation tending to imply that he or she has expert knowledge in accounting or auditing. The title "enrolled agent" or the designation "E.A." may only be used by individuals so designated by the United States Internal Revenue Service.

5. An individual not licensed as a certified public accountant or public accountant or otherwise authorized to practice public accountancy, or an entity not required to register under this section may prepare a financial statement so long as it is not accompanied by any statement,

report, or wording indicating such individual is a certified public accountant or public accountant or that such entity is registered to practice public accountancy under this article. Such non-licensed individuals and non-registered entities shall include the following written language when preparing financial statements:

a. "(I, We) have prepared the accompanying financial statement(s) of (name of business or organization) as of the (time period) and for the (period) then ended. This presentation is limited to preparing, in the form of a financial statement(s), information that is the representation of (name of business or organization)"; and

b. "(I, We) have not audited or reviewed the accompanying financial statement(s) and accordingly do not express an opinion or any other form of assurance on them."

§ 9. Section 7409 of the education law, as added by chapter 805 of the laws of 1990, is amended to read as follows:

§ 7409. Mandatory continuing education. 1. ~~[(a)]~~ a. Each ~~[licensed]~~ certified public accountant and public accountant required under article one hundred thirty of this ~~[chapter]~~ title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements except as set forth in paragraphs (b) and (c) of this subdivision. ~~[Certified]~~ Such certified public accountants and public accountants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, they have paid all applicable fees, and they have been issued a registration or conditional registration certificate.

~~[(b)]~~ b. Certified public accountants and public accountants shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed by the department. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health certified by a physician, for extended active duty with armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

~~[(c) A licensed certified public accountant and a public accountant not engaged in public practice as an individual practitioner, a partner of a partnership, a shareholder of a professional service corporation, or an employee of such practice units, shall be exempt from the mandatory continuing education requirement and payment of the mandatory continuing education fee upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of certified public accountancy or public accountancy during the triennial registration period shall notify the department prior to reentering the profession and shall pay the current mandatory continuing education fee and shall meet such mandatory continuing education requirements as shall be prescribed by regulations of the commissioner.]~~

c. Certified public accountants or public accountants not engaged in practice as defined in section seventy-four hundred one of this article, shall be exempt from the mandatory continuing education requirement upon the filing of a written statement with the department declaring such status pursuant to subdivision four of section sixty-five hundred two of this title. Any certified public accountant or public accountant who resumes practice during the triennial registration period shall notify the department prior to resuming practice and shall pay the current mandatory continuing education fee and shall meet such mandatory contin-

uing education requirements as shall be prescribed by regulations of the commissioner.

2. a. During each year of the triennial registration period beginning September first, nineteen hundred ninety and ending September first, nineteen hundred ninety-three and each registration period thereafter but ending on the period that ends on December thirty-first, two thousand ten, an applicant for registration shall have the option of [~~(a)~~]: (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study, or [~~(b)~~] (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the following three subject areas: auditing, accounting, or taxation.

b. For applicants whose triennial registration date occurs on or after January first, two thousand nine, for each calendar year beginning with the two thousand nine calendar year, an applicant for registration shall have the option of (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study pursuant to subdivision four of this section, or (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the recognized areas of study pursuant to subdivision four of this section; provided, however, that any continuing education contact hours earned between September first, two thousand eight and December thirty-first, two thousand eight may be credited toward the minimum contact hours required for the calendar year beginning January first, two thousand nine.

c. A [~~licensee~~] certified public accountant or public accountant who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a registration or conditional registration certificate is issued as provided in subdivision three of this section. No hourly credits may be transferred from one year to a subsequent year except as provided in paragraph b of this subdivision. The individual [~~licensee~~] certified public accountant or public accountant shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a [~~licensee~~] certified public accountant or public accountant who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any [~~licensee~~] certified public accountant or public accountant who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices public accountancy without such registration, may be subject to disciplinary proceedings pursuant to section [~~six thousand five~~] sixty-five hundred ten of this [~~chapter~~] title.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to [~~professional practice and which meet the standards prescribed by regulations of the commissioner~~] the growth in the professional knowledge and professional competence of the licensee which meet the standards prescribed by regulations of the commissioner. Recognized areas of study shall include but not be limited to: accounting, attest,

auditing, taxation, advisory services, specialized knowledge and applications related to specialized industries, and such other [~~technical~~] areas appropriately related to the practice of accounting as may be acceptable to the department. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee shall be determined by the regents, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section [~~seven thousand four~~] seventy-four hundred four of this article.

§ 10. The education law is amended by adding a new section 7410 to read as follows:

§ 7410. Mandatory quality review. 1. The department shall require as a condition to renewal of registrations under section seventy-four hundred eight of this article, that unless otherwise exempted by the department, applicants for firm registrations, with the exception of sole proprietorship firms or firms with two or fewer accounting professionals, including certified public accountants or public accountants, or any combination thereof, undergo, no more frequently than once every three years, except pursuant to a disciplinary action brought under section seventy-four hundred eight of this article, quality reviews of the firm's attest services conducted in such manner as the commissioner shall specify in regulations, and such review shall include a verification that individuals in the firm who are responsible for supervising attest services sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such regulations:

a. shall include reasonable provisions for compliance by an applicant for firm registration showing that it has, within the preceding three years, undergone a quality review in this state or a peer review in another state that is a satisfactory equivalent to quality review required pursuant to this section;

b. shall require, with respect to any organization administering quality review programs contemplated by paragraph a of this subdivision, that it be subject to evaluations by the department or its designee, to periodically assess the effectiveness of the quality review program under its charge;

c. shall require the quality review to be conducted by reviewers acceptable to the department in accordance with the commissioner's regulations, from a roster of qualified reviewers established by the department; and

d. may require with respect to quality reviews contemplated by paragraph a of this subdivision that firms undergoing quality reviews and organizations administering quality review programs timely remit such quality review reports to the state board for public accountancy and such reports shall be maintained by the board in a manner consistent with subdivision three of this section.

2. Except as provided for in subdivision four of this section, nothing in this section shall be construed to require sole proprietorship firms or firms with two or fewer accounting professionals, including certified public accountants or public accountants, or any combination thereof, to undergo quality review, however, such firms may choose to voluntarily undergo quality review in accordance with this section.

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3. Notwithstanding any provision of law to the contrary, the reports submitted in accordance with subdivision one of this section shall be confidential and shall not constitute a public record and shall not be subject to disclosure under articles six and six-A of the public officers law. However, when any such report is admitted into evidence in a hearing held by the department, it shall then be a public record subject to disclosure under articles six and six-A of the public officers law.

4. Notwithstanding any provision of law or regulation to the contrary, a firm that performs attest services for any New York state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office, or other governmental entity performing a governmental or proprietary function for New York state or any one or more municipalities thereof, or performs attest services specifically required to be performed pursuant to New York state law, shall be required to undergo an external peer review in conformity with the requirements pursuant to the government auditing standards of the comptroller general of the United States.

§ 11. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, that section ten of this act shall take effect January 1, 2012 and effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of such section on its effective date are authorized and directed to be made and completed by the commissioner of education on or before January 1, 2011.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

DEAN G. SKELOS  
Temporary President of the Senate

SHELDON SILVER  
Speaker of the Assembly