

Senate Bill 867

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes certain qualified accountants licensed in other states to practice public accountancy in Oregon. Permits Oregon Board of Accountancy to discipline Oregon licensees for unprofessional conduct committed in other states. Requires Oregon Board of Accountancy to adopt certain national accounting standards for provision of professional services.

Becomes operative on January 1, 2010.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public accountancy; creating new provisions; amending ORS 673.010, 673.012, 673.153,
3 673.160, 673.170, 673.185, 673.320, 673.400, 673.445, 673.455 and 673.465; and declaring an emer-
4 gency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 673.010 is amended to read:

7 673.010. As used in ORS 673.010 to 673.457:

8 *[(1) "Attest," "attesting" or "attestation" means the opinion of a licensee as to the reliability or*
9 *fairness of information that is used for guidance in the financial transactions of, accounting for or as-*
10 *sessing the status or performance of, commercial and noncommercial enterprises, whether public or*
11 *private, following the completion of an audit, in accordance with generally accepted accounting and*
12 *auditing standards. The board by rule shall further define what constitutes attestation services in*
13 *conformance, to the extent possible, with professional standards, including but not limited to the*
14 *Statements on Auditing Standards (SAS) for audits or other engagements, the Statement of Standards*
15 *for Accounting and Review Services (SSARS) for the review of financial statements and the Statements*
16 *on Standards for Attestation Engagements (SSAE) for examinations of prospective financial informa-*
17 *tion.]*

18 **(1) "Attestation services" means the following professional services required to be per-**
19 **formed under rules adopted by the Oregon Board of Accountancy pursuant to ORS 673.445**
20 **as follows:**

21 **(a) An audit or other engagement for which performance standards are included in the**
22 **Statements on Auditing Standards (SAS);**

23 **(b) Review of a financial statement for which performance standards are included in the**
24 **Statements on Standards for Accounting and Review Services (SSARS);**

25 **(c) Examination of prospective financial information for which performance standards**
26 **are included in the Statements on Standards for Attestation Engagements (SSAE); and**

27 **(d) Engagements for which performance standards are included in the Auditing Stan-**
28 **dards of the Public Company Accounting Oversight Board.**

29 *[(2) "Board" means the Oregon Board of Accountancy created by ORS 673.410.]*

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 [(3)] (2) “Business organization” means any form of business organization authorized by law,
2 including but not limited to a proprietorship, partnership, corporation, limited liability company,
3 limited liability partnership or professional corporation.

4 [(4)] (3) “Certificate” means a certificate of certified public accountant issued under ORS
5 673.040.

6 [(5)] (4) “Client” means a person who agrees with a licensee to receive any professional service
7 from the licensee.

8 [(6)] (5) “Commission” means money or other consideration recognized as a commission under
9 rules adopted by the board pursuant to ORS 673.012.

10 [(7)] (6) “Compilation **services**” means [*those services as defined by the board by rule.*] **profes-**
11 **sional services required to be performed in accordance with the Statements on Standards for**
12 **Accounting and Review Services (SSARS) under rules adopted by the Oregon Board of**
13 **Accountancy pursuant to ORS 673.445 in which the person performing the services presents**
14 **a financial statement that:**

15 (a) **Is based on the representation of the owner or management of the company for which**
16 **the statement is presented; and**

17 (b) **Does not include assurances by the person that the representations in the financial**
18 **statement conform to generally accepted accounting principles.**

19 [(8)] (7) “Contingent fee” means a fee established for the performance of any professional service
20 and directly or indirectly paid to a licensee pursuant to an arrangement in which no fee will be
21 charged unless a specified finding or result is attained, or in which the amount of the fee is other-
22 wise dependent upon the finding or result of such service. [*The board by rule may further define*
23 *“contingent fee.”*] A fee is not contingent if the fee:

24 (a) Is fixed by courts or other public authorities; or

25 (b) In tax matters, is determined based on the results of judicial proceedings or the findings of
26 governmental agencies.

27 [(9)] (8) “License” means:

28 (a) A certificate, permit or registration, or a license issued under ORS 673.100, enabling the
29 holder thereof to practice public accountancy in this state; or

30 (b) A certificate, permit, registration or other authorization issued by a jurisdiction outside this
31 state enabling the holder thereof to practice public accountancy in that jurisdiction.

32 [(10)] (9) “Licensee” means the holder of a license [*under*] **as defined in** subsection [(9)(a)] (8)(a)
33 of this section.

34 [(11)] (10) “Manager” means a manager of a limited liability company.

35 [(12)] (11) “Member” means a member of a limited liability company.

36 [(13)] (12) “Peer review” means a study, appraisal or review of one or more aspects of the public
37 accountancy work of a holder of a permit under ORS 673.150, or of a registered business organiza-
38 tion that performs attestation or compilation services, that is conducted by:

39 (a) A certified public accountant who holds an active permit issued under ORS 673.150 or an
40 active license issued by the licensing authority for the practice of public accountancy in another
41 state and who is independent of the permit holder or registered business organization being re-
42 viewed; or

43 (b) A public accountant who holds an active permit issued under ORS 673.150 and who is inde-
44 pendent of the permit holder or registered business organization being reviewed.

45 [(14)] (13) “Permit” means a permit to practice public accountancy issued under ORS 673.150.

1 (14) “Principal place of business” means the office location designated by a person for
 2 purposes of substantial equivalency and reciprocity.

3 (15) “Professional” means arising out of or related to the specialized knowledge or skills asso-
 4 ciated with certified public accountants and public accountants.

5 (16) “Public accountant” means a public accountant licensed under ORS 673.100.

6 (17) “Referral fee” means a fee recognized as a referral fee under rules adopted by the board
 7 pursuant to ORS 673.012.

8 (18) “Registration” means the authority issued under ORS 673.160 by the Oregon Board of
 9 Accountancy to a business organization to practice public accountancy in this state.

10 (19)(a) “Report,” when used with reference to [attestation or compilation services,] **financial**
 11 **statements**, means an opinion or other form of written language that states or implies assurance
 12 as to the reliability of [any] **the** financial [statements] **statement** and that [also] includes or is ac-
 13 companied by [any] **a** statement or implication that the person issuing the report has special
 14 knowledge or competence in public accountancy. Such a statement or implication of special knowl-
 15 edge or competence may arise from use by the issuer of the report of names or titles indicating that
 16 the issuer is a public accountancy professional or organization or may arise from the language of
 17 the report itself.

18 [(a)] (b) “Report” includes any form of written language that:

19 (A) Disclaims an opinion when the form of language implies any positive assurance as to the
 20 reliability of the financial statements referred to or special knowledge or competence on the part
 21 of the person issuing the language;

22 (B) Implies any positive assurance as to the reliability of the financial statements referred to
 23 or special knowledge or competence on the part of the person issuing the language; or

24 (C) Relates to the financial affairs of a person and that is conventionally used by licensees in
 25 reports or financial statements.

26 [(b)] (c) “Report” does not include:

27 (A) The following statement signed by a person who does not hold a certificate, license or permit
 28 under ORS 673.010 to 673.457 as long as the statement is not accompanied by any wording indicating
 29 the person is an accountant or auditor or any other language prohibited by ORS 673.310 or 673.320:
 30

31
 32 The accompanying balance sheet (or _____) of XYZ Company as of (date), and the related
 33 statements of income (or retained earnings or cash flow) for the year then ended have been prepared
 34 by me (us).

35 The information presented in these financial statements is the representation of management
 36 (owners).
 37

38
 39 (B) Any other financial statements or reports that are not and do not purport to be in compli-
 40 ance with national standards, including but not limited to Statements [of] **on** Standards for Ac-
 41 counting and Review Services (SSARS) and Statements on Standards for Attestation Engagements
 42 (SSAE) adopted by the board by rule, when the statements or reports are issued by persons not
 43 otherwise subject to regulation by the board under ORS 673.010 to 673.457.

44 (20) “State” means any state, territory or insular possession of the United States, and the Dis-
 45 trict of Columbia.

1 (21) “Substantial equivalency” means a determination by the National Qualification Appraisal
 2 Service of the National Association of State Boards of Accountancy that:

3 (a) The education, examination and experience requirements contained in the statutes and ad-
 4 ministrative rules of another jurisdiction are equivalent to or exceed the education, examination and
 5 experience requirements established under ORS 673.040, 673.050 and 673.060 and adopted by the
 6 board by rule under ORS 670.310; or

7 (b) An individual’s education, examination and experience qualifications are equivalent to or
 8 exceed the education, examination and experience requirements established under ORS 673.040,
 9 673.050 and 673.060 and adopted by the board by rule under ORS 670.310.

10 **SECTION 2.** ORS 673.012 is amended to read:

11 673.012. **Consistent with the definitions in ORS 657.010:**

12 (1) The Oregon Board of Accountancy shall adopt rules **further** defining the terms
 13 “commission” and “referral fee” for purposes of ORS 673.010 to 673.457.

14 (2) **The board may adopt rules further defining “contingent fee” for purposes of ORS**
 15 **673.010 to 673.457.**

16 **SECTION 3.** ORS 673.153 is amended to read:

17 673.153. (1) The [*Oregon Board of Accountancy may authorize a*] holder of a license with a
 18 principal place of business in another state [*to*] **may** practice public accountancy in this state if:

19 (a) The holder holds in good standing a valid certificate and license as a certified public ac-
 20 countant from[*:*] **another state; and**

21 [*(a)*] (b)(A) [*Another state that is verified to be*] **The requirements for the certificate and li-**
 22 **cence are** of substantial equivalency, as defined in ORS 673.010 (21)(a)[*.*]; **or**

23 [*(b)*] (B) [*Another state that is not verified to be*] **The requirements for the certificate and li-**
 24 **cence are not** of substantial equivalency, as defined in ORS 673.010 (21)(a), but the holder’s [*skills*
 25 *are verified to be*] **qualifications are** of substantial equivalency, as defined in ORS 673.010 (21)(b).

26 (2)(a) A holder authorized [*under subsection (1) of this section shall be*] **to practice public**
 27 **accountancy under this section is** presumed to meet this state’s requirements to practice public
 28 accountancy and [*shall have*] **has** all the rights and privileges of certificate holders and licensees
 29 of this state without the need to obtain a certificate under ORS 673.040 or a permit under ORS
 30 673.150.

31 (b) **The Oregon Board of Accountancy may not require, as a condition for practicing**
 32 **public accountancy under this section, an authorized holder to:**

33 (A) **Provide notice that the holder practices or intends to practice public accountancy in**
 34 **this state;**

35 (B) **Pay an annual fee for the authorization; or**

36 (C) **Provide any other submission.**

37 [(3) A holder of a license from another state who is engaged in the practice of public accountancy
 38 under this section shall:]

39 [(a) Notify the board of the holder’s intent to practice public accountancy in this state on a form
 40 provided by the board;]

41 [(b) Pay an annual fee in an amount and by the date determined by the board by rule;]

42 (3) **An authorized holder practicing public accountancy under this section is deemed to:**

43 [(c) (a) Consent to the personal and subject matter jurisdiction of the board;

44 [(d) (b) **Agree to** comply with the requirements of ORS 673.010 to 673.457 and any rules adopted
 45 thereunder; [*and*]

1 (c) If the license under which the holder is authorized to practice public accountancy
 2 under this section is no longer valid, agree to immediately cease offering or rendering pro-
 3 fessional services in this state individually or on behalf of a business firm; and

4 [(e)] (d) Agree to the appointment of the other state’s licensing authority as the agent of the
 5 holder, upon whom process may be served in any action or proceeding by the board against the
 6 holder.

7 (4)(a) A business organization that employs a holder authorized to practice public
 8 accountancy under this section is deemed to:

9 (A) Consent to the personal and subject matter jurisdiction of the board;

10 (B) Agree to comply with the requirements of ORS 673.010 to 673.457 and any rules
 11 adopted thereunder;

12 (C) If the license under which the holder is authorized to practice public accountancy
 13 under this section is no longer valid, agree to require the following persons to immediately
 14 cease offering or rendering professional services in this state:

15 (i) The holder; or

16 (ii) Any other person who is employed by the business organization and who is offering
 17 or rendering professional services in this state pursuant to the holder being authorized to
 18 practice public accountancy under this section; and

19 (D) Agree to the appointment of the licensing authority of the state issuing the license
 20 that is the basis of the holder’s authorization to practice public accountancy under this
 21 section as the agent of the business organization, upon whom process may be served in any
 22 action or proceeding by the board against the business organization that employs the holder
 23 during the time the holder is practicing public accountancy in this state.

24 (b) For purposes of this subsection, a person practicing as a sole proprietor is a business
 25 organization.

26 (5) If a business organization with its home office in this state holds a permit under ORS
 27 673.160, a holder authorized to practice public accountancy under this section may perform
 28 the following professional services for the business organization:

29 (a) Financial statement audits or other engagements to be performed in accordance with
 30 Statements on Auditing Standards (SAS);

31 (b) Examinations of prospective financial information to be performed in accordance with
 32 Statements on Standards for Attestation Engagements (SSAE); and

33 (c) Engagements for the preparation and issuance of audit reports required by the
 34 Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) or rules of the Securities and Exchange
 35 Commission, to be performed in accordance with the Auditing Standards of the Public Com-
 36 pany Accounting Oversight Board.

37 **SECTION 4.** ORS 673.160 is amended to read:

38 673.160. (1) Business organizations of certified public accountants or of public accountants shall
 39 register with the Oregon Board of Accountancy if the business organization:

40 (a) Has an office in this state and:

41 [(a)] (A) Uses the terms “certified public accountants” or “public accountants” or abbreviations
 42 for such terms in this state; or

43 [(b)] Holds itself out to clients in this state or the public in this state as a business organization
 44 engaged in the practice of public accountancy; or]

45 [(c)] (B) Performs attestation or compilation services in this state[.];

1 **(b) Holds itself out to clients in this state or the public in this state as a business or-**
 2 **ganization engaged in the practice of public accountancy; or**

3 **(c) Does not have an office in this state and performs attestation services described in**
 4 **ORS 673.010 (1)(a), (c) or (d) for a client having an office in this state.**

5 (2) *[Nothing in this section shall be construed to]* **This section does not** require a holder of a
 6 permit under ORS 673.150 to register under this section unless the permit holder:

7 (a) Holds the permit holder out to clients in this state or the public in this state as a business
 8 organization composed of more than one licensee except as authorized by ORS 673.320 (12); or

9 (b) Performs attestation or compilation services in this state.

10 **(3)(a) Notwithstanding subsection (1) of this section, a business organization of certified**
 11 **public accountants that does not have an office in this state may perform attestation ser-**
 12 **VICES described in ORS 673.010 (1)(b) or compilation services for a client in this state and**
 13 **may use the terms “certified public accountants” or “certified public accounting firm,” ab-**
 14 **breviations of those terms or any similar title, designation, words or letters without obtain-**
 15 **ing a registration issued by the board under this section if the business organization:**

16 **(A) Has the qualifications described in subsection (5) of this section; and**

17 **(B) Performs the services through a person authorized to practice public accountancy in**
 18 **this state under ORS 673.153.**

19 **(b) A business organization of certified public accountants that is not a business organ-**
 20 **ization described in subsection (1) of this section or paragraph (a) of this subsection may**
 21 **perform professional services in this state, other than attestation or compilation services,**
 22 **using the terms “certified public accountants” or “certified public accounting firm” or ab-**
 23 **breviations of those terms without registering with the board under this section if the busi-**
 24 **ness organization:**

25 **(A) Performs the professional services through a person authorized to practice public**
 26 **accountancy in this state under ORS 673.153; and**

27 **(B) May lawfully perform the professional services in the state where the principal place**
 28 **of business of the person authorized to practice public accountancy in this state under ORS**
 29 **673.153 is located.**

30 (3) (4) Registrations shall be issued and renewed for periods of not more than two years. Ap-
 31 plications for registration shall be made in a form prescribed by the board by rule. Applications for
 32 renewal shall be made between the dates prescribed by the board by rule.

33 (4) (5) The following requirements must be satisfied before a registration may be issued or re-
 34 newed under this section:

35 (a)(A) Notwithstanding any other provision of law, a simple majority of the ownership of the
 36 business organization, in terms of financial interests and voting rights of all partners, officers,
 37 shareholders, members or managers, *[shall]* **must** belong to holders of permits or holders of certif-
 38 icates who are licensed in any state, and the partners, officers, shareholders, members or managers
 39 of the business organization whose principal place of business is in this state and who perform
 40 public accountancy services in this state, *[shall]* **must** be holders of permits under ORS 673.150. If
 41 a majority of the ownership of the business organization is held by holders of permits who are public
 42 accountants holding licenses issued under ORS 673.100, the business organization may not use the
 43 name “C.P.A. Firm” or any similar name indicating that a majority of the ownership of the firm
 44 holds certificates issued under ORS 673.040.

45 (B) A business organization registered under this section that does not meet the ownership re-

1 requirement specified in subparagraph (A) of this paragraph may request an extension of time to
 2 comply with the ownership requirement in accordance with the process for granting an extension
 3 for compliance that the board shall adopt by rule.

4 (b) In the case of a business organization that includes owners who are not holders of permits
 5 under ORS 673.150, a holder of a permit in this state shall be responsible for the management and
 6 proper registration of the business organization.

7 **(c) In the case of a business organization required to register under subsection (1) of this**
 8 **section, a person who is authorized to practice public accountancy in this state under ORS**
 9 **673.153 is responsible for the management and proper registration of the business organiza-**
 10 **tion.**

11 [(c)] (d) All owners of the business organization who are not [*holders of permits under ORS*
 12 *673.150 shall*] **licensees must** be active individual participants in the business organization or af-
 13 filiated entities.

14 [(d)] (e) Any person who is responsible for supervising attestation or compilation services and
 15 who signs or authorizes someone to sign the accountant's report on the financial statements on be-
 16 half of the business organization in this state, [*shall*] **must:**

17 **(A)(i) Hold a permit under ORS 673.150 [*and*]; or**

18 **(ii) Be authorized to practice public accountancy in this state under ORS 673.153; and**

19 **(B) Meet the competency requirements established in the professional standards adopted by**
 20 **the board by rule under ORS 673.445.**

21 [(5)] (6) An application for registration or renewal of registration under this section shall:

22 (a) List all states in which the business organization has applied for or holds permits to practice
 23 public accountancy; and

24 (b) Provide evidence that the requirements of subsection [(4)] (5) of this section are satisfied.

25 [(6)] (7) Each applicant for registration or renewal under this section and each registrant shall
 26 notify the board in writing, within the time period specified by the board by rule, of:

27 (a) The identities of partners, officers, shareholders, members, managers or owners of the busi-
 28 ness organization who work regularly in this state;

29 (b) The number or location of offices in this state;

30 (c) The identity of the persons in charge of the offices in this state;

31 (d) Any issuance, denial, revocation, lapse or suspension of authority to perform professional or
 32 other services in any jurisdiction against a partner, officer, shareholder, member, manager or owner
 33 of the applicant or registrant that seeks registration or is registered in this state; and

34 (e) The filing of a lawsuit relating to professional services of the business organization, the
 35 commencement of any civil action an essential element of which involves fraud, dishonesty or mis-
 36 representation, or of any criminal action against the applicant or registrant that seeks registration
 37 or is registered in this state or against a partner, officer, shareholder, member, manager or owner
 38 of the applicant or registrant that seeks registration or is registered in this state.

39 [(7)] (8) The board shall charge a fee for each application for issuance or renewal of registration
 40 under this section in an amount prescribed by the board by rule. A registration under this section
 41 that is not renewed by the close of the registration period may be restored upon payment to the
 42 board of a delinquent renewal fee in an amount determined by the board by rule.

43 [(8)] (9) Applicants for renewals of registrations under this section shall undergo a peer review
 44 as provided under ORS 673.455, unless the registrant notifies the board that the registrant is exempt
 45 from peer review requirements because the registrant does not perform attestation or compilation

1 services in this state.

2 **SECTION 5.** ORS 673.170 is amended to read:

3 673.170. (1) The Oregon Board of Accountancy may take any of the following disciplinary
4 actions:

5 (a) Revoke, suspend or refuse to issue any certificate issued under ORS 673.040 to 673.075.

6 (b) Revoke, suspend or refuse to issue any public accountant's license issued under ORS 673.100.

7 (c) Revoke, suspend, refuse to renew or refuse to issue any permit described in ORS 673.150.

8 [(d) Revoke, suspend, refuse to renew or refuse to issue authorization to practice public accountancy
9 in this state under ORS 673.153.]

10 **(d) Censure a person authorized to practice public accountancy in this state under ORS
11 673.153.**

12 (e) Censure the holder of any permit described in ORS 673.150 or authorization described in ORS
13 673.153.

14 (f) Revoke, suspend, refuse to renew or refuse to issue any registration issued under ORS
15 673.160.

16 (g) Censure the holder of any registration issued under ORS 673.160.

17 **(h) Censure a business organization providing accounting services in this state that is
18 exempt from registering under ORS 673.160 (3).**

19 (2) The board may take any of the actions described in subsection (1) of this section for any one
20 or any combination of the following causes:

21 (a) Fraud or deceit in obtaining or applying for:

22 (A) A certificate under ORS 673.040 to 673.075;

23 (B) A public accountant's license under ORS 673.100;

24 (C) A registration under ORS 58.345 or 673.160;

25 (D) A permit under ORS 673.150;

26 (E) Authorization to practice public accountancy in this state under [*the provisions of*] ORS
27 673.153; or

28 (F) Admission to the roster of authorized accountants referred to in ORS 297.670.

29 (b) Dishonesty, fraud or gross negligence in the practice of public accountancy.

30 (c) Incompetence in the practice of public accountancy. A holder of a license issued under ORS
31 673.100, certificate, permit or registration **or a person authorized to practice public accountancy
32 in this state under ORS 673.153** is incompetent in the practice of public accountancy if the holder:

33 (A) Engages or has engaged in conduct that evidences a lack of ability or fitness to discharge
34 the duty owed to a client or the general public; or

35 (B) Engages or has engaged in conduct that evidences a lack of knowledge or ability to apply
36 principles or skills of the practice of public accountancy, as adopted by the board.

37 (d) Violation of any of the provisions of ORS 673.010 to 673.457.

38 (e) Violation of any of the provisions of ORS 297.405 to 297.555.

39 (f) Violation of any provision of the Code of Professional Conduct **or accounting standards**
40 adopted by the board [*under the authority granted by ORS 673.010 to 673.457,*] **under ORS 673.445**
41 or rules adopted by the board under ORS 670.310.

42 (g) Conduct resulting in a conviction of a felony under the laws of any state, of any foreign ju-
43 risdiction or of the United States. However, such conduct may be considered only to the extent
44 permissible under the provisions of ORS 670.280.

45 (h) Conviction of any crime, an essential element of which is dishonesty, fraud or misrepresen-

1 tation, under the laws of any state, of any foreign jurisdiction or of the United States.

2 (i) Conviction of willful failure to pay any tax, file any tax return, keep records or supply in-
3 formation required under the tax laws of any state, of any foreign jurisdiction or of the United
4 States, or conviction of the willful making, rendering, delivery, disclosure, signing or verifying of
5 any false or fraudulent list, return, account, statement or other document, or of supplying any false
6 or fraudulent information, required under the tax laws of any state, of any foreign jurisdiction or
7 of the United States.

8 (j) Cancellation, revocation[,] or suspension of, or refusal to renew, authority to practice as a
9 certified public accountant or a public accountant in any state or foreign jurisdiction.

10 (k) Cancellation, suspension, revocation or refusal to renew by any state, any foreign jurisdic-
11 tion or any federal agency of the right to practice law, to practice as an enrolled agent before the
12 Internal Revenue Service pursuant to 31 C.F.R. part 10, or to practice under other regulatory law
13 if the cancellation, suspension, revocation or refusal to renew was related to the practice of public
14 accountancy or if dishonesty, fraud or deception was involved.

15 (L) Failure to comply with the continuing education requirements under ORS 673.165 unless
16 such requirements have been waived by the board.

17 (m) Failure to pay a civil penalty imposed by the board after the period for requesting a hearing
18 on the civil penalty terminates if the person or business organization against whom the penalty is
19 imposed has not requested a hearing, or after the period for seeking judicial review of the order
20 assessing the civil penalty has passed.

21 (n) Failure to comply with the terms of a consent agreement described in subsection (3) of this
22 section.

23 (o) Failure to comply with any reporting or other requirement established by the board by rule.

24 (p) Issuance of a cease and desist order against the person under subsection [(7)] (8) of this
25 section.

26 (3) In lieu of disciplinary actions under subsection (1) of this section, the board may enter into
27 a consent agreement with the holder of any certificate described in ORS 673.040 to 673.075, the
28 holder of any public accountant's license, the holder of any registration described in ORS 673.160,
29 the holder of any permit described in ORS 673.150 or the holder of any authorization described in
30 ORS 673.153, under which the holder agrees to comply with conditions prescribed by the board.

31 (4) In addition to the causes in subsection (2) of this section, the board may take any of the
32 actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in
33 the practice of public accountancy.

34 (5) In lieu of or in addition to any action described in subsection (1) of this section, the board
35 may take any of the following actions:

36 (a) Require a holder of a permit under ORS 673.150 that provides compilation services or a
37 business organization registered under ORS 673.160 to undergo a peer review conducted as the
38 board may specify; or

39 (b) Require a holder of a permit under ORS 673.150 to complete any continuing professional
40 education programs the board may specify.

41 **(6)(a) A licensee offering or providing professional services in another state or using the**
42 **title "certified public accountant" or any abbreviation for that term in another state is sub-**
43 **ject to disciplinary action in this state for actions taken by the licensee in the other state**
44 **that constitute a cause for disciplinary action under this section.**

45 **(b) The board may investigate any complaint made by a board of accountancy of another**

1 **state.**

2 [(6)] (7) In the case of a registered business organization, the board may take any of the actions
3 described in subsection (1) of this section for any of the following additional causes:

4 (a) The cancellation, revocation or suspension of, or refusal to renew, the authority to provide
5 professional services, in this state or any other jurisdiction, of any partner, officer, shareholder,
6 member, manager or owner of the business organization; or

7 (b) The cancellation, revocation or suspension of, or refusal to renew, the authority of the
8 business organization to practice public accountancy or provide other professional services in any
9 other state or foreign jurisdiction.

10 [(7)] (8) If the board has reasonable cause to believe that any person has engaged, is engaging
11 or is about to engage in any violation of any provision of ORS 673.010 to 673.457 or any rule or
12 order adopted under ORS 673.010 to 673.457, the board may issue an order, subject to ORS 673.173,
13 directed to the person, and to any other person directly or indirectly controlling the person, to cease
14 and desist from the violation or threatened violation.

15 [(8)] (9) Notwithstanding any protective order issued under ORCP 36 C, upon motion of the
16 board, the court shall order disclosure of materials or information subject to a protective order un-
17 der ORCP 36 C. The board may use the material or information to take disciplinary action under
18 this section.

19 [(9)] (10) If the board takes disciplinary action under this section, the board may assess against
20 the person disciplined costs associated with the disciplinary action. An assessment under this sub-
21 section is in addition to, and not in lieu of, any other action taken by the board. Moneys collected
22 under this subsection shall be deposited in the Oregon Board of Accountancy Account established
23 in the General Fund pursuant to ORS 670.335.

24 **SECTION 6.** ORS 673.185 is amended to read:

25 673.185. (1) When the Oregon Board of Accountancy proposes to refuse to issue a certificate
26 under ORS 673.040, license under ORS 673.100, permit under ORS 673.150, **or** registration under ORS
27 673.160 [*or authorization under ORS 673.153*], proposes to refuse to renew a permit or registration
28 or proposes to revoke or suspend a certificate, registration, license[,] **or** permit, [*or authorization,*]
29 opportunity for hearing shall be accorded as provided in ORS chapter 183 and chapter 734, Oregon
30 Laws 1971.

31 (2) When the board institutes or continues a disciplinary action under ORS 673.170, **the board**
32 **is not deprived of its authority to institute or continue the disciplinary action against a**
33 **licensee or other person subject to the jurisdiction of the board by:**

34 (a) The surrender, retirement or other forfeiture, expiration, lapse or revocation of a license
35 issued by the board; **or** [*does not deprive the board of its authority to institute or continue the disci-*
36 *plinary action against the licensee.*]

37 (b) **The cessation of services offered or provided in this state by a person authorized to**
38 **practice public accountancy in this state under ORS 673.153.**

39 (3) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and
40 orders shall be in accordance with ORS chapter 183 and chapter 734, Oregon Laws 1971.

41 (4) The decision of the board under subsection (1) of this section shall be by majority vote.

42 **SECTION 7.** ORS 673.320 is amended to read:

43 673.320. (1)(a) A person or business organization in this state [*shall*] **may** not provide attestation
44 or compilation services for or issue a report on financial statements of any other person, firm, or-
45 ganization or governmental unit unless the person or business organization:

1 (A) Holds a permit or registration issued under ORS 673.010 to 673.457[.];

2 (B) **Is authorized to practice public accountancy in this state under ORS 673.153; or**

3 (C) **Is exempt from the registration requirement under ORS 673.160 (3).**

4 (b) The prohibitions of this subsection do not apply to:

5 [(a)] (A) An officer, partner, employee, shareholder, member, manager or owner of any firm or
6 organization affixing that person's own signature to any statement or report in reference to the fi-
7 nancial affairs of the firm or organization with wording designating the position, title or office that
8 the person holds in the firm or organization;

9 [(b)] (B) Any act of a public official or employee in the performance of official duties; or

10 [(c)] (C) The performance by any person, other than a licensee or registrant, of other services,
11 including the preparation of tax returns, management advisory services and the preparation of fi-
12 nancial statements, without the issuance of reports thereon.

13 (2) Any transmission of financial statements or information using language as specified in ORS
14 673.325 or as adopted by the Oregon Board of Accountancy by rule under this subsection [*shall not*
15 *be considered*] **is not** a report.

16 (3) A person [*shall*] **may** not assume or use the title or designation "certified public
17 accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbrevi-
18 ation, sign, card or device tending to indicate that the person is a certified public accountant, unless
19 the person:

20 (a) Holds a valid certificate of certified public accountant issued under ORS 673.040 and a per-
21 mit issued pursuant to ORS 673.150[.]; **or**

22 (b) **Is authorized to practice public accountancy in this state under ORS 673.153.**

23 (4) A business organization [*shall*] **may** not assume or use the title or designation "certified
24 public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, ab-
25 breviation, sign, card or device tending to indicate that the business organization is composed of
26 certified public accountants unless the business organization:

27 (a) Is registered under ORS 673.160[.]; **or**

28 (b) **Is exempt from the registration requirement under ORS 673.160 (3).**

29 (5) A person [*shall*] **may** not assume or use the title or designation "public accountant," or the
30 abbreviation "P.A.," or any other title, designation, words, letters, abbreviation, sign, card or device
31 tending to indicate that the person is a public accountant unless that person holds a valid license
32 issued under ORS 673.100 and permit issued under ORS 673.150.

33 (6) A business organization [*shall*] **may** not assume or use the title or designation "public ac-
34 countant," or the abbreviation "P.A.," or any other title, designation, words, letters, abbreviation,
35 sign, card or device tending to indicate that the business organization is composed of public ac-
36 countants, unless the business organization is registered under ORS 673.160.

37 (7)(a) A person or business organization [*shall*] **may** not assume or use any title or designation
38 likely to be confused with the titles "certified public accountant" or "public accountant," or any
39 abbreviations likely to be confused with the abbreviations "C.P.A." or "P.A.," unless the person or
40 business organization:

41 (A) Holds a valid permit or registration issued under ORS 673.010 to 673.457[.];

42 (B) **Is authorized to practice public accountancy in this state under ORS 673.153; or**

43 (C) **Is exempt from the registration requirement under ORS 673.160 (3).**

44 (b) This subsection does not restrict the use of any title, designation or abbreviation awarded
45 by institutions that are recognized by the board by rule.

1 (8)(a) A person or business organization [shall] **may** not assume or use any title or designation
 2 that includes the words “accountant,” “auditor” or “accounting” in connection with any other
 3 wording, including that of a report, that implies that the person or business organization holds a
 4 permit or registration or has special competence as an accountant or auditor, unless the person or
 5 business organization:

6 (A) Holds a permit or registration issued under ORS 673.010 to 673.457[.];

7 (B) **Is authorized to practice public accountancy in this state under ORS 673.153; or**

8 (C) **Is exempt from the registration requirement under ORS 673.160 (3).**

9 (b) This subsection does not prohibit:

10 [(a)] (A) A partner, officer, employee, shareholder, member, manager or owner of any firm or
 11 organization from affixing that person’s own signature to any statement or report in reference to the
 12 financial affairs of the firm or organization with wording designating the position, title or office that
 13 the person holds in the firm or organization;

14 [(b)] (B) Any act of a public official or employee in the performance of official duties; or

15 [(c)] (C) Use of the words “accountant” or “accounting” by a person or business offering ser-
 16 vices that are not restricted to a person or business organization holding a license or permit to
 17 practice public accountancy.

18 (9) A person or business organization holding a permit or registration under ORS 673.010 to
 19 673.457 [shall] **may** not use a professional or business name or designation that is misleading about
 20 the legal form of the business organization, about the persons who are partners, officers, share-
 21 holders, members, managers or owners of the business organization or about any other matter. The
 22 board by rule may specify the appropriate use by licensees of abbreviations and initials in a pro-
 23 fessional or business name. Notwithstanding any provision of this subsection, the names of one or
 24 more former partners, shareholders, members or managers may be included in the name of a regis-
 25 tered business organization or its successor.

26 (10) A person holding a permit issued under ORS 673.150 shall not perform attestation or com-
 27 pilation services in any business organization that does not hold a valid registration under ORS
 28 673.160.

29 (11) Subsections (1) to (10) of this section apply to a person or business organization holding a
 30 certification, license, permit, designation or degree granted in another jurisdiction entitling the
 31 holder to engage in the practice of public accountancy or its equivalent in the other jurisdiction
 32 unless:

33 (a) **The person is authorized to practice public accountancy in this state under ORS**
 34 **673.153;**

35 (b) **The business organization is exempt from the registration requirement under ORS**
 36 **673.160 (3); or**

37 [(a)] (c)(A) The activities of the person or business organization in this state are limited to the
 38 provision of professional services to clients in this state, where the clients are residents of, gov-
 39 ernments of or business entities in the other jurisdiction in which the person holds the entitlement;

40 [(b)] (B) The person or business organization does not provide attestation or compilation ser-
 41 vices or issue reports regarding the financial statements of any other persons, organizations or
 42 governmental units in this state; and

43 [(c)] (C) The person or business organization does not hold out to clients, potential clients or
 44 the public in this state that the person or business organization is licensed or registered under ORS
 45 673.010 to 673.457 and does not use any title or designation other than the one under which the

1 person or business organization practices in the other jurisdiction, followed by the name of the other
 2 jurisdiction and, if applicable, any translation of the title or designation into the English language.

3 (12) Notwithstanding subsection (11) of this section, a person or business organization holding
 4 a certification, license, permit, designation or degree granted in another jurisdiction that entitles the
 5 holder to engage in the practice of public accountancy as a certified public accountant in the other
 6 jurisdiction may prepare, advise or assist in the preparation of tax returns without obtaining a li-
 7 cense or registration under ORS 673.010 to 673.457 and may use the title or designation “certified
 8 public accountant” or the abbreviation “C.P.A.” in connection with tax services described in this
 9 subsection as long as the person or business organization does not have an office in this state.

10 **SECTION 8.** ORS 673.455 is amended to read:

11 673.455. (1) The Oregon Board of Accountancy shall appoint a Peer Review Oversight Commit-
 12 tee. The board may also approve applications for operation of alternative peer review programs such
 13 as programs provided by the American Institute of Certified Public Accountants and the National
 14 Society of Accountants.

15 (2) Each holder of a permit under ORS 673.150, **each person authorized to practice public**
 16 **accountancy in this state under ORS 673.153, [and] each business organization registered under**
 17 **ORS 673.160, and each business organization exempt from registration requirements under**
 18 **ORS 673.160 (3),** that performs attestation or compilation services shall participate in a peer review
 19 program described in this section. The peer review shall be conducted by the board or by an alter-
 20 native peer review program approved by the board under subsection (1) of this section. **A person**
 21 **authorized to practice public accountancy in this state under ORS 673.153 who practices as**
 22 **a sole proprietor must meet peer review standards pertaining to business organizations. The**
 23 **person or business organization undergoing the peer review shall bear the cost of the peer**
 24 **review.**

25 (3) The members of the committee serve at the pleasure of the board.

26 (4) A member of the committee appointed under this section is entitled to expenses as provided
 27 in ORS 292.495.

28 (5) The committee may review:

29 (a) Any financial statement or report filed with the state or any political subdivision and pre-
 30 pared by a certified public accountant or public accountant;

31 (b) Any procedure, working paper or supporting document relating to the financial statement
 32 or report; and

33 (c) Any peer review report.

34 (6) If the client grants permission or if all information identifying the client has been removed,
 35 the committee also may review any financial statement not described in subsection (5) of this section
 36 and prepared by a licensee, or any procedure, working paper or supporting document relating to the
 37 financial statement.

38 (7) The failure or refusal by any licensee, **person authorized to practice public accountancy**
 39 **in this state under ORS 673.153 or business organization authorized to perform professional**
 40 **services in this state under ORS 673.160** to comply with a request for review or explanation, or
 41 both, of such financial statement as set forth in this section constitutes a violation of ORS 673.170
 42 (2)(b).

43 **SECTION 9.** ORS 673.445 is amended to read:

44 673.445. (1) The Oregon Board of Accountancy may adopt a code of professional conduct for
 45 certified public accountants and public accountants.

1 **(2) The board shall adopt by rule accounting standards for the provision of attestation**
 2 **or compilation services and require by rule licensees to comply with the accounting stan-**
 3 **dards. The board shall adopt national accounting standards as amended and in effect as of**
 4 **effective date of this 2009 Act. If the standards are altered or amended on or after the ef-**
 5 **fective date of this 2009 Act, the board may adopt the national accounting standards as al-**
 6 **tered or amended. The board shall adopt the following national accounting standards:**

7 **(a) For attestation services:**

8 **(A) For audits or other engagements, the Statements on Auditing Standards (SAS);**

9 **(B) For reviews of financial statements, the Statements on Standards for Accounting and**
 10 **Review Services (SSARS);**

11 **(C) For examinations of prospective financial information, the Statements on Standards**
 12 **for Attestation Engagements (SSAE); and**

13 **(D) For engagements of public accounting firms in the preparation and issuance of audit**
 14 **reports required by the Sarbanes-Oxley Act of 2002 (P.L. 107-204, 15 U.S.C. 7201 et seq.) or**
 15 **rules of the Securities and Exchange Commission, the Auditing Standards of the Public**
 16 **Company Accounting Oversight Board.**

17 **(b) For compilation services, the Statements on Standards for Accounting and Review**
 18 **Services (SSARS).**

19 **SECTION 10.** ORS 673.400 is amended to read:

20 673.400. (1) Any person who violates any provision of ORS 673.010 to 673.457, any rule adopted
 21 thereunder or any order of the Oregon Board of Accountancy shall forfeit and pay a civil penalty
 22 into the General Fund to be credited to the Oregon Board of Accountancy for its use in carrying
 23 out the provisions of this section. The civil penalty shall be in an amount determined by the board
 24 of not more than \$5,000 for each offense.

25 (2) The board may impose a civil penalty as part of a cease and desist order issued under ORS
 26 673.170 [(7)] **(8)**. The civil penalty may not exceed \$5,000 per violation.

27 (3) The civil penalty may be recovered by the Attorney General in an action brought in the
 28 name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided
 29 in ORS 183.745.

30 (4) The provisions of this section are in addition to and not in lieu of any other penalty provided
 31 by law.

32 **SECTION 11.** ORS 673.465 is amended to read:

33 673.465. For the purpose of requesting a state or nationwide criminal records check under ORS
 34 181.534, the Oregon Board of Accountancy may require the fingerprints of a person who:

35 (1) Is applying for a license, certificate, registration or permit that is issued by the board;

36 (2) Is applying for renewal of a license, certificate, registration or permit that is issued by the
 37 board;

38 (3) Is under investigation by the board; **or**

39 [(4) *Is applying for authority to practice public accountancy pursuant to ORS 673.153; or*]

40 [(5)(a)(A)] **(4)(a)(A)** Is employed or applying for employment by the board; or

41 **(B)** Provides services or seeks to provide services to the board as a contractor or vendor; and

42 **(b)** Is, or will be, working or providing services in a position:

43 **(A)** In which the person has or will have access to individual Social Security numbers, dates of
 44 birth, credit card information or information that is confidential under state or federal laws, rules
 45 or regulations; or

1 (B) In which the person is providing information technology services and has control over, or
2 access to, information technology systems that would allow the person to harm or make unlawful
3 use of the information technology systems or the information contained in the systems.

4 **SECTION 12. The Oregon State Board of Accountancy may take any action before the**
5 **operative date specified in section 13 of this 2009 Act that is necessary for the board to ex-**
6 **ercise, on and after the operative date specified in section 13 of this 2009 Act, all of the du-**
7 **ties, functions and powers conferred on the board by the amendments to ORS 673.010,**
8 **673.012, 673.153, 673.160, 673.170, 673.185, 673.320, 673.445 and 673.455 by sections 1 to 9 of this**
9 **2009 Act.**

10 **SECTION 13. The amendments to ORS 673.010, 673.012, 673.153, 673.160, 673.170, 673.185,**
11 **673.320, 673.400, 673.445, 673.455 and 673.465 by sections 1 to 11 of this 2009 Act become oper-**
12 **ative on January 1, 2010.**

13 **SECTION 14. This 2009 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
15 **on its passage.**

16 _____