

## CHAPTER 12

---

**PROFESSIONS AND OCCUPATIONS**

---

**HOUSE BILL 93-1011**

BY REPRESENTATIVES Foster, Agler, Anderson, Coffman, Friednash, Jerke, Lawrence, May, Nichol, Pierson, Prinster, Reeser, Schauer, Sullivan, Taylor, and Tucker;  
also SENATORS Meiklejohn, Casey, Cassidy, and Feeley.

**AN ACT****CONCERNING THE AUTHORITY OF CERTIFIED PUBLIC ACCOUNTANTS TO ENGAGE IN THE PRACTICE OF ACCOUNTING AS LIMITED LIABILITY COMPANIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-2-102 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-2-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**12-2-102. Definitions.** As used in this article, unless the context otherwise requires:

(2.5) "FOREIGN LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY COMPANY ORGANIZED UNDER THE LAWS OF ANOTHER STATE, WHICH MEETS THE REQUIREMENTS OF SECTION 12-2-117 (7).

(2.7) "LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY COMPANY ORGANIZED FOR THE SOLE PURPOSE OF PROVIDING PROFESSIONAL SERVICES TO THE PUBLIC CUSTOMARILY PERFORMED BY CERTIFIED PUBLIC ACCOUNTANTS AND INCLUDES FOREIGN LIMITED LIABILITY COMPANIES.

(3) "Person" includes individuals, partnerships, ~~and~~ professional corporations, AND LIMITED LIABILITY COMPANIES.

**SECTION 2.** 12-2-117, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-2-117. Partnerships, professional corporations, and limited liability**

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**companies composed of certified public accountants - registration thereof.**

(1) A partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY engaged, in this state, in the practice of public accounting as certified public accountants shall register once every three years with the board as a partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY of certified public accountants and must meet the following requirements:

(a) At least one partner, ~~or~~ shareholder, OR MEMBER who shall also be a director OR MANAGER thereof must be a certified public accountant of this state in good standing.

(b) Each partner, ~~or~~ shareholder, OR MEMBER thereof personally engaged, within this state, in the practice of public accounting as a member or employee thereof must be a certified public accountant of this state in good standing.

(c) Each partner, ~~or~~ shareholder, OR MEMBER thereof must be a certified public accountant of some state, in good standing, who at all times owns ~~his~~ SUCH PERSON'S partnership interest, ~~or~~ corporate share, OR MEMBERSHIP INTEREST in ~~his~~ SUCH PERSON'S own right.

(d) Repealed, L. 90, p. 757, § 30, effective July 1, 1990.

(e) Each resident manager in charge of an office of the partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY in this state must be a certified public accountant of this state in good standing.

(f) The partnership must be a general partnership.

(2) (a) Application for such registration must be made upon the affidavit of a partner of such partnership, ~~or~~ of a shareholder of such professional corporation, OR OF A MEMBER OF SUCH LIMITED LIABILITY COMPANY who is a certified public accountant of this state in good standing and must provide the names and addresses of the persons who are practicing public accounting for the partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY and any other information the board may reasonably request. To cover the board's administrative costs, such application shall be accompanied by a registration fee, the amount of which shall be set by the board.

(b) The board shall in each case determine whether the applicant is eligible for registration. A partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership, ~~or~~ professional corporation, OR LIMITED LIABILITY COMPANY name. Notification shall be given the board within one month after the admission to or withdrawal of a partner from any partnership so registered, or after any change in shareholders of any such corporation, OR AFTER ANY CHANGE IN MEMBERS OF ANY SUCH LIMITED LIABILITY COMPANY.

(3) The corporation must be in compliance with the "Colorado Corporation Code", articles 1 to 10 of title 7, C.R.S. ~~and~~ THE LIMITED LIABILITY COMPANY MUST BE IN COMPLIANCE WITH THE "COLORADO LIMITED LIABILITY COMPANY ACT", ARTICLE 80 OF TITLE 7, C.R.S. The articles of incorporation of ANY such corporation OR THE

ARTICLES OF ORGANIZATION OF ANY SUCH LIMITED LIABILITY COMPANY shall contain provisions complying with the following requirements:

(a) The corporation OR LIMITED LIABILITY COMPANY shall be organized solely for the purpose of practicing accountancy and such other activities as may from time to time be specifically found by the board to be activities suitable and proper to be performed by certified public accountants only through or under the supervision of at least one person who holds a certificate to practice public accounting as a certified public accountant.

(b) The president OF ANY SUCH CORPORATION shall be a shareholder and a director and one or more of such directors shall be certified public accountants of this state in good standing. THE MANAGER OR MANAGERS OF ANY SUCH LIMITED LIABILITY COMPANY SHALL BE A MEMBER OR MEMBERS AND ONE OR MORE OF SUCH MANAGERS SHALL BE CERTIFIED PUBLIC ACCOUNTANTS OF THIS STATE IN GOOD STANDING. Lay directors and officers AND MANAGERS shall not exercise any authority whatsoever over professional matters.

(c) All shareholders of the corporation OR MEMBERS OF THE LIMITED LIABILITY COMPANY shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation OR LIMITED LIABILITY COMPANY, or all shareholders of the corporation OR MEMBERS OF THE LIMITED LIABILITY COMPANY shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation OR LIMITED LIABILITY COMPANY except during periods of time when the corporation OR LIMITED LIABILITY COMPANY maintains in good standing professional liability insurance which meets the following minimum standards:

(I) The insurance shall insure the corporation OR LIMITED LIABILITY COMPANY against liability imposed upon the corporation OR LIMITED LIABILITY COMPANY by law for damages resulting from any claim made against the corporation OR LIMITED LIABILITY COMPANY arising out of the performance of professional services for others by those employees of the corporation OR LIMITED LIABILITY COMPANY who hold certificates to practice public accounting as certified public accountants.

(II) Such policies shall insure the corporation OR LIMITED LIABILITY COMPANY against liability imposed upon it by law for damages arising out of the acts, errors, and omissions of all other employees.

(III) The insurance shall be in an amount for each claim of at least fifty thousand dollars multiplied by the number of certified public accountants employed by OR MEMBERS OF the corporation OR LIMITED LIABILITY COMPANY within this state, and the policy may provide for an aggregate top limit of liability per year for all claims of one hundred fifty thousand dollars also multiplied by the number of certified public accountants employed by OR MEMBERS OF the corporation OR LIMITED LIABILITY COMPANY within this state; except that no firm shall be required to carry insurance in excess of three hundred thousand dollars for each claim with an aggregate top limit of liability for all claims during the year of one million dollars and except that the board, in the public interest, may adopt regulations increasing the minimum amounts of insurance coverage required by this subsection (3).

(IV) (A) The policy may provide that it does not apply to: Any dishonest,

fraudulent, criminal, or malicious act or omission of the insured corporation OR LIMITED LIABILITY COMPANY or any stockholder, MEMBER, or employee thereof; the conduct of any business enterprise in which the insured corporation OR LIMITED LIABILITY COMPANY under this article is not permitted to engage but which nevertheless may be owned by the insured corporation OR LIMITED LIABILITY COMPANY or in which the insured corporation OR LIMITED LIABILITY COMPANY may be a partner or which may be controlled, operated, or managed by the insured corporation OR LIMITED LIABILITY COMPANY in its own or in a fiduciary capacity including the ownership, maintenance, or use of any property in connection therewith; and bodily injury to, or sickness, disease, or death of, any person, or to injury to or destruction of any tangible property, including the loss of use thereof.

(B) The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, and other usual matters.

(d) The corporate name shall be ended by the word "Corporation" or "Incorporated" or by the words "Professional Corporation" or by the abbreviations "Corp.", "Inc.", or "P.C.". THE NAME OF ANY LIMITED LIABILITY COMPANY SHALL BE ENDED BY THE WORDS "LIMITED LIABILITY COMPANY" OR THE WORD LIMITED MAY BE ABBREVIATED AS "LTD.", AND THE WORD COMPANY MAY BE ABBREVIATED AS "CO.". An assumed or trade name may be used if it is not misleading and clearly indicates that the firm is engaged in providing accounting services.

(4) The corporation OR LIMITED LIABILITY COMPANY may exercise the powers and privileges conferred upon corporations AND LIMITED LIABILITY COMPANIES by the laws of Colorado in furtherance of and subject to its corporate OR LIMITED LIABILITY COMPANY purposes and may invest its funds in a manner not incompatible with the practice of public accounting as certified public accountants. Any stock purchased by the corporation OR MEMBERSHIP INTEREST PURCHASED BY THE LIMITED LIABILITY COMPANY may be made out of capital as well as surplus without regard to the impairment of the corporation capital OR LIMITED LIABILITY COMPANY CAPITAL.

(5) The corporation OR LIMITED LIABILITY COMPANY shall do nothing in this state which, if done by a person who holds a certificate as a certified public accountant within this state and employed by it, would violate the provisions of this article. Any violation by the corporation OR LIMITED LIABILITY COMPANY of this article shall be grounds for the board to revoke or suspend its registration.

(6) Nothing in this section shall diminish or change the obligation of each person who holds a certificate of certified public accountant employed by the corporation OR LIMITED LIABILITY COMPANY within this state to conduct ~~his~~ SUCH PERSON'S practice in accordance with the provisions of this article. Any person who holds a certificate to practice public accounting as a certified public accountant who, by act or omission, causes the corporation OR LIMITED LIABILITY COMPANY to act or fail to act in a way which violates this article is personally responsible for such act or omission and subject to discipline therefor.

(7) Foreign corporations OR LIMITED LIABILITY COMPANIES may engage in the practice of public accounting in this state as certified public accountants so long as their articles of incorporation OR ARTICLES OF ORGANIZATION provide that such corporation OR LIMITED LIABILITY COMPANY is organized solely for the purpose of

practicing accountancy and such other activities as may from time to time be specifically found by the board to be activities suitable and proper to be performed by certified public accountants and comply with and meet the requirements of subsection (3) of this section.

(8) Except as provided in this section, professional corporations AND LIMITED LIABILITY COMPANIES shall not practice public accounting as certified public accountants.

(9) Nothing in this section shall modify the accountant-client privilege specified in section 13-90-107 (1) (f), C.R.S.

(10) When any law of this state or any rule or regulation of any agency or other authority established under the constitution or laws of this state requires or authorizes any audit, financial report, or statement to be made, approved, or certified by a certified public accountant, such audit, report, or statement may be made, approved, or certified by a professional corporation OR LIMITED LIABILITY COMPANY registered in this state.

**SECTION 3. Effective date.** This act shall take effect July 1, 1993.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 18, 1993