



- 28           **58-26a-306**, Utah Code Annotated 1953
- 29           **58-26a-307**, Utah Code Annotated 1953
- 30           **58-26a-401**, Utah Code Annotated 1953
- 31           **58-26a-501**, Utah Code Annotated 1953
- 32           **58-26a-502**, Utah Code Annotated 1953
- 33           **58-26a-601**, Utah Code Annotated 1953
- 34           **58-26a-602**, Utah Code Annotated 1953

35 REPEALS:

- 36           **58-26-1**, as repealed and reenacted by Chapter 242, Laws of Utah 1990
- 37           **58-26-2**, as last amended by Chapter 297, Laws of Utah 1993
- 38           **58-26-3**, as last amended by Chapter 297, Laws of Utah 1993
- 39           **58-26-4**, as last amended by Chapter 10, Laws of Utah 1997
- 40           **58-26-5**, as last amended by Chapter 313, Laws of Utah 1994
- 41           **58-26-6**, as last amended by Chapter 313, Laws of Utah 1994
- 42           **58-26-7**, as last amended by Chapter 297, Laws of Utah 1993
- 43           **58-26-8**, as last amended by Chapter 313, Laws of Utah 1994
- 44           **58-26-9**, as last amended by Chapter 297, Laws of Utah 1993
- 45           **58-26-10**, as repealed and reenacted by Chapter 242, Laws of Utah 1990
- 46           **58-26-11**, as last amended by Chapter 313, Laws of Utah 1994
- 47           **58-26-12**, as repealed and reenacted by Chapter 242, Laws of Utah 1990
- 48           **58-26-13**, as last amended by Chapter 297, Laws of Utah 1993
- 49           **58-26-14**, as last amended by Chapter 313, Laws of Utah 1994
- 50           **58-26-15**, as repealed and reenacted by Chapter 297, Laws of Utah 1993
- 51           **58-26-18**, as repealed and reenacted by Chapter 242, Laws of Utah 1990

52 *Be it enacted by the Legislature of the state of Utah:*

53           Section 1. Section **16-11-7** is amended to read:

54           **16-11-7. Issuance of shares of capital stock -- Restrictions.**

55           (1) A professional corporation may issue the shares of its capital stock and a shareholder  
56 may voluntarily transfer shares of capital stock in a professional corporation only to:

57           (a) persons who are duly licensed to render the same specific professional services as those  
58 for which the corporation was organized[~~. A shareholder may voluntarily transfer his shares in a~~

59 professional corporation only to a person who is duly licensed to render the same specific  
 60 professional services as those for which the corporation was organized.]; or

61 (b) persons other than those meeting the requirements of Subsection (1)(a) to the extent  
 62 and in the proportions allowed by the applicable licensing act for the profession for which the  
 63 corporation is organized.

64 (2) Any shares issued in violation of this section are void.

65 Section 2. Section **16-11-8** is amended to read:

66 **16-11-8. Requirement to be an officer, director, or shareholder.**

67 (1) No person may be an officer, director, or shareholder of a professional corporation  
 68 [~~who is not~~] unless that person is:

69 (a) an individual duly licensed to render the same specific professional services as those  
 70 for which the corporation was organized; [~~provided, however, a~~] or

71 (b) qualified to be an officer, director, or shareholder under the applicable licensing act for  
 72 the profession for which the corporation is organized.

73 (2) Notwithstanding the provisions of Subsection (1), a nonlicensed person may serve as  
 74 secretary or treasurer.

75 Section 3. Section **16-11-13** is amended to read:

76 **16-11-13. Purchase or redemption of shares of disqualified shareholder.**

77 (1) The articles of incorporation may provide for the purchase or redemption of the shares  
 78 of any shareholder upon the [~~death~~] failure to qualify or disqualification of [~~such~~] that shareholder,  
 79 or the same may be provided in the bylaws or by private agreement. In the absence of such a  
 80 provision in the articles of incorporation, the bylaws, or by private agreement, the professional  
 81 corporation shall purchase the shares of [~~a deceased shareholder or~~] a shareholder [~~no longer~~] who  
 82 is not qualified to own shares in [~~such~~] the corporation within 90 days after the [~~death of the~~  
 83 ~~shareholder~~] failure to qualify or disqualification of the shareholder[~~, as the case may be~~].

84 (2) The price for [~~such~~] shares purchased under this section shall be their reasonable fair  
 85 value as of the date of [~~death~~] failure to qualify or disqualification of the shareholder.

86 (3) If the corporation [~~shall fail~~] fails to purchase [~~said~~] shares [~~by the end of said 90 days,~~  
 87 ~~then the executor or administrator or other personal representative of a deceased shareholder or~~  
 88 as required by Subsection (1), any disqualified shareholder or personal representative of a  
 89 disqualified shareholder may bring an action in the district court of the county in which the

90 principal office or place of practice of the professional corporation is located for the enforcement  
91 of this [~~provision~~] section. The court shall have power to award the plaintiff the reasonable fair  
92 value of his shares, or within its jurisdiction, may order the liquidation of the corporation. Further,  
93 if the plaintiff is successful in [~~such~~] the action, he shall be entitled to recover a reasonable  
94 attorney's fee and costs.

95 (4) The professional corporation shall repurchase [~~such~~] shares as required by this section  
96 without regard to restrictions upon the repurchase of shares provided by Title 16, Chapter 10a,  
97 Utah Revised Business Corporation Act.

98 Section 4. Section **16-11-14** is amended to read:

99 **16-11-14. Annual certificate -- Filing -- Contents -- Filing fee.**

100 During the month of the anniversary date of incorporation, each professional corporation  
101 shall file with the division an annual report as specified by Section 16-10a-1607, giving the names  
102 and residence addresses of all shareholders of the professional corporation as of its anniversary  
103 date of incorporation next preceding, and certifying that all of [~~such~~] the shareholders are duly  
104 licensed to render the same specific professional services as those for which the corporation was  
105 organized or otherwise qualify to be shareholders pursuant to the applicable licensing act for the  
106 profession for which the corporation was organized.

107 Section 5. Section **48-1-48** is amended to read:

108 **48-1-48. Limited liability partnerships providing professional services.**

109 (1) A limited liability partnership organized under Sections 48-1-41 through 48-1-48 to  
110 render professional services may render only one specific type of professional service, and services  
111 ancillary to that type of professional service, and may not engage in any business other than  
112 rendering the professional service that it was organized to render and services ancillary to those  
113 services.

114 (2) A limited liability partnership organized to render professional services:

115 (a) may include partners and employees authorized under the laws of the jurisdiction where  
116 they reside to provide similar services; [~~and~~]

117 (b) may include partners who are not licensed or registered by the state to render those  
118 professional services to the extent allowed by the applicable licensing act relating to those  
119 professional services; and

120 [~~(b)~~] (c) may render professional services in Utah only through its partners and employees

121 who are licensed or registered by the state to render those professional services.

122 (3) A limited liability partnership organized to render professional services shall have the  
123 powers provided a limited liability partnership under this chapter.

124 Section 6. Section **48-2b-105** is amended to read:

125 **48-2b-105. Powers.**

126 (1) Each limited liability company organized and existing under this chapter may:

127 (a) sue or be sued, or institute or defend any action, arbitration, or proceeding, whether  
128 judicial, administrative, or otherwise, in its own name;

129 (b) purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, or  
130 otherwise deal in or with real or personal property or an interest in real or personal property,  
131 wherever situated;

132 (c) sell, convey, mortgage, pledge, create a security interest in, lease, exchange or transfer,  
133 or otherwise dispose of all or any part of its property or assets;

134 (d) lend money to and otherwise assist its employees and managers;

135 (e) purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use,  
136 employ, sell, mortgage, lend, pledge, otherwise dispose of, or otherwise use or deal in or with:

137 (i) shares or other interests in or obligations of other foreign or domestic limited liability  
138 companies, domestic or foreign corporations, associations, general or limited partnerships, or  
139 individuals; or

140 (ii) direct or indirect obligations of the United States or any other government, state,  
141 territory, governmental district, or municipality or of any instrumentality of them;

142 (f) make contracts or guarantees or incur liabilities, borrow money at such rates of interest  
143 as the limited liability company may determine, issue its notes, bonds, or other obligations, or  
144 secure any of its obligations by mortgage or pledge of all or any part of its property, franchises, and  
145 income;

146 (g) lend money for any lawful purpose, invest or reinvest its funds, or take and hold real  
147 or personal property as security for the payment of funds so loaned or invested;

148 (h) conduct its business and maintain offices and exercise the powers granted by this  
149 chapter within or without this state, in any state, territory, district, or possession of the United  
150 States or in any foreign country;

151 (i) elect or appoint managers and agents of the limited liability company, define their

152 duties, and fix their compensation;

153 (j) make and alter an operating agreement, not inconsistent with its articles of organization  
154 or with the laws of this state, for the administration and regulation of its affairs;

155 (k) make donations for the public welfare or for charitable, scientific, religious, or  
156 educational purposes;

157 (l) indemnify a member or manager or any other person to the same extent that a  
158 partnership may indemnify any of the partners, managers, employees, or agents of the partnership  
159 against expenses actually and reasonably incurred by the member or manager in connection with  
160 the defense of an action, suit, or proceeding, whether civil or criminal, in which the member or  
161 manager is made a party;

162 (m) cease its activities and surrender its certificate of organization;

163 (n) have and exercise all powers necessary or convenient to effect any or all of the  
164 purposes for which the company is organized;

165 (o) transact any lawful business which the members or the managers find to be in aid of  
166 governmental policy;

167 (p) pay pensions and establish pension plans, profit-sharing plans, and other incentive  
168 plans for any or all of its managers and employees;

169 (q) be a promoter, incorporator, general partner, limited partner, member, associate, or  
170 manager of any corporation, partnership, limited partnership, limited liability company, joint  
171 venture, trust, or other enterprise; and

172 (r) render professional services, if each member of a limited liability company who renders  
173 professional services in Utah is licensed or registered to render those professional services pursuant  
174 to applicable Utah law.

175 (2) A limited liability company organized to render professional services under this chapter  
176 may render only one specific type of professional services, and services ancillary to them, and may  
177 not engage in any business other than rendering the professional services which it was organized  
178 to render, and services ancillary to them.

179 (3) A limited liability company organized to render professional services:

180 (a) may include members, managers, and employees authorized under the laws of the  
181 jurisdiction where they reside to provide similar services;

182 (b) may include members who are not licensed or registered by the state to render those

183 professional services to the extent allowed by the applicable licensing act relating to those  
184 professional services;

185 ~~[(b)]~~ (c) may render professional services in ~~[Utah]~~ this state only through its members,  
186 managers, and employees who are licensed or registered by ~~[the]~~ this state ~~[of Utah]~~ to render  
187 those professional services; and

188 ~~[(e)]~~ (d) shall have all of the other powers provided under this section.

189 Section 7. Section **58-26a-101** is enacted to read:

190 **CHAPTER 26a. CERTIFIED PUBLIC ACCOUNTANT LICENSING ACT**

191 **Part 1. General Provisions**

192 **58-26a-101. Title.**

193 This chapter is known as the "Certified Public Accountant Licensing Act."

194 Section 8. Section **58-26a-102** is enacted to read:

195 **58-26a-102. Definitions.**

196 In addition to the definitions in Section 58-1-102, as used in this chapter:

197 (1) "Accounting experience" means applying accounting and auditing skills and principles  
198 that are taught as a part of the professional education qualifying a person for licensure under this  
199 chapter and generally accepted by the profession, under the supervision of a licensed certified  
200 public accountant.

201 (2) "Board" means the Utah Board of Accountancy created in Section 58-26a-201.

202 (3) "Certified Public Accountant" or "CPA" means an individual currently licensed by this  
203 state or any other state to practice public accountancy or who has been granted a certificate as a  
204 certified public accountant under prior law or this chapter.

205 (4) "Certified Public Accountant firm" or "CPA firm" means a qualified business entity  
206 holding a valid registration as a Certified Public Accountant firm under this chapter.

207 (5) "Client" means the person who retains a licensee for the performance of one or more  
208 of the services included in the definition of the practice of public accountancy. "Client" does not  
209 include a CPA's employer when the licensee works in a salaried or hourly rate position.

210 (6) "Compilation of financial statements" means the presentation in the form of financial  
211 statements of information that is the representation of management or owners accompanied by a  
212 report stating the compilation has been performed in accordance with standards established by the  
213 American Institute of Certified Public Accountants.

214 (7) "Experience" means:

215 (a) accounting experience;

216 (b) professional experience; or

217 (c) qualifying experience.

218 (8) "Licensee" means the holder of a current valid license issued under this chapter.

219 (9) "Practice of public accounting" means the offer to perform or the performance by a  
220 person holding himself out as a certified public accountant of one or more kinds of services  
221 involving the use of auditing or accounting skills including the issuance of reports or opinions on  
222 financial statements, performing attestation engagements, the performance of one or more kinds  
223 of advisory or consulting services, or the preparation of tax returns or the furnishing of advice on  
224 tax matters for a client.

225 (10) "Peer review" means a study, appraisal, or review of one or more aspects of the  
226 professional work of a person or qualified business entity in the practice of public accountancy,  
227 by a licensee or any other qualified person in accordance with rules adopted pursuant to this  
228 chapter and who is not affiliated with the person or qualified business entity being reviewed.

229 (11) "Professional experience" means experience lawfully obtained while licensed as a  
230 certified public accountant in another jurisdiction, recognized by rule, in the practice of public  
231 accountancy performed for a client, which includes expression of assurance or opinion, for at least  
232 300 hours collectively in the following areas:

233 (a) applying Generally Accepted Auditing Standards (GAAS) to the usual and customary  
234 financial transactions recorded in the accounting records;

235 (b) preparing audit working papers in accordance with GAAS covering the examination  
236 of the accounts usually found in accounting records;

237 (c) planning the audit scope in accordance with GAAS, including the audit program to be  
238 followed;

239 (d) preparing written explanations and comments on the findings of the examination and  
240 on the content of the accounting records; and

241 (e) preparing and analyzing financial statements in accordance with GAAS.

242 (12) "Qualified business entity" means a sole proprietorship, corporation, limited liability  
243 company, or partnership engaged in the practice of public accountancy.

244 (13) "Qualified continuing professional education" means a formal program of education

245 that contributes directly to the professional competence of a certified public accountant.

246 (14) "Qualifying examinations" means:

247 (a) the AICPA Uniform CPA Examination;

248 (b) the AICPA Examination of Professional Ethics for CPAs;

249 (c) the Utah Laws and Rules Examination; and

250 (d) any other examination approved by the board and adopted by the division by rule in  
 251 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

252 (15) "Qualifying experience" means experience in the practice of public accountancy under  
 253 the direction and supervision of a licensed certified public accountant performed for a client, which  
 254 includes expression of assurance or opinion, for at least 300 hours collectively in the following  
 255 areas:

256 (a) applying Generally Accepted Auditing Standards (GAAS) to the usual and customary  
 257 financial transactions recorded in the accounting records;

258 (b) preparing audit working papers in accordance with GAAS covering the examination  
 259 of the accounts usually found in accounting records;

260 (c) planning the audit scope in accordance with GAAS, including the audit program to be  
 261 followed;

262 (d) preparing written explanations and comments on the findings of the examination and  
 263 on the content of the accounting records; and

264 (e) preparing and analyzing financial statements in accordance with GAAS.

265 (16) ~~h~~ (a) ~~h~~ "Report" means:

266 ~~h~~ [(a)] (i) ~~h~~ when used with reference to financial statements, an opinion, report or other form  
 266a of  
 267 language that:

268 ~~h~~ [(i)] (A) ~~h~~ states or implies assurance as to the reliability of any financial statements; or

269 ~~h~~ [(ii)] (B) ~~h~~ implies that the person or firm issuing it has special knowledge or competence

269a in  
 270 accounting or auditing and specifically includes compilations and reviews; such an implication of  
 271 special knowledge or competence may arise from use by the issuer of the report of names or titles  
 272 indicating that the person or firm is a public accountant or auditor, or from the language of the  
 273 report itself; or

274 ~~h~~ [(b)] (ii) ~~h~~ any disclaimer of opinion when it is conventionally understood to imply any  
 274a positive

275 assurance as to the reliability of the financial statements referred to or language suggesting special

276 competence on the part of the person or firm issuing such language; and it includes any other form  
 277 of language that is conventionally understood to imply such assurance or such special knowledge  
 278 or competence.

278a **(b) "REPORT" DOES NOT INCLUDE A FINANCIAL STATEMENT PREPARED BY AN**  
 278b **UNLICENSED PERSON IF:**

278c **(i) THAT FINANCIAL STATEMENT HAS A COVER PAGE WHICH INCLUDES ESSENTIALLY**  
 278d **THE FOLLOWING LANGUAGE: "I (WE) HAVE PREPARED THE ACCOMPANYING FINANCIAL**  
 278e **STATEMENTS OF (NAME OF ENTITY) AS OF (TIME PERIOD) FOR THE (PERIOD) THEN ENDED. THIS**  
 278f **PRESENTATION IS LIMITED TO PREPARING, IN THE FORM OF FINANCIAL STATEMENTS,**  
 278g **INFORMATION THAT IS THE REPRESENTATION OF MANAGEMENT (OWNERS). I (WE) HAVE NOT**  
 278h **AUDITED OR REVIEWED THE ACCOMPANYING FINANCIAL STATEMENTS AND ACCORDINGLY DO**  
 278i **NOT EXPRESS AN OPINION OR ANY OTHER FORM OF ASSURANCE ON THEM."; AND**

278j **(ii) THE COVER PAGE AND ANY RELATED FOOTNOTES DO NOT USE THE TERMS**  
 278k **"COMPILATION," "REVIEW," "AUDIT," "GENERALLY ACCEPTED AUDITING STANDARDS,"**  
 278l **"GENERALLY ACCEPTED ACCOUNTING PRINCIPLES," OR OTHER SIMILAR TERMS. ħ**

279 (17) "Review of financial statements" means performing inquiry and analytical procedures  
 280 which provide a reasonable basis for expressing limited assurance that there are no material  
 281 modifications that should be made to the statements in order for them to be in conformity with  
 282 generally accepted accounting principles or, if applicable, with another comprehensive basis of  
 283 accounting; and, the issuance of a report on the financial statements stating that a review was  
 284 performed in accordance with the standards established by the American Institute of Certified  
 285 Public Accountants.

286 (18) (a) "Substantial equivalency" means that the education, examination, and experience  
 287 required by another jurisdiction are comparable to or exceed the education, examination, and  
 288 experience requirements of this chapter, or that an individual's education, examination, and  
 289 experience qualifications are comparable to or exceed the education, examination, and experience  
 290 requirements of this chapter.

291 (b) "Substantial equivalency" is determined by the board in accordance with rules made  
 292 by the division in collaboration with the board.

293 (19) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-26a-501.

294 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-26a-502 and as  
 295 may be further defined by rule.

296 (21) "Year of experience" means 2,000 hours of cumulative experience.

297 Section 9. Section **58-26a-201** is enacted to read:

298 **Part 2. Board**

299 **58-26a-201. Board.**

300           (1) There is created the Utah Board of Accountancy consisting of four licensed certified  
301 public accountants and one member of the general public.

302           (2) The board shall be appointed and shall serve in accordance with Section 58-1-201.

303           (3) The duties and responsibilities of the board shall be in accordance with Sections  
304 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent  
305 or rotating basis to:

306           (a) assist the division in reviewing complaints concerning the unlawful or unprofessional

307 conduct of a licensee; and

308 (b) advise the division in its investigation of these complaints.

309 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in  
310 its investigation may be disqualified from participating with the board when the board serves as  
311 a presiding officer of an administrative proceeding concerning the complaint.

312 Section 10. Section **58-26a-301** is enacted to read:

313 **Part 3. Licensing**

314 **58-26a-301. Licensure or registration required -- License and registration**  
315 **classifications.**

316 (1) (a) A license is required for an individual to engage in the practice of public  
317 accounting, except as specifically provided in Section 58-26a-305 or 58-1-307.

318 (b) Registration with the division is required for a qualified business entity to engage in  
319 the practice of public accounting, except as specifically provided in Section 58-26a-305 or  
320 58-1-307.

321 (2) (a) The division shall issue to an individual who qualifies under this chapter a license  
322 in the classification of Certified Public Accountant.

323 (b) The division shall issue to a qualified business entity which qualifies under this chapter  
324 a registration in the classification of Certified Public Accountant Firm.

325 Section 11. Section **58-26a-302** is enacted to read:

326 **58-26a-302. Qualifications for licensure and registration -- Licensure by**  
327 **endorsement -- Transitional provisions.**

328 (1) Each applicant for licensure under this chapter as a certified public accountant shall:

329 (a) submit an application in a form prescribed by the division;

330 (b) pay a fee determined by the department under Section 63-38-3.2;

331 (c) show evidence of good moral character;

332 (d) submit a certified transcript of credits from an accredited institution acceptable to the  
333 board showing:

334 (i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate  
335 level education with a concentration in accounting, auditing, and business;

336 (ii) a baccalaureate degree or its equivalent at a college or university approved by the  
337 board; and

338 (iii) compliance with any other education requirements established by rule by the division  
339 in collaboration with the board in accordance with Title 63, Chapter 46a, Utah Administrative  
340 Rulemaking Act;

341 (e) submit evidence of one year of accounting experience in a form prescribed by the  
342 division;

343 (f) submit evidence of having successfully completed the qualifying examinations in  
344 accordance with Section 58-26a-306; and

345 (g) submit to an interview by the board, if requested, for the purpose of examining the  
346 applicant's competence and qualifications for licensure.

347 (2) The division may issue a license under this chapter to a person who holds a license as  
348 a certified public accountant issued by any other jurisdiction of the United States if the applicant  
349 for licensure by endorsement:

350 (a) submits an application in a form prescribed by the division;

351 (b) pays a fee determined by the department under Section 63-38-3.2;

352 (c) shows evidence of good moral character;

353 (d) submits to an interview by the board, if requested, for the purpose of examining the  
354 applicant's competence and qualifications for licensure; and

355 (e) (i) (A) shows evidence of having passed the qualifying examinations; and

356 (B) (I) meets the requirements for licensure which were applicable in this state at the time  
357 of the issuance of the applicant's license by the jurisdiction from which the original licensure by  
358 satisfactorily passing the AICPA Uniform CPA Examination was issued; or

359 (II) had five years of professional experience after passing the AICPA Uniform CPA  
360 Examination upon which the original license was based, within the ten years immediately  
361 preceding the application for licensure by endorsement; or

362 (ii) shows evidence that the applicant's education, examination record, and experience are  
363 substantially equivalent to the requirements of Subsection (1), as provided by rule.

364 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

365 (i) submit an application in a form prescribed by the division;

366 (ii) pay a fee determined by the department under Section 63-38-3.2;

367 (iii) shall have a CPA license under this chapter held by:

368 (A) its proprietor, in the case of a sole proprietorship;

369 (B) one of its general partners, managers, or members, in the case of a partnership or  
370 limited liability company;

371 (C) one of its officers or shareholders, in the case of a corporation; or

372 (D) one of its owners, in the case of any other type of qualified business entity;

373 (iv) designate a CPA licensee who is responsible for on site supervision of operations of  
374 the CPA firm; and

375 (v) meet any other requirements established by rule by the division in collaboration with  
376 the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

377 (b) Each separate location of a qualified business entity within the state seeking  
378 registration as a Certified Public Accountant firm shall register separately.

379 (c) A Certified Public Accountant firm may include owners who are not licensed under  
380 this chapter provided that:

381 (i) more than 50% of the ownership of the Certified Public Accountant firm, including  
382 financial interest and voting rights in the firm, is held by individuals who are Certified Public  
383 Accountants, licensed under this chapter or another jurisdiction of the United States; and

384 (ii) all nonlicensed owners are active individual participants in the CPA firm.

385 (4) An individual shall have until July 1, 2004, to obtain three years of qualifying  
386 experience for licensure without being required to complete the education requirement if that  
387 individual:

388 (a) was approved to take the qualifying examinations prior to July 1, 1994, under prior law  
389 without completion of the education requirement; and

390 (b) (i) passed the AICPA Uniform CPA Examination prior to July 1, 1994; or

391 (ii) received conditional credits on the AICPA Uniform CPA Examination prior to July  
392 1, 1994, and subsequently passed all parts of the AICPA Uniform CPA Examination within six  
393 immediately successive examination administrations.

394 Section 12. Section **58-26a-303** is enacted to read:

395 **58-26a-303. Term of license and registration -- Expiration -- Renewal.**

396 (1) The division shall issue each license and registration under this chapter in accordance  
397 with a two-year renewal cycle established by rule. The division may by rule extend or shorten a  
398 renewal cycle by as much as one year to stagger the renewal cycles it administers.

399 (2) At the time of renewal a licensee shall show satisfactory evidence of each of the

400 following renewal requirements:

401 (a) completion of qualified continuing education as required under Section 58-26a-304;

402 and

403 (b) successful completion of a peer review meeting the requirements established by rule

404 by the division in collaboration with the board.

405 (3) Each license or registration automatically expires on the date shown on the license or

406 registration unless it is renewed in accordance with Section 58-1-308.

407 Section 13. Section **58-26a-304** is enacted to read:

408 **58-26a-304. Continuing education.**

409 (1) As a condition precedent for a license renewal, each licensee shall, during each

410 two-year licensure cycle or other cycle defined by rule, complete 80 hours of qualified continuing

411 professional education in accordance with standards defined by rule.

412 (2) If a renewal cycle is extended or shortened under Section 58-26a-303, the continuing

413 education hours required for license renewal under this section shall be increased or decreased

414 proportionally.

414a **§ (3)(a) A LICENSEE MAY REQUEST A WAIVER OF THE REQUIREMENTS OF SUBSECTION (1) FOR**

**A**

414b **PERIOD NOT EXCEEDING THREE YEARS BY:**

414c **(i) SUBMITTING AN APPLICATION FOR WAIVER IN A FORM APPROVED BY THE DIVISION;**

414d **AND**

414e **(ii) DEMONSTRATING THAT THE LICENSEE WILL BE ENGAGED IN ACTIVITIES OR BE**

414f **SUBJECT TO CIRCUMSTANCES WHICH PREVENT THE LICENSEE FROM MEETING THE**

414g **REQUIREMENTS OF SUBSECTION (1) DURING THE PERIOD OF THE WAIVER.**

414h **(b) AN APPLICATION FOR WAIVER SHALL BE GRANTED UPON A SHOWING OF GOOD**

414i **CAUSE.**

414j **(c) A LICENSEE WHO IS GRANTED A WAIVER UNDER THIS SECTION SHALL COMPLETE 30**

414k **HOURS OF CONTINUING PROFESSIONAL EDUCATION WITHIN THE SIX MONTHS IMMEDIATELY**

414l **FOLLOWING THE EXPIRATION OF THE WAIVER THAT INCLUDES AT LEAST 16 HOURS OF**

414m **CONTINUING PROFESSIONAL EDUCATION FOCUSING ON AUDITING. §**

415 Section 14. Section **58-26a-305** is enacted to read:

416 **58-26a-305. Exemptions from licensure.**

417 In addition to the exemptions from licensure in Section 58-1-307, the following may

418 engage in acts included within the definition of the practice of public accountancy, subject to the

419 stated circumstances and limitations, without being licensed under this chapter:

420 (1) a person licensed by any other state, district, or territory of the United States or any

421 foreign country as a certified public accountant or its equivalent under any other title while

422 temporarily practicing in this state if:

- 423           (a) the practice is incidental to that person's regular practice outside of this state; and  
424           (b) if that person's temporary practice within this state is in conformity with this chapter  
425 and rules established under this chapter;  
426           (2) an officer, member, partner, or employee of any entity or organization who signs any  
427 statement or report in reference to the financial affairs of the entity or organization with a  
428 designation of that person's position within the entity or organization;  
429           (3) a public official or employee while performing his official duties;  
430           (4) a person using accounting or auditing skills, including the preparation of tax returns.

431 management advisory services, and the preparation of financial statements without the issuance  
 432 of reports: § [and] §

433 (5) an employee of a CPA firm registered under this chapter or an assistant to a person  
 434 licensed under this chapter, working under the supervision of a licensee, if:

435 (a) neither the employee or assistant nor the licensed employer or registered CPA firm  
 436 represents that the unlicensed person is a certified public accountant; and

437 (b) no accounting or financial statements are issued over the unlicensed person's name § [:

437a ]; AND

437b (6) A PERSON LICENSED AS A PUBLIC ACCOUNTANT FOR A PERIOD OF NOT LESS THAN 20

437c YEARS AS OF JULY 1, 1981, IF THAT PERSON'S LICENSE WAS CURRENT AS OF APRIL 23, 1990. §

438 Section 15. Section **58-26a-306** is enacted to read:

439 **58-26a-306. Examination requirements.**

440 (1) Before taking the qualifying examinations, an applicant shall:

441 (a) submit an application in a form approved by the division;

442 (b) pay a fee determined by the department under Section 63-38-3.2;

443 (c) demonstrate completion of the education requirement in Subsection (1)(d); and

444 (d) be approved by the board to take the qualifying examinations.

445 (2) (a) A person must sit for all parts of the AICPA Uniform CPA Examination upon that  
 446 person's first sitting, and all subsequent sittings, for the examination, unless that person has  
 447 currently valid conditional credits under Subsection (2)(b).

448 (b) An examinee who successfully passes two or more parts and receives a score of at least  
 449 50% in each part not passed, on the AICPA Uniform CPA Examination, shall receive conditional  
 450 credits for those parts passed which may be applied to subsequent examinations. At any of the  
 451 next six examinations, the examinee is required to take only those parts of the examination for  
 452 which the examinee has not received conditional credits and shall receive additional conditional  
 453 credits for any other parts passed. If conditional credits in all remaining parts are not received  
 454 within six successive examinations after the original conditional credits were received, all credits  
 455 terminate and a new application for the entire examination must be submitted. Passing the ethics  
 456 section of the examination does not qualify as a part of the examination which will qualify the  
 457 examinee for conditional credit.

458 Section 16. Section **58-26a-307** is enacted to read:

459 **58-26a-307. CPA emeritus status -- renewal of license.**

460 (1) A person currently licensed as a certified public accountant may, on any renewal date  
 461 of that license, apply for and obtain a transfer of that license to a status of CPA emeritus

462 registration if:

463 (a) (i) the licensee is at least 60 years of age as of the date of renewal;

464 (ii) the licensee is disabled; or

465 (iii) the board finds other good cause for believing that the licensee will not return to the

466 practice of public accountancy;

467 (b) the licensee makes an application for transfer of status and registration and pays a

468 registration fee determined by the department under Section 63-38-3.2;

469 (c) the licensee, on application for transfer, certifies that he will not engage in the practice

470 of public accountancy while in the status of CPA emeritus registration; and

471 (d) the licensee is in good standing as a CPA and not subject to any order of revocation,

472 suspension, or probation.

473 (2) Each CPA emeritus registration shall be issued in accordance with a two-year renewal

474 cycle established by rule.

475 (3) CPA emeritus registrants may not engage in the practice of public accountancy.

476 (4) CPA emeritus registrants are not required to fulfill the continuing professional

477 education or peer review provisions of this chapter.

478 (5) Each CPA emeritus registrant is responsible for renewing his registration, according

479 to procedures that the division establishes by rule in collaboration with the board in accordance

480 with Section 58-1-308.

481 (6) A CPA emeritus registrant may reinstate his CPA license by:

482 (a) submitting an application in a form prescribed by the division;

483 (b) paying a fee determined by the department under Section 63-38-3.2; and

484 (c) showing evidence of having completed the continuing professional education

485 requirement established by rule.

486 Section 17. Section **58-26a-401** is enacted to read:

487 **Part 4. License Denial and Discipline**

488 **58-26a-401. Grounds for denial of license -- Disciplinary proceedings.**

489 Grounds for refusing to issue a license to an applicant, for refusing to renew the license of

490 a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee,

491 for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall

492 be in accordance with Section 58-1-401.

493 Section 18. Section **58-26a-501** is enacted to read:

494 **Part 5. Unlawful and Unprofessional Conduct**

495 **58-26a-501. Unlawful conduct.**

496 "Unlawful conduct" includes:

497 (1) using "certified public accountant," "public accountant," "CPA," or any other title,  
498 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person  
499 is a certified public accountant, unless that person has:

500 (a) a current license as a certified public accountant issued under this chapter; or

501 (b) (i) a current license or certificate as a certified public accountant issued by any  
502 jurisdiction of the United States; and

503 (ii) (A) the use in this state is incidental to primary services being lawfully performed  
504 outside of this state; or

505 (B) the division has entered into a reciprocal agreement with that jurisdiction to recognize  
506 the license issued by that jurisdiction;

507 (2) a firm assuming or using "certified public accountant," "CPA," or any other title,  
508 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is  
509 composed of certified public accountants unless each office of the firm in this state:

510 (a) is registered with the division; and

511 (b) meets the requirements of Subsections 58-26a-302(3)(a)(iii), (iv), and (v);

512 (3) signing or affixing to any accounting or financial statement the person's name or any  
513 trade or assumed name used in that person's profession or business, with any wording indicating  
514 that the person is an auditor, or with any wording indicating that the person has expert knowledge  
515 in accounting or auditing, unless that person is licensed under this chapter and all of the person's  
516 offices in this state for the practice of public accountancy are maintained and registered as  
517 provided in this chapter; and

518 (4) except as provided in Section 58-26a-305, engaging in the following conduct if not  
519 licensed under this chapter to practice public accountancy:

520 (a) issuing a report on financial statements of any other person, firm, organization, or  
521 governmental unit; or

522 (b) issuing a report using any form of language substantially similar to conventional  
523 language used by licensees respecting:

524 (i) a review of financial statements; or

525 (ii) a compilation of financial statements.

526 Section 19. Section **58-26a-502** is enacted to read:

527 **58-26a-502. Unprofessional conduct.**

528 (1) "Unprofessional conduct" includes:

529 (a) undertaking an engagement when the licensee knows or should know that the licensee  
530 could not reasonably expect to complete it with professional competence;

531 (b) making unauthorized disclosures of confidential information obtained in the practice  
532 of public accountancy;

533 (c) engaging in any business or activity that creates a conflict of interest with a licensee's  
534 practice in the profession when the licensee knows or should know that it is a conflict of interest  
535 and the licensee does not fully disclose the conflict of interest in writing to all affected parties;

536 (d) failing to meet the requirements for continuing professional education or peer review  
537 required under this chapter;

538 (e) issuing a report on financial statements of a client, other than a report in which a lack  
539 of independence is disclosed, or performing an attest engagement subject to the attestation  
540 standards of the American Institute of Certified Public Accountants when the licensee is not  
541 independent, in fact and appearance, to the client; or

542 (f) receiving compensation, including a commission, for referring or selling services or  
543 products of others to a client during the period:

544 (i) that the licensee or CPA firm is engaged by the client for purposes of:

545 (A) an audit or review of a financial statement;

546 (B) a compilation of a financial statement when the licensee or his firm expects, or  
547 reasonably might expect, that a third party will use the financial statement and the compilation  
548 report and the report does not describe a lack of independence; or

549 (C) an examination of prospective financial information; or

550 (ii) covered by any historical financial statements involved with any of the services listed  
551 in Subsection (1)(f)(i).

552 (2) (a) Notwithstanding the provisions of Subsection (1)(f), a licensee or CPA firm that  
553 is not prohibited by Subsection (1)(f) from receiving other compensation, including a commission,  
554 may receive or agree to receive that other compensation for referral or sale of services or products

555 of others to another person if § : (i) § he discloses in writing the nature, source, and amount of all other  
 556 compensation prior to making the referral or sale by the licensee or CPA firm § [ ] ; AND  
 556a **(ii) THE RECEIPT OF THE COMPENSATION COMPLIES WITH ALL OF THE OTHER REQUIREMENTS**  
 556b **OF THIS SECTION. §**

557 (b) Subsection (1)(f) does not apply to payments received from the sale of an accounting  
 558 practice or to retirement payments to persons formerly engaged in the practice of public  
 559 accountancy.

560 Section 20. Section **58-26a-601** is enacted to read:

561 **Part 6. Regulatory and Operating Standards**

562 **58-26a-601. Ownership of statements, records, schedules, working papers, and**  
 563 **memoranda made by licensee.**

564 (1) All statements, records, schedules, working papers, and memoranda made by a licensee  
 565 under this chapter, incident to or in the course of professional service to a client, are the property  
 566 of the licensee, in the absence of any express agreement between the licensee and the client to the  
 567 contrary.

568 (2) A licensee may not sell, trade, or bequeath statements, records, schedules, working  
 569 papers, or memoranda without the consent of the client or the client's personal representative or  
 570 assignee to anyone other than another licensee or one or more surviving partners or shareholders  
 571 or new partners or shareholders of the licensee or any combined or merged CPA firm or  
 572 successors-in-interest to the CPA firm.

573 Section 21. Section **58-26a-602** is enacted to read:

574 **58-26a-602. Privity.**

575 A licensee, a CPA firm registered under this chapter, and any employee, partner, member,  
 576 officer, or shareholder of a licensee or CPA firm are not liable to persons with whom they are not  
 577 in privity of contract for civil damages resulting from acts, omissions, decisions, or other conduct  
 578 in connection with professional services performed by that person, except for:

579 (1) acts, omissions, decisions, or conduct that constitute fraud or intentional  
 580 misrepresentations; or

581 (2) other acts, omissions, decisions, or conduct, if the person performing the professional  
 582 services:

583 (a) knew that a primary intent of the client was for the professional services to benefit or  
 584 influence the particular person seeking to establish liability; and

585 (b) § [did not identify] IDENTIFIED § in writing to the client that the professional services  
performed

585a **§ [by] ON BEHALF OF § the**

586 client were § ~~not~~ § intended to be relied upon by the particular person seeking to establish liability.

587 Section 22. **Repealer.**

588 This act repeals:

589 Section 58-26-1, Short title.

590 Section 58-26-2, Definitions.

591 Section 58-26-3, Utah Board of Accountancy.

592 Section 58-26-4, Requirements for licensure.

593 Section 58-26-5, Requirements for examination -- Conditioning on the examination.

594 Section 58-26-6, Licensure by endorsement.

595 Section 58-26-7, Conditions for issuance and renewal of licenses -- Quality review --

596 **Continuing professional education.**

597 Section 58-26-8, Reinstatement of license or certificate suspended for failure to renew

598 **or nonpayment of fees.**

599 Section 58-26-9, Exemptions from licensure.

600 Section 58-26-10, Exemption from educational and examination requirements.

601 Section 58-26-11, CPA emeritus status and registration.

602 Section 58-26-12, Privity.

603 Section 58-26-13, Certificates or licenses held on April 23, 1990 -- Expiration of  
604 **certificates.**

605 Section 58-26-14, Registration and requirements for firms.

606 Section 58-26-15, Grounds for denial of license -- Disciplinary proceedings.

607 Section 58-26-18, Ownership of statements, records, schedules, working papers, and  
608 **memoranda made by licensee.**

608a **§ Section 23. Coordination clause.**

608b **IF THIS BILL AND S.B. 107, PROFESSIONAL CORPORATION ACT AMENDMENTS, BOTH**  
608c **PASS, IT IS THE INTENT OF THE LEGISLATURE THAT SECTION 16-11-8 READ AS PROVIDED IN S.B.**  
608d **107 WITH THE FOLLOWING AMENDMENTS:**

608e **(1) ON PAGE 1, LINE 16, OF S.B. 107 DELETE "IF" AND INSERT "UNLESS";**

608f **(2) ON PAGE 1, LINE 16, OF S.B. 107 BRACKET "NOT" AND INSERT ": (i)"; AND**

608g **(3) ON PAGE 1, LINE 18, OF S.B. 107 DELETE "." AND INSERT "; OR (ii) QUALIFIED TO BE AN**  
608h **OFFICER, DIRECTOR, OR SHAREHOLDER UNDER THE APPLICABLE LICENSING ACT FOR THE**  
608i **PROFESSION FOR WHICH THE CORPORATION IS ORGANIZED."** §

## Legislative Review Note

as of 2-11-00 12:39 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**S.B. 226**

**02-15-00 8:11 AM**

**Office of Legislative Research and General Counsel**