

1 SB17
2 179019-1
3 By Senator Melson
4 RFD: Tourism and Marketing
5 First Read: 15-AUG-16

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8 SYNOPSIS: Under current law, Certified Public
9 Accountants, Public Accountants, Attorneys,
10 Enrolled Agents, and other qualified individuals
11 are required to obtain a license or certification
12 in order to prepare Alabama income tax returns.

13 However, there are minimal provisions in
14 place to protect consumers against other individual
15 income tax preparers that incorrectly file tax
16 returns on a recurring basis.

17 This legislation would require certain tax
18 preparers to register with the Department, prior to
19 preparing returns, which will help regulate
20 services, prohibit unregistered persons from
21 performing said services, and establish penalties
22 for violators.

23 It would also establish qualifications for
24 registration, requirements of disclosures to
25 consumers, and exemptions to those obligated to
26 register.

1 In addition, this bill creates the Alabama
2 Taxpayer Protection and Assistance Act Advisory
3 Council for the purpose of determining acceptable
4 examinations, continuing education requirements,
5 and certifications.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To provide for the registration and regulation of
12 certain individual tax preparers; to provide for registration
13 exemptions; to prohibit individuals not registered from
14 conducting tax preparation services; to provide penalties for
15 violations; and to create the Alabama Taxpayer Protection and
16 Assistance Act Advisory Council for the purpose of determining
17 acceptable examinations, continuing education requirements,
18 and certifications.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and may be cited
21 as the "Alabama Taxpayer Protection and Assistance Act."

22 Section 2. The Alabama Taxpayer Protection and
23 Assistance Act is enacted to protect consumers by establishing
24 a registration program to ensure that qualified individuals
25 provide individual tax preparation services.

26 Section 3. When used in this act, the following
27 terms shall have the following meanings:

1 (1) CONSUMER. Any natural person who, singly or
2 jointly with another consumer, pays an individual tax preparer
3 to prepare his or her individual state tax return.

4 (2) DEPARTMENT. The Alabama Department of Revenue.

5 (3) INDIVIDUAL TAX PREPARER. An individual who is
6 registered by the Department to provide Alabama individual tax
7 preparation services.

8 (4) IN GOOD STANDING. An individual tax preparer
9 whose registration is not expired, suspended, or revoked.

10 (5) PERSON. An individual, firm, proprietorship,
11 association, corporation, or another entity.

12 (6) INDIVIDUAL TAX PREPARATION SERVICES. To prepare,
13 advise, or assist in the preparation of, or assume final
14 responsibility for, preparation of another individual's state
15 personal income tax return for valuable consideration.

16 (7) PTIN. Preparer Tax Identification Number issued
17 by the Internal Revenue Service.

18 (8) REGISTRATION. An authorization issued by the
19 Department to provide individual tax preparation services.

20 (9) SUPERVISION. The direct onsite supervision of
21 another employee, including responsibilities of directing,
22 assigning, and reviewing the employee's work.

23 (10) TAX RETURN. A return, declaration, statement,
24 refund claim, or other document required to be made or filed
25 in connection with state income taxes.

26 Section 4. The following individuals are exempt from
27 the requirements of this act:

1 (1) Any individual licensed or otherwise authorized
2 to practice accountancy in the state of Alabama, or to any
3 supervised person working for such an individual, when said
4 individual or supervised person is performing duties within
5 the scope of accountancy statutes and/or regulations.

6 (2) An individual in good standing and admitted to
7 practice law in this state.

8 (3) An individual enrolled to practice before the
9 Internal Revenue Service, or to any supervised person working
10 for such person when said individual or supervised person is
11 performing duties within the scope of taxation statutes and/or
12 regulations.

13 (4) Any individual who otherwise has a satisfactory
14 certification, as prescribed the commissioner.

15 Section 5. No person may provide tax preparation
16 services of Alabama individual income tax returns, unless
17 registered with the Department. This provision does not apply
18 to persons exempt under Section 4, provided that such persons
19 provide an IRS issued Preparer Tax Identification Number when
20 submitting a return and signing as a paid preparer. Upon
21 meeting all registration requirements, the Individual Tax
22 Preparer shall be issued an Alabama registration number.

23 Section 6. a) The Department is authorized to
24 investigate a complaint that alleges a violation of this act.

25 (b) On receipt of the results of an investigation
26 made under this section, the Department shall promptly take

1 action that is appropriate under this act to ensure compliance
2 with this act.

3 (c) If the Department concludes that conduct alleged
4 to be in violation of this act will result in harm to a
5 resident of the state, the Department may seek a permanent or
6 temporary injunction with respect to the conduct from the
7 circuit court of the county in which the alleged violation
8 occurred.

9 (d) In seeking an injunction under this subsection,
10 the Department is not required to post bond or prove that an
11 adequate remedy at law does not exist.

12 (e) The Department or its designee may issue a
13 subpoena for the attendance of witnesses to testify or the
14 production of evidence in connection with a disciplinary
15 action brought under this act or a proceeding brought for an
16 alleged violation of this act.

17 (f) If an individual fails to comply with a subpoena
18 issued under this section a court of competent jurisdiction
19 may compel compliance with the subpoena.

20 Section 7. (a) The Department shall confirm the
21 registration status of any applicant.

22 Section 8. (a) A person shall be registered by the
23 Department before such person is authorized to provide
24 individual tax preparation services.

25 (b) To qualify for registration, the applicant shall
26 meet the following minimum requirements that he or she:

1 (1) Has never been convicted of a felony, relating
2 to individual tax preparation services.

3 (2) Is at least 18 years of age.

4 (3) Possess a high school diploma or have passed a
5 graduation equivalency examination.

6 (4) Submit an application in a manner prescribed by
7 the Department.

8 (5) Be a citizen of the United States or, if not a
9 citizen of the United States, a person who is legally present
10 in the United States with appropriate documentation from the
11 federal government.

12 Section 9. (a) An applicant who otherwise qualifies
13 for registration may be examined as provided in this section.

14 (b) The Department may require examinations for
15 applicants, in a manner prescribed by the Department.

16 Section 10. (a) The Department shall issue a
17 registration number to each qualified applicant who has passed
18 the examination; if applicable.

19 (b) A registration authorizes the person to provide
20 individual tax preparation services.

21 (c) Unless renewed, a registration expires on the
22 first December 31 after the effective date of the
23 registration.

24 (d) Before a registration expires, the person may
25 renew the registration for an additional one-year term if the
26 person meets the following requirements:

27 (1) Otherwise is entitled to be registered.

1 (2) Submits to the Department a renewal application
2 in a manner prescribed by the Department and satisfactory
3 evidence of compliance with the continuing education
4 requirements set by the Department for registration renewal.

5 (e) The Department shall renew the registration of
6 each person who meets the requirements of this section.

7 Section 11. (a) The Department shall adopt
8 continuing education requirements as a condition of the
9 renewal of a registration issued under this act.

10 (b) The department will prescribe the continuing
11 education requirements and in what manner these requirements
12 will be submitted to the department. Such continuing education
13 requirements may be provided by IRS or state board of public
14 accountancy approved continuing education providers.

15 Section 12. (a) The Department shall adopt rules for
16 the reinstatement of a person who has failed to renew a
17 registration for any reason if the individual otherwise is
18 entitled to be registered and complies with the continuing
19 education requirements set by the Department.

20 (b) The Department may deny a registration to any
21 applicant, reprimand any registered individual tax preparer,
22 or suspend or revoke a registration if the applicant or
23 registered individual tax preparer does any of the following:

24 (1) Fraudulently or deceptively obtains or attempts
25 to obtain a registration for the applicant or registered
26 individual tax preparer or for another.

27 (2) Fraudulently or deceptively uses a registration.

1 (3) Under the laws of the United States or of any
2 state, is convicted of a felony or a misdemeanor directly
3 related to the fitness and qualification of the applicant or
4 registered individual tax preparer to provide individual tax
5 preparation services.

6 (4) Is guilty of negligence, incompetence, or
7 misconduct while providing individual tax preparation
8 services.

9 (5) Violates any provision of this act.

10 (c) Civil penalties for unethical tax preparation
11 imposed under this act, will be imposed as prescribed under
12 40-2A-11.1.

13 Section 13. (a) An individual tax preparer shall
14 maintain all records of personal income tax returns prepared
15 by the individual tax preparer for a time frame prescribed by
16 the Department, but in no case less than three years.

17 (b) Prior to rendering individual tax preparation
18 services, an individual tax preparer shall disclose to the
19 consumer, in writing, the individual tax preparer's name,
20 state preparer registration number, physical address, email
21 address, and telephone number.

22 (c) The individual tax preparer may not use the
23 terms "certified" or "registered" in any advertisement,
24 website, business cards, or any other information or materials
25 made available to the public in reference to himself or
26 herself.

1 (d) The disclosure required under subsection (b)
2 shall be provided to a consumer in writing and, if the
3 individual tax preparer maintains a website, on the website.

4 (e) An individual tax preparer may not do any of the
5 following:

6 (1) Fail to sign a consumer's individual tax return.

7 (2) Obtain the consumer's signature on an individual
8 tax return or other authorization document prior to the
9 completion of the individual tax preparation services.

10 (3) Disclose information received for the purposes
11 of preparing a consumer's state income tax return, unless
12 consented to in writing by the consumer, or in accordance with
13 a court order.

14 (f) A penalty of 100 dollars will be imposed for
15 each violation under (e) of this section.

16 Section 14. Except as otherwise provided in this
17 act, a person may not provide, attempt to provide, or offer to
18 provide individual tax preparation services in the state
19 unless registered by the Department.

20 Section 15. Any person who violates Section 14 of
21 this act, shall, upon conviction, be guilty of a class C
22 misdemeanor.

23 Section 16. An Alabama Taxpayer Protection and
24 Assistance Act Advisory Council is hereby created. The Council
25 shall be comprised of no more than (10) representatives of the
26 accounting and taxation industry, appointed by the
27 commissioner of the department. The Commissioner of the

1 Department, or his or her designee, shall chair the Council.
2 The Council shall make recommendations to the department for
3 implementing the provisions of this bill, including but not
4 limited to, assisting the department with developing rules,
5 acceptable examination, continuing education requirements, and
6 certifications of other qualified individuals. The Council
7 shall meet at least quarterly or otherwise at the call of the
8 chair. Members of the Council shall serve without
9 compensation.

10 Section 17. The department shall adopt rules to
11 assist with the implementation and enforcement of this act.

12 Section 18. The provisions of this act are servable.
13 If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 19. All laws or parts of laws which conflict
17 with this act are hereby repealed.

18 Section 20. This act shall become effective on
19 January 1, 2018 following its passage and approval by the
20 Governor, or upon its otherwise becoming law.