

BILL NO. 30-0279

Thirtieth Legislature of the Virgin Islands

November 6, 2013

An Act repealing title 27 Virgin Islands Code, chapter 5 and enacting chapter 5A pertaining to Public Accountancy and bring it into compliance with current law as recommended by the National Association of State Boards of Accountancy, in conjunction with the American Institute of certified public accountants and the Virgin Islands Board of Public Accountancy

PROPOSED BY: Senator Janette Millin Young and Shawn-Michael Malone

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 27 Virgin Islands Code is amended by adding chapter 5A that reads as
3 follows:

4 **“Chapter 5A Accountancy**

5 This Act may be cited as the “Public Accountancy Act of 2013”

6 It is the policy of this Territory, and the purpose of this Act, to promote the reliability of
7 information that is used for guidance in financial transactions or for accounting for or assessing the
8 financial status or performance of commercial, noncommercial, and governmental enterprises. The
9 public interest requires that persons professing special competence in accountancy or offering
10 assurance as to the reliability or fairness of presentation of such information shall have demonstrated
11 their qualifications to do so, and that persons who have not demonstrated and maintained such

1 qualifications, not be permitted to represent themselves as having such special competence or to
2 offer such assurance; that the conduct of persons licensed as having special competence in
3 accountancy be regulated in all aspects of their professional work; that a public authority competent
4 to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and
5 that the use of titles that have a capacity or tendency to deceive the public as to the status or
6 competence of the persons using such titles be prohibited.

7 **§ 250 Definitions**

8 When used in this chapter, the following terms have the meanings indicated:

9 (a) "AICPA" means the American Institute of Certified Public Accountants.

10 (b) "Attest" means providing the following financial statement services:

11 (1) any audit or other engagement to be performed in accordance with the Statements
12 on Auditing Standards (SAS);

13 (2) any review of a financial statement to be performed in accordance with the
14 Statements on Standards for Accounting and Review Services (SSARS);

15 (3) any examination of prospective financial information to be performed in
16 accordance with the Statements on Standards for Attestation Engagements (SSAE); and

17 (4) any engagement to be performed in accordance with the standards of the PCAOB;
18 and

19 (5) any examination, review, or agreed upon procedures engagement to be performed
20 in accordance with the Statements on Standards for Attestation Engagements (SSAE), other
21 than an examination described in subsection (b) (3).

22 The standards specified in this definition shall be adopted by reference by the Board pursuant
23 to rulemaking and shall be those developed for general application by recognized national
24 accountancy organizations, such as the AICPA, and the PCAOB.

25

1 (c) "Board" means the Virgin Islands Board of Accountancy established under Section
2 250a of this chapter.

3 (d) "Certificate" means a certificate as "certified public accountant" issued under Section
4 250c of this chapter or corresponding provisions of prior law, or a corresponding certificate as
5 certified public accountant issued after examination under the law of any other state.

6 (e) "Client" means a person or entity that agrees with a licensee or licensee's employer to
7 receive any professional service.

8 (f) "Compilation" means providing a service to be performed in accordance with
9 Statements on Standards for Accounting and Review Services (SSARS) that is presenting in the
10 form of financial statements, information that is the representation of management (owners) without
11 undertaking to express any assurance on the statements.

12 (g) "CPA Firm" means a sole proprietorship, a corporation, a partnership or any other form
13 of organization issued a permit under Section 250d of this chapter.

14 (h) "Home office" is the location specified by the client as the address to which a service
15 described in Section 250q(a)(4) is directed.

16 (i) "Manager" means a manager of a limited liability company.

17 (j) "Member" means a member of a limited liability company.

18 (k) "NASBA" means the National Association of State Boards of Accountancy.

19 (l) "PCAOB" means the Public Company Accounting Oversight Board.

20 (m) "Peer Review" means a study, appraisal, or review of one or more aspects of the
21 professional work of a certificate holder or CPA firm that issues attest or compilation reports, by a
22 person or persons who hold certificates and who are not affiliated with the certificate holder or CPA
23 firm being reviewed.

24 (n) "Permit" means a certificate issued under Section 250c of this chapter, a permit to
25 practice as a CPA firm issued under Section 250d; or in each case, a certificate or permit issued

1 under corresponding provisions of prior law or the laws of other states.

2 (o) "Permittee" means the holder of a permit as defined in Section 250 (n).

3 (p) "Principal place of business" means the office location designated by the licensee for
4 purposes of substantial equivalency and reciprocity.

5 (q) "Professional" means arising out of or related to the specialized knowledge or skills
6 associated with CPAs.

7 (r) "Report," when used with reference to financial statements, means an opinion, report,
8 or other form of language that states or implies assurance as to the reliability of any financial
9 statements and that also includes or is accompanied by any statement or implication that the person
10 or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement
11 or implication of special knowledge or competence may arise from use by the issuer of the report of
12 names or titles indicating that the person or firm is an accountant or auditor, or from the language of
13 the report itself. The term "report" includes any form of language which disclaims an opinion when
14 such form of language is conventionally understood to imply any positive assurance as to the
15 reliability of the financial statements referred to and/or special competence on the part of the person
16 or firm issuing such language; and it includes any other form of language that is conventionally
17 understood to imply such assurance and/or such special knowledge or competence.

18 (s) "Rule" means any rule, regulation, or other written directive of general application
19 duly adopted by the Board.

20 (t) "State" means any state of the United States, the District of Columbia, Puerto Rico,
21 the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam; except that "this
22 State" means the Territory of the Virgin Islands.

23 (u) "Substantial Equivalency" is a determination by the board of accountancy or its
24 designee that the education, examination and experience requirements contained in the statutes and
25 administrative rules of another jurisdiction are comparable to, or exceed the education, examination

1 and experience requirements contained in the Uniform Accountancy Act or that an individual CPA's
2 education, examination and experience qualifications are comparable to or exceed the education,
3 examination and experience requirements contained in the Uniform Accountancy Act. In
4 ascertaining substantial equivalency as used in this act the Board shall take into account the
5 qualifications without regard to the sequence in which experience, education, or examination
6 requirements were attained.

7 (v) "Territory" means the Virgin Islands.

8 **§ 250a Virgin Islands Board of Accountancy**

9 (a) There is established the Virgin Islands Board of Public Accountancy within the
10 Department of Licensing and Consumer Affairs. The Board shall consist of five members all of
11 whom shall be residents of this Territory, appointed by the Governor with the advice and consent of
12 the Legislature. Two members shall reside on the island of St. Croix, two members shall reside on
13 the island of St. Thomas and one member shall reside on the island of St. John. Members of the
14 Board shall be citizens of the United States and shall hold certified public accountant certificates
15 issued under the laws of the Virgin Islands, and who are in active practice as certified public
16 accountants. Provided, that whenever there are not available in the Virgin Islands certified public
17 accountants in active practice in sufficient number to meet the foregoing requirements for
18 constituting the Board inactive certified public accountants who otherwise qualify may be appointed.
19 The members of the Board first to be appointed shall hold office, two for one year, two for two
20 years, and one for three years, from the effective date of this Act, the term of each to be designated
21 by the Governor. Their successors shall be appointed for terms of three years. Vacancies occurring
22 during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term
23 of office a member shall continue to serve until his successor shall have been appointed and shall
24 have qualified. The Governor shall remove from the Board any member whose permit to practice

1 has become void, revoked or suspended, and may, after hearing, remove any member of the Board
2 for neglect of duty or other just cause.

3 (b) The Board shall elect annually, from among its members, a president, secretary, and
4 treasurer. The Board may adopt, and amend from time to time, regulations for the orderly conduct
5 of its affairs and for the administration of this Act. A majority of the Board shall constitute a
6 quorum for the transaction of business. The Board shall have a seal which shall be judicially
7 noticed. The Board shall keep records of its proceedings, and in any proceeding in court, civil or
8 criminal, arising out of or founded upon any provision of this Act, copies of said records certified as
9 correct under the seal of the Board shall be admissible in evidence as tending to prove the content of
10 said records. The Board shall publish annually a register which shall contain the names of all
11 permittees to practice under said sections, the names of the members of the Board and such other
12 matters as may be deemed proper by the Board. The Board may employ such personnel and arrange
13 for such assistance as it may require for the performance of its duties.

14 (c) Members of the Board may be paid a stipend for the time spent in the discharge of
15 official duties, and each member shall be reimbursed for actual and necessary expenses incurred in
16 the discharge of official duties.

17 (d) All fees and other monies received by the Board pursuant to this chapter other than
18 fines collected under Section 250g (a) shall be kept in a separate fund in the Treasury of the Virgin
19 Islands, and expended solely for the purposes of this chapter. No part of this special fund shall
20 revert to the general fund of the Government of the Virgin Islands. All expenses incurred under said
21 sections shall be paid from this special fund. No expense incurred under said sections shall be a
22 charge against the general fund of the Government of the Virgin Islands. The Board shall file an
23 annual report of its activities with the Governor of the Virgin Islands and such report shall include a
24 statement of all receipts and disbursements.

1 (e) The Board may contract with persons or agencies who are not employees or agencies
2 of the Board to implement this chapter and to fulfill the responsibilities of the Board.

3 (f)(1) The Board shall have the power to take any action that is necessary and proper to
4 effectuate the purposes of this chapter. The Board shall also have the power to issue subpoenas to
5 compel the attendance of witnesses and the production of documents; to administer oaths; to take
6 testimony, to cooperate with the PCAOB and the appropriate territorial and federal regulatory
7 authorities having jurisdiction over the professional conduct in question in investigation and
8 enforcement concerning violations of this chapter and comparable acts of other states; to cooperate
9 in enforcement with appropriate foreign regulatory authorities in instances which have or may result
10 in criminal conviction, loss of license or suspension, admonishment or censure; and to receive
11 evidence concerning all matters within the scope of this chapter. In case of disobedience of a
12 subpoena, the Board may invoke the aid of any court or other appropriate regulatory authority in
13 requiring the attendance and testimony of witnesses and the production of documentary evidence.
14 For purposes of this subsection, “appropriate foreign regulatory authorities” shall be those foreign
15 authorities granting substantially equivalent foreign designations in accordance with Section 250(g)
16 of this chapter.

17 (2) The Board, its members, and its agents shall be immune from personal liability for
18 actions taken in good faith in the discharge of the Board’s responsibilities, and the Territory shall
19 hold the Board, its members, and its agents harmless from all costs, damages, and attorneys’ fees
20 arising from claims and suits against them with respect to matters to which such immunity applies.

21 (g) The Board may adopt rules governing its administration and enforcement of this
22 chapter and the conduct of licensees, including but not limited to:

23 (1) Rules governing the Board’s meetings and the conduct of its business;

24 (2) Rules of procedure governing the conduct of investigations and hearings by the
25 Board;

1 (3) Rules specifying the educational and experience qualifications required for the
2 issuance of certificates under Section 250c of this chapter and the continuing professional
3 education required for renewal of certificates under Section 250d (d);

4 (4) Rules of professional conduct directed to controlling the quality and probity of
5 services by licensees, and dealing among other things with independence, integrity, and
6 objectivity; competence and technical standards; responsibilities to the public; and
7 responsibilities to clients;

8 (5) Rules governing the professional standards applicable to licensees;

9 (6) Rules governing the manner and circumstances of use of the titles “certified
10 public accountant” and “CPA”;

11 (7) Rules regarding peer review that may be required to be performed under
12 provisions of this chapter;

13 (8) Rules on substantial equivalence to implement Section 250q; and

14 (9) Such other rules as the Board may consider necessary or appropriate for
15 implementing the provisions and the purposes of this chapter.

16 (h) Promulgation of rules shall be in accordance with the laws and regulations of the
17 Virgin Islands.

18 (i) Records, papers, and other documents containing information collected or compiled
19 by the Board, its members, employees, contractors or agents, including its legal counsel, as a result
20 of a complaint, investigation, inquiry, or interview in connection with an application for
21 examination, certification, or registration, or in connection with a permittee’s professional ethics and
22 conduct, shall not be considered public records within the meaning of this Territory’s public records
23 laws. Additionally, any record, paper, or other document received by the Board as a result of a self-
24 reporting requirement shall not be considered public records within the meaning of this Territory’s
25 public records laws. When any such record, paper, or other document is admitted into evidence in a

1 hearing held by the Board, it shall then be a public record within the meaning of this Territory's
2 public records laws. However, upon a showing of good cause, the administrative judge at such a
3 hearing may order that confidential or privileged information be redacted or admitted under seal.

4 (1) Notwithstanding any other provision of this chapter, information protected by
5 this confidentiality provision shall not be disclosed to other authorities unless the recipient
6 confirms in writing that it will assure preservation of confidentiality and the permittee has
7 been given reasonable notice that the information will be provided to another entity.

8 (2) Notwithstanding any contrary provision in the Territory's public records law,
9 disclosures to law enforcement and regulatory authorities and, **only** to the extent considered
10 necessary to conduct an investigation, to the subject of the investigation, persons whose
11 complaints are being investigated and witnesses questioned in the course of investigation, as
12 provided in Section 250h (b), shall not be considered public disclosures and shall not deprive
13 such records of their confidential status.

14 (3) Nothing in this subsection shall be construed as a waiver of any privilege,
15 such as attorney-client privilege, which may also apply to any records covered by this
16 subsection.

17 (4) Nothing in this subsection shall confer confidential status on any record
18 collected under this subsection which was a public record when collected or thereafter
19 becomes a public record through other lawful means.

20 **§ 250b QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC**
21 **ACCOUNTANT**

22 (a) The certificate of "certified public accountant" shall be granted to persons of good
23 moral character who meet the education, experience and examination requirements of the following
24 subsections of this Section and rules adopted there under and who make application there for
25 pursuant to Section 250c of this chapter.

1 (b) Good moral character for purposes of this Section means the propensity to provide
2 professional services in a fair, honest, and open manner. The Board may refuse to grant a certificate
3 on the ground of failure to satisfy this requirement only if there is a substantial connection between
4 the lack of good moral character of the applicant and the professional responsibilities of a licensee
5 and if the finding by the Board of lack of good moral character is supported by clear and convincing
6 evidence. When an applicant is found to be unqualified for a certificate because of a lack of good
7 moral character, the Board shall furnish the applicant a statement containing the findings of the
8 Board, a complete record of the evidence upon which the determination was based, and a notice of
9 the applicant's right of appeal.

10 (c) The education requirement for a certificate shall be as follows:

11 (1) During the five-year period immediately following the effective date of this
12 chapter:

13 (a) a baccalaureate degree or its equivalent, including at least 120
14 semester hours of education conferred by a college or university acceptable to the
15 Board, with an accounting concentration or equivalent as determined by Board rule to
16 be appropriate; or

17 (b) who is a graduate of a college or university recognized by the Board
18 but has not completed the hours of study and subjects specified in Board rule, and
19 who has been engaged in the practice of public accounting or in the employ of a
20 public accountant or certified public accountant, for three years preceding the date of
21 application, or who has been employed by the government of the Virgin Islands or by
22 the federal government as an auditor, or as an internal revenue agent, or in a position
23 of supervisory responsibility over auditors or internal revenue agents for at least three
24 years preceding the date of application.

1 (c) After the expiration of the five-year period immediately following the
2 effective date of this chapter, at least 150 semester hours of college education
3 including a baccalaureate or higher degree conferred by a college or university
4 acceptable to the Board, the total educational program to include an accounting
5 concentration or equivalent as determined by Board rule to be appropriate. However,
6 an individual who has completed a baccalaureate degree or its equivalent, including at
7 least 120 semester hours of education acceptable to the Board, with an accounting
8 concentration or equivalent as determined by Board rule to be appropriate may sit for
9 the examination required under Subsection (d);

10 (d) The examination required to be passed as a condition for the granting of
11 a certificate shall be held regularly throughout the year, and shall test the applicant's
12 knowledge of the subjects of accounting and auditing, and such other related subjects
13 as the Board may specify by rule, including but not limited to business law and
14 taxation. The Board shall prescribe by rule the methods of applying for and
15 conducting the examination, including methods for grading and determining a passing
16 grade required of an applicant for a certificate provided, however, that the Board shall
17 to the extent possible see to it that the examination itself, grading of the examination,
18 and the passing grades, are uniform with those applicable in all other states. The
19 Board may make such use of all or any part of the Uniform Certified Public
20 Accountant Examination and Advisory Grading Service of the American Institute of
21 Certified Public Accountants and may contract with third parties to perform such
22 administrative services with respect to the examination as it deems appropriate to
23 assist it in performing its duties hereunder.

1 (e) The Board may charge, or provide for a third party administering the
2 examination to charge, each applicant a fee, in an amount prescribed by the Board by
3 rule.

4 (f) An applicant for initial issuance of a certificate under this Section shall
5 show that the applicant has had one year of experience. This experience shall include
6 providing any type of service or advice involving the use of accounting, attest,
7 compilation, management advisory, financial advisory, tax or consulting skills all of
8 which was certified by a licensee, meeting requirements prescribed by the Board by
9 rule. This experience would be acceptable if it was gained through employment in
10 government, industry, academia or public practice.

11 (g) Any person who holds an individual certificate or permit as of the
12 effective date of this chapter issued pursuant to the laws of this Territory under title 27
13 Virgin Islands Code: Professions and Occupations. Chapter 5. Public Accounting
14 shall not be required to obtain additional permits pursuant to this chapter and shall
15 have the same rights and privileges provided they shall be subject to the provisions of
16 this chapter for renewal of permits.

17 **§ 250c ISSUANCE AND RENEWAL OF CERTIFICATES, AND MAINTENANCE OF**
18 **COMPETENCY**

19 (a) The Board shall grant or renew certificates to persons who make application and
20 demonstrate (1) that their qualifications, including where applicable the qualifications prescribed by
21 Section 250b, are in accordance with the following subsections of this Section or (2) that they are
22 eligible under the substantial equivalency standard set out in Section 250q(a)(2) of this chapter
23 which requires licensure for those CPAs that establish their principal place of business in another
24 state. The holder of a certificate issued under this Section may only provide attest services, as
25 defined, in a CPA firm that holds a permit issued under Section 250d of this chapter.

1 (b) Certificates shall be initially issued and renewed annually, but in any event shall expire
2 on a specified date following issuance or renewal. Applications for such certificates shall be made
3 in such form, and in the case of applications for renewal, between such dates, as the Board shall by
4 rule specify.

5 (c)(1) With regard to applicants that do not qualify for reciprocity under the substantial
6 equivalency standard set out in Section 250q(a)(2) of this chapter, the Board shall issue a certificate
7 to a holder of a certificate, license, or permit issued by another state upon a showing that:

8 (A) The applicant passed the uniform CPA examination;

9 (B) The applicant had four years of experience of the type described in
10 Section 250b (f) or meets comparable requirements prescribed by the Board by rule,
11 after passing the examination upon which the applicant's certificate was based and
12 within the ten years immediately preceding the application; and

13 (C) If the applicant's certificate, license, or permit was issued more than
14 four years prior to the application for issuance of an initial certificate under this
15 Section, that the applicant has fulfilled the requirements of continuing professional
16 education that would have been applicable under subsection (d) of this Section.

17 (2) As an alternative to the requirements of subsection (c) (1) of this section, a
18 certificate holder licensed by another state who establishes their principal place of business in
19 the Territory shall request the issuance of a certificate from the Board prior to establishing
20 such principal place of business. The Board shall issue a certificate to such person who
21 obtains from the NASBA National Qualification Appraisal Service verification that such
22 individual's CPA qualifications are substantially equivalent to the CPA licensure
23 requirements of the AICPA/NASBA Uniform Accountancy Act.

24 (3) An application under this Section may be made through the NASBA
25 Qualification Appraisal Service.

1 (d) One year from the effective date of this chapter, for renewal of a certificate under this
2 Section each permittee shall participate in a program of learning designed to maintain professional
3 competency. Such program of learning must comply with rules adopted by the Board. The Board
4 may by rule create an exception to this requirement for certificate holders who do not perform or
5 offer to perform for the public one or more kinds of services involving the use of accounting or
6 auditing skills, including issuance of reports on financial statements or of one or more kinds of
7 management advisory, financial advisory or consulting services, or the preparation of tax returns or
8 the furnishing of advice on tax matters. Permittees granted such an exception by the Board must
9 place the word “inactive” adjacent to their CPA title or PA title on any business card, letterhead or
10 any other document or device, with the exception of their CPA certificate or PA registration, on
11 which their CPA or PA title appears.

12 (e) The Board shall charge a fee for each application for initial issuance and renewal of a
13 certificate under this Section in an amount prescribed by the Board by rule.

14 (f) Applicants for initial issuance or renewal of certificates under this Section shall in
15 their applications list all states in which they have applied for or hold certificates, licenses, or
16 permits and list any past denial, revocation or suspension of a certificate, license or permit, and each
17 holder of or applicant for a certificate under this Section shall notify the Board in writing, within 30
18 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license or
19 permit by another state.

20 (g) The Board shall issue a certificate to a holder of a substantially equivalent foreign
21 designation, provided that:

22 (1) The foreign authority which granted the designation makes similar provision
23 to allow a person who holds a valid certificate issued by the Territory to obtain such foreign
24 authority’s comparable designation; and

25 (2) The foreign designation:

1 (A) was duly issued by a foreign authority that regulates the practice of
2 public accountancy and the foreign designation has not expired or been revoked or
3 suspended;

4 (B) entitles the holder to issue reports upon financial statements; and

5 (C) was issued upon the basis of educational, examination, and experience
6 requirements established by the foreign authority or by law; and

7 (3) The applicant:

8 (A) received the designation, based on educational and examination
9 standards substantially equivalent to those in effect in this Territory, at the time the
10 foreign designation was granted;

11 (B) completed an experience requirement, substantially equivalent to the
12 requirement set out in Section 250b (f), in the jurisdiction which granted the foreign
13 designation or has completed four years of professional experience in this Territory;
14 or meets equivalent requirements prescribed by the Board by rule, within the ten
15 years immediately preceding the application; and

16 (C) passed a uniform qualifying examination in national standards and a
17 Territory specific examination as determined by Board rule.

18 (h) An applicant under subsection (g) of this section shall in the application list all
19 jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to
20 practice public accountancy, and each holder of a certificate issued under this subsection shall notify
21 the Board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or
22 suspension of a designation or commencement of a disciplinary or enforcement action by any
23 jurisdiction.

24 (i) The Board has the sole authority to interpret the application of the provisions of
25 Subsections (g) and (h) of this section.

1 (j) The Board shall by rule require as a condition for renewal of a certificate under this
2 Section, by any certificate holder who issues compilation reports for the public other than through a
3 CPA firm, that such individual undergo, no more frequently than once every three years, a peer
4 review conducted in such manner as the Board shall by rule specify, and such review shall include
5 verification that such individual has met the competency requirements set out in professional
6 standards for such services.

7 **§ 250d FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY**
8 **AND PEER REVIEW**

9 (a) The Board shall grant or renew permits to practice as a CPA firm to applicants that
10 demonstrate their qualifications therefore in accordance with this Section.

11 (1) The following must hold a permit issued under this Section:

12 (A) Any firm with an office in the Territory performing attest services as
13 defined in Section 250b (b) of this chapter; or,

14 (B) Any firm with an office in the Territory that uses the title “CPA” or
15 “CPA firm;” or,

16 (C) Any firm that does not have an office in the Territory but performs
17 attest services described in Section 250b (b)(1), (3) or (4) of this chapter for a client
18 having its home office in the Territory.

19 (2) A firm which does not have an office in the Territory may perform services
20 described in subsections 250b (b) (2) or (f) for a client having its home office in the Territory
21 and may use the title “CPA” or “CPA firm” without a permit issued under this Section only
22 if:

23 (A) it has the qualifications described in subsections (c) and (h) of this
24 section; and

1 (B) it performs such services through an individual with practice privileges
2 under Section 250q of the chapter.

3 (3) A firm which is not subject to the requirements of subsection (a)(1)(C) or (2)
4 may perform other professional services while using the title "CPA" or "CPA firm" in this
5 Territory without a permit issued under this Section only if:

6 (A) it performs such services through an individual with practice privileges
7 under Section 250q of the chapter, and

8 (B) it can lawfully do so in the state where said individual(s) with practice
9 privileges have their principal place of business.

10 (b) Permits shall be initially issued and renewed annually but in any event shall expire on
11 a specified date following issuance or renewal. Applications for such certificates shall be made in
12 such form, and in the case of applications for renewal, between such dates, as the Board shall by rule
13 specify.

14 (c) An applicant for initial issuance or renewal of a permit to practice under this Section
15 shall be required to show that:

16 (1) Notwithstanding any other provision of law, a simple majority of the
17 ownership of the firm, in terms of financial interests and voting rights of all partners, officers,
18 shareholders, members or managers, belongs to holders of a certificate who are licensed in
19 some state, and such partners, officers, shareholders, members or managers, whose principal
20 place of business is in the Virgin Islands, and who perform professional services in this
21 Territory hold a valid certificate issued under Section 251 of this chapter or the
22 corresponding provision of prior law. Although firms may include non-permittee owners, the
23 firm and its ownership must comply with rules promulgated by the Board. An individual
24 who has practice privileges under Section 250q who performs services for which a firm
25 permit is required under Section 250q (a)(4) shall not be required to obtain a certificate from

1 the Virgin Islands pursuant to Section 250c of this chapter.

2 (2) Any CPA or PA firm as defined in this chapter may include non-permittee
3 owners provided that:

4 (A) The firm designates a permittee of the Territory, or in the case of a
5 firm which must have a permit pursuant to Section 250q (a)(4) a licensee of another
6 state who meets the requirements set out in Section 250q (a)(1) or in Section 250q
7 (a)(2), who is responsible for the proper registration of the firm and identifies that
8 individual to the Board.

9 (B) All non-permittee owners are active individual participants in the CPA
10 or affiliated entities.

11 (C) The firm complies with such other requirements as the Board may
12 impose by rule.

13 (3) Any individual permittee and any individual granted practice privileges under
14 this chapter who is responsible for supervising attest or compilation services and signs or
15 authorizes someone to sign the accountant's report on the financial statements on behalf of
16 the firm, shall meet the competency requirements set out in the professional standards for
17 such services.

18 (4) Any individual permittee and any individual granted practice privileges under
19 this chapter who signs or authorizes someone to sign the accountants' report on the financial
20 statements on behalf of the firm shall meet the competency requirement of the prior
21 subsection.

22 (d) An applicant for initial issuance or renewal of a permit to practice under this Section
23 shall be required to register each office of the firm within the Territory with the Board and to show
24 that all attest and compilation services as defined herein rendered in the Territory are under the

1 charge of a person holding a valid certificate issued under Section 250c of this chapter or the
2 corresponding provision of prior law or some other state.

3 (e) The Board shall charge a fee for each application for initial issuance or renewal of a
4 permit under this Section in an amount prescribed by the Board by rule.

5 (f) An applicant for initial issuance or renewal of permits under this Section shall in their
6 application list all states in which they have applied for or hold permits as CPA firms and list any
7 past denial, revocation or suspension of a permit by any other state, and each holder of or applicant
8 for a permit under this Section shall notify the Board in writing, within 30 days after its occurrence,
9 of any change in the identities of partners, officers, shareholders, members or managers whose
10 principal place of business is in this Territory, any change in the number or location of offices within
11 this Territory, any change in the identity of the persons in charge of such offices, and any issuance,
12 denial, revocation, or suspension of a permit by any other state.

13 (g) Firms which fall out of compliance with the provisions of the section due to changes in
14 firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to
15 bring the firm back into compliance as quickly as possible. The Board may grant a reasonable period
16 of time for a firm to take such corrective action. Failure to bring the firm back into compliance
17 within a reasonable period as defined by the Board will result in the suspension or revocation of the
18 firm permit.

19 (h) One year from the effective date of this chapter, as a condition to renewal of permits
20 under this Section, that applicants undergo, no more frequently than once every three years, peer
21 reviews conducted in such manner as the Board shall prescribe by rule, and such review shall include
22 a verification that individuals in the firm who are responsible for supervising attest and compilation
23 services and sign or authorize someone to sign the accountant's report on the financial statements on
24 behalf of the firm meet the competency requirements set out in the professional standards for such
25 services, provided that any such rule:

1 (1) shall be promulgated reasonably in advance of the time when it first becomes
2 effective;

3
4 (2) shall include reasonable provision for compliance by an applicant showing
5 that it has, within the preceding three years, undergone a peer review that is a satisfactory
6 equivalent to peer review generally required pursuant to this subsection;

7 (3) shall require, with respect to any organization administering peer review
8 programs contemplated by paragraph (2), that it be subject to evaluations by the Board or its
9 designee, to periodically assess the effectiveness of the peer review program under its charge.

10 **§ 250e APPOINTMENT OF A RESIDENT AGENT**

11 Application by a person or a firm not a resident of the Territory for a certificate under
12 Section 250c of this chapter or a permit to practice under Section 254 shall appoint a resident agent
13 as permitted by law or Board rules. The applicant's agent shall be a person upon whom process may
14 be served in any action or proceeding against the applicant arising out of any transaction or operation
15 connected with or incidental to services performed by the applicant while a permittee within the
16 Territory.

17 **§ 250f Hearings Before Board and judicial review; Commencement of proceedings**

18 (a) The Board may initiate proceedings under this chapter either on its own motion or on
19 the complaint of any person.

20 (b) A written notice stating the nature of the charge or charges against the accused and
21 the time and place of the hearing before the Board or its designee on such charges shall be served on
22 the accused not less than 30 days prior to the date of said hearing either personally or by mailing a
23 copy thereof by registered mail to the address of the accused last known to the Board.

24 (c) If, after having been served with the notice of hearing as provided for in subsection
25 (b) of this section, the accused fails to appear at said hearing and defend, the Board or its designee
26 may proceed to hear evidence against the accused and may enter such order as shall be justified by

1 the evidence, which order shall be final unless the accused petitions for a review thereof as provided
2 in this section: Provided, however, that within 30 days from the date of any order, upon a showing
3 of good cause for failing to appear and defend, the Board or its designee may reopen said
4 proceedings and may permit the accused to submit evidence on the accused's behalf.

5 (d) At any hearing the accused may appear in person and by counsel, produce evidence
6 and witnesses on the accused's own behalf, cross-examine witnesses and examine such evidence as
7 may be produced against the accused. The accused shall be entitled, on application to the Board, to
8 the issuance of subpoenas to compel the attendance of witnesses on the accused's behalf.

9 (e) The Board, or its designee may issue subpoenas to compel the attendance of
10 witnesses and the production of documents, and may administer oaths, take testimony, hear proofs
11 and receive exhibits in evidence in connection with or upon hearing under this chapter. In case of
12 disobedience to a subpoena the Board may invoke the aid of any court of the Virgin Islands in
13 requiring the attendance and testimony of witnesses and the production of documentary evidence.

14 (f) The Board shall not be bound by technical rules of evidence.

15 (g) A transcript of the hearing shall be kept and filed with the Board.

16 (h) At all hearings the Attorney General for the Virgin Islands or his designee shall
17 appear and represent the Board.

18 (i) The decision of the Board shall be by majority vote thereof.

19 (j) Any person adversely affected by any order of the Board may obtain a review thereof
20 by filing a written petition for review with the Superior Court within 30 days after the entry of said
21 order. The petition shall state the grounds upon which the review is asked and shall pray that the
22 order of the Board be modified or set aside in whole or in part. A copy of such petition shall be
23 forthwith served upon any member of the Board and thereupon the Board shall certify and file in the
24 Court a transcript of the record, upon which the order complained of was entered. The case shall
25 then be tried de novo on the record but the parties shall be permitted to file briefs as in an ordinary

1 case at law. The Court may affirm, modify or set aside the Board's order in whole or in part, or may
2 remand the case to the Board for further evidence and may in its discretion stay the effect of the
3 Board's order pending its determination of the case. The Court's decision shall have the force and
4 effect of a decree in equity.

5 (k) In any case where the Board renders an order imposing discipline against a permittee
6 or an individual granted privileges under Section 250q of this chapter, the Board shall examine its
7 records to determine whether the individual or firm holds a license or practice privilege in any other
8 state or is subject to the PCAOB's authority; and if so, the Board shall notify the State Boards of
9 Accountancy and any other regulatory authorities, including the PCAOB if applicable, of its decision
10 immediately in the case of a consent order and in all other cases when the time for giving notice of
11 an appeal from the Board's order has expired. Such notice shall indicate whether or not the subject
12 order has been appealed and whether or not the subject order has been stayed. In the alternative, the
13 Board may report such disciplinary actions to a multistate enforcement information network.
14 Subject to Section 250a (i) of this chapter, the Board may also furnish investigative information and
15 the hearing record relating to proceedings resulting in disciplinary action in such cases to such other
16 regulatory authorities upon request.

17 **§ 250g ENFORCEMENT-GROUNDS FOR DISCIPLINE**

18 (a) After notice and hearing pursuant to this chapter, the Board may revoke any permit
19 issued under Sections 250c or 250d of this chapter or corresponding provisions of prior law or
20 revoke or suspend any such permit, refuse to renew any such permit for a period of not more than
21 five years, reprimand, censure, or limit the scope of practice of any permittee; impose an
22 administrative fine not exceeding \$10,000 per violation; limit or revoke the practice privileges, and
23 impose an administrative fine not exceeding \$10,000 per violation of any individual under Section
24 250q of this chapter, or place any permittee on probation, all with or without terms, conditions, and
25 limitations, for any one or more of the following reasons:

- 1 (1) Dishonesty, fraud or deceit in obtaining a permit;
- 2 (2) Cancellation, revocation, suspension or refusal to renew a permit or privileges
3 under Section 250q for disciplinary reasons in any other state for any cause;
- 4 (3) Failure, on the part of a permittee under Sections 250c or 250d, to maintain
5 compliance with the requirements for issuance or renewal of such certificate or permit to
6 report changes to the Board under Sections 250c (f) or 250d (f);
- 7 (4) Revocation or suspension of the right to practice by any state or federal
8 regulatory authority or by the PCAOB;
- 9 (5) Dishonesty, fraud, deceit or gross negligence in the performance of services as
10 a permittee or individual granted privileges under Section 250q or in the filing or failure to
11 file one's own income tax returns;
- 12 (6) Violation of any provision of this chapter or rule promulgated by the Board
13 under this Act or violation of professional standards;
- 14 (7) Violation of any rule of professional conduct promulgated by the Board under
15 Section 250a (g) of this chapter;
- 16 (8) Conviction of a felony, or of any other crime an element of which is
17 dishonesty, fraud or deceit, under the laws of the United States, of the Territory, or of any
18 state if the acts involved would have constituted a crime under the laws of the Virgin Islands;
- 19 (9) Performance of any fraudulent act while holding a permit or privilege issued
20 under this chapter or prior law;
- 21 (10) Any conduct reflecting adversely upon the permittee's fitness to perform
22 services while a permittee, or individual granted privileges under Section 250q;or
- 23 (11) Making any false or misleading statement or verification, in support of an
24 application for a permit filed by another.

1 (b) Fines as assessed under subsection (a) shall be deposited in the Consumer Protection
2 Fund of the Department of Licensing & Consumer Affairs. Recovered costs as assessed under
3 subsection (a) shall be deposited in the Virgin Islands Board of Public Accountancy fund.

4 (c) In lieu of or in addition to any remedy specifically provided in subsection (a) of this
5 Section, the Board may require of a permittee:

6 (1) A peer review conducted in such fashion as the Board may specify; and/or

7 (2) Satisfactory completion of such continuing professional education programs
8 as the Board may specify.

9 (d) In any proceeding in which a remedy provided by subsections (a) or (c) of this
10 Section is imposed, the Board may also require the respondent permittee to pay the costs of the
11 proceeding.

12 **§ 250h ENFORCEMENT--INVESTIGATIONS**

13 (a) The Board or its designee may, upon receipt of a complaint or other information
14 suggesting violations of this chapter or of the rules of the Board, conduct investigations to determine
15 whether there is probable cause to institute proceedings under Sections 250f, 250k, or 250l of this
16 chapter against any person or firm for such violation, but an investigation under this Section shall
17 not be a prerequisite to such proceedings in the event that a determination of probable cause can be
18 made without investigation. In aid of such investigations, the Board or the chairperson, or a
19 designee thereof may issue subpoenas to compel witnesses to testify and/or to produce evidence.

20 (b) The Board may designate a member, or any other person of appropriate competence, to
21 serve as investigating officer to conduct an investigation. Upon completion of an investigation, the
22 investigating officer shall file a report with the Board. The Board shall find probable cause or lack
23 of probable cause upon the basis of the report or shall return the report to the investigating officer for
24 further investigation. Unless there has been a determination of probable cause, the report of the
25 investigating officer, the complaint, if any, the testimony and documents submitted in support of the

1 complaint or gathered in the investigation, and the fact of pendency of the investigation shall be
2 treated as confidential information and shall not be disclosed to any person except law enforcement
3 authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of
4 the investigation, persons whose complaints are being investigated, and witnesses questioned in the
5 course of the investigation.

6 (c) Upon a finding of probable cause, if the subject of the investigation is a permittee or an
7 individual with privileges under Section 250q of this chapter, the Board shall direct that a complaint
8 be issued under Section 250f of this chapter, and if the subject of the investigation is not a permittee
9 or an individual with privileges under Section 250q, the Board shall take appropriate action under
10 Sections 250k or 250l of this chapter. Upon a finding of no probable cause, the Board shall close the
11 matter and shall thereafter release information relating thereto only with the consent of the person or
12 firm under investigation.

13 (d) The Board may review the publicly available professional work of permittees or an
14 individual with privileges under Section 250q of this chapter on a general and random basis, without
15 any requirement of a formal complaint or suspicion of impropriety. In the event that as a result of
16 such review the Board discovers reasonable grounds for a more specific investigation, the Board
17 may proceed under subsections (a) through (c) of this Section.

18 **§ 250i REINSTATEMENT**

19 (a) In any case where the Board has suspended or revoked a certificate or a permit or
20 revoked or limited privileges under Section 250q or refused to renew a certificate, permit, the Board
21 may, upon application in writing by the person or firm affected and for good cause shown, modify
22 the suspension, or reissue the certificate, permit, or registration or remove the limitation or
23 revocation of privileges under Section 250q.

1 (b) The Board shall by rule specify the manner in which such applications shall be made,
2 the times within which they shall be made, and the circumstances in which hearings will be held
3 thereon.

4 (c) Before reissuing, or terminating the suspension of, a certificate or permit under this
5 Section or of privileges under Section 250q, and as a condition thereto, the Board may require the
6 applicant therefor to show successful completion of specified continuing professional education;
7 and the Board may make the reinstatement of a certificate, permit or registration or of privileges
8 under Section 250q conditional and subject to satisfactory completion of a peer review conducted in
9 such fashion as the Board may specify.

10 **§ 250j UNLAWFUL ACTS**

11 (a) Only permittees and individuals who have practice privileges under Section 250q of
12 this chapter may issue a report on financial statements of any person, firm, organization, or
13 governmental unit or offer to render or render any attest or compilation service, as defined herein.
14 This restriction does not prohibit any act of a public official or public employee in the performance
15 of that person's duties as such; or prohibit the performance by any non-permittees of other services
16 involving the use of accounting skills, including the preparation of tax returns, management advisory
17 services, and the preparation of financial statements without the issuance of reports thereon. Non-
18 permittees may prepare financial statements and issue non-attest transmittals or information thereon
19 which does not purport to be in compliance with the Statements on Standards for Accounting and
20 Review Services (SSARS).

21 (b) Permittees and individuals who have practice privileges under Section 250q of this
22 chapter performing attest or compilation services must provide those services in accordance with
23 applicable professional standards.

24 (c) No person not holding a valid certificate or a practice privilege pursuant to Section
25 250q of this chapter shall use or assume the title "certified public accountant," or the abbreviation

1 “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to
2 indicate that such person is a certified public accountant.

3 (d) No firm shall provide attest services or assume or use the title “certified public
4 accountants,” or the abbreviation “CPAs,” or any other title, designation, words, letters,
5 abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless (1) the firm
6 holds a valid permit issued under Section 250d of this chapter, and (2) ownership of the firm is in
7 accord with this Act and rules promulgated by the Board.

8 (e) No person or firm not holding a valid certificate, permit or registration issued under
9 Sections 250c or 250d of this chapter shall assume or use the title “certified accountant,” “chartered
10 accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited
11 accountant,” or any other title or designation likely to be confused with the titles “certified public
12 accountant” or “public accountant,” or use any of the abbreviations “CA,” “LA,” “RA,” “AA,” or
13 similar abbreviation likely to be confused with the abbreviations “CPA” or “PA.” The title
14 “Enrolled Agent” or “EA” may only be used by individuals so designated by the Internal Revenue
15 Service.

16 (f)(1) Non-permittees may not use language in any statement relating to the financial affairs
17 of a person or entity which is conventionally used by permittees in reports on financial statements.
18 In this regard, the Board shall issue safe harbor language non-permittees may use in connection with
19 such financial information.

20 (2) No person or firm not holding a valid certificate or permit issued under Sections 250c
21 or 250d of this chapter shall assume or use any title or designation that includes the words
22 “accountant,” “auditor,” or “accounting,” in connection with any other language (including the
23 language of a report) that implies that such person or firm holds such a certificate or permit or has
24 special competence as an accountant or auditor, provided, however, that this subsection does not
25 prohibit any officer, partner, member, manager or employee of any firm or organization from

1 affixing that person's own signature to any statement in reference to the financial affairs of such firm
2 or organization with any wording designating the position, title, or office that the person holds
3 therein nor prohibit any act of a public official or employee in the performance of the person's duties
4 as such.

5 (i) No person holding a certificate or firm holding a permit under this chapter shall use a
6 professional or firm name or designation that is misleading about the legal form of the firm, or about
7 the persons who are partners, officers, members, managers or shareholders of the firm, or about any
8 other matter, provided, however, that names of one or more former partners, members, managers or
9 shareholders may be included in the name of a firm or its successor. A common brand name,
10 including common initials, used by a CPA Firm in its name, is not misleading if said firm is a
11 Network Firm as defined in the AICPA Code of Professional Conduct ("Code") and, when offering
12 or rendering services that require independence under AICPA standards, said firm must comply with
13 the Code's applicable standards on independence.

14 (j) None of the foregoing provisions of this Section shall have any application to a
15 person or firm holding a certification, designation, degree, or license granted in a foreign country
16 entitling the holder thereof to engage in the practice of public accountancy or its equivalent in such
17 country, whose activities in this State are limited to the provision of professional services to persons
18 or firms who are residents of, governments of, or business entities of the country in which the person
19 holds such entitlement, who performs no attest or compilation services as defined and who issues no
20 reports with respect to the financial statements of any other persons, firms, or governmental units in
21 this State, and who does not use in the Territory any title or designation other than the one under
22 which the person practices in such country, followed by a translation of such title or designation into
23 the English language, if it is in a different language, and by the name of such country.

24 (k) No holder of a certificate issued under Section 250c of this chapter shall perform attest
25 services through any business form that does not hold a valid permit issued under Section 250d of

1 this chapter.

2 (l) No individual permittee shall issue a report in standard form upon a compilation of
3 financial information through any form of business that does not hold a valid permit issued under
4 Section 250d of this chapter unless the report discloses the name of the business through which the
5 individual is issuing the report, and the individual:

6 (1) signs the compilation report identifying the individual as a CPA,

7 (2) meets the competency requirement provided in applicable standards, and

8 (3) undergoes no less frequently than once every three years, a peer review
9 conducted in such manner as the Board shall by rule specify, and such review shall include
10 verification that such individual has met the competency requirements set out in professional
11 standards for such services.

12 (m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing
13 or presenting records or documents customarily prepared by an attorney or firm of attorneys in
14 connection with the attorney's professional work in the practice of law.

15 (n)(1) A permittee shall not for a commission recommend or refer to a client any product or
16 service, or for a commission recommend or refer any product or service to be supplied by a client, or
17 receive a commission, when the licensee also performs for that client:

18 (A) An audit or review of a financial statement; or

19 (B) A compilation of a financial statement when the permittee expects, or
20 reasonably might expect, that a third party will use the financial statement and the
21 permittee's compilation report does not disclose a lack of independence; or

22 (C) An examination of prospective financial information.

23 This prohibition applies during the period in which the permittee is engaged to perform any
24 of the services listed above and the period covered by any historical financial statements involved in
25 such listed services.

1 (2) A permittee who is not prohibited by this section from performing services for
2 or receiving a commission and who is paid or expects to be paid a commission shall disclose
3 that fact to any person or entity to whom the permittee recommends or refers a product or
4 service to which the commission relates.

5 (3) Any permittee who accepts a referral fee for recommending or referring any
6 service of a permittee to any person or entity or who pays a referral fee to obtain a client shall
7 disclose such acceptance or payment to the client.

8 (o)(1) A permittee shall not:

9 (A) perform for a contingent fee any professional services for, or receive
10 such a fee from a client for whom the permittee or the permittee's firm performs:

11 (i) An audit or review of a financial statement; or

12 (ii) A compilation of a financial statement when the permittee
13 expects, or reasonably might expect, that a third party will use the financial
14 statement and the permittee's compilation report does not disclose a lack of
15 independence; or

16 (iii) An examination of prospective financial information; or

17 (B) Prepare an original or amended tax return or claim for a tax refund for
18 contingent fee for any client.

19 (2) The prohibition in paragraph (1) above applies during the period in which the
20 permittee is engaged to perform any of the services listed above and the period covered by
21 any historical financial statements involved in any such listed services.

22 (3) Except as stated in the next sentence, a contingent fee is a fee established for
23 the performance of any service pursuant to an arrangement in which no fee will be charged
24 unless a specified finding or result is attained, or in which the amount of the fee is otherwise
25 dependent upon the finding or result of such service. Solely for purposes of this section, fees

1 are not regarded as being contingent if fixed by courts or other public authorities, or, in tax
2 matters, if determined based on the results of judicial proceedings or the findings of
3 governmental agencies. A permittee's fees may vary depending, on the complexity of
4 services rendered.

5 (p) Notwithstanding anything to the contrary in this Section, it shall not be a violation of
6 this Section for a firm which does not hold a valid permit under Section 250d of this chapter and
7 which does not have an office in the Territory to provide its professional services in the Territory
8 so long as it complies with the requirements of Section 250d (a) (2) or (3), whichever is applicable.

9 **§ 250k INJUNCTIONS AGAINST UNLAWFUL ACTS**

10 Whenever, as a result of an investigation under Section 250h of this chapter or otherwise, the
11 Board believes that any person or firm has engaged, or is about to engage, in any acts or practices
12 which constitute or will constitute a violation of Section 250j of this chapter, the Board may make
13 application to the appropriate court for an order enjoining such acts or practices, and upon a showing
14 by the Board that such person or firm has engaged, or is about to engage, in any such acts or
15 practices, an injunction, restraining order, or other order as may be appropriate shall be granted by
16 such court.

17 **§ 250l CRIMINAL PENALTIES**

18 Any person who violates any provision of this chapter, shall be guilty of a misdemeanor, and
19 upon conviction thereof, shall be subject to a fine of not more than \$2,000, or to imprisonment for
20 not more than one year, or to both such fine and imprisonment. Whenever the Board has reason to
21 believe that any person is liable to punishment under this section it may certify the facts to the
22 Attorney General for the Virgin Islands, who may in his discretion, cause appropriate proceedings to
23 be brought.

24 **§ 250m SINGLE ACT EVIDENCE OF PRACTICE**

25 In any action brought under Sections 250f, 250k or 250l of this chapter, evidence of the

1 commission of a single act prohibited by this chapter shall be sufficient to justify a penalty,
2 injunction, restraining order, or conviction, respectively, without evidence of a general course of
3 conduct.

4 **§ 250n CONFIDENTIAL COMMUNICATIONS**

5 Except by permission of the client for whom a permittee performs services or the heirs,
6 successors, or personal representatives of such client, a permittee under this chapter, shall not
7 voluntarily disclose information communicated to the permittee by the client relating to and in
8 connection with services rendered to the client by the permittee. Such information shall be deemed
9 confidential, provided, however, that nothing herein shall be construed as prohibiting the disclosure
10 of information required to be disclosed by the standards of the public accounting profession in
11 reporting on the examination of financial statements or as prohibiting compliance with applicable
12 laws, government regulations or PCAOB requirements, disclosures in court proceedings, in
13 investigations or proceedings under Sections **250e or 250h** of this chapter, in ethical investigations
14 conducted by private professional organizations, or in the course of peer reviews, or to other persons
15 active in the organization performing services for that client on a need to know basis or to persons in
16 the entity who need this information for the sole purpose of assuring quality control.

17 **§ 250o LICENSEES' WORKING PAPERS; CLIENTS' RECORDS**

18 All statements, records, schedules, working papers and memoranda made by a certified
19 public accountant or public accountant incident to or in the course of professional service to clients
20 by such certified public accountant or public accountant, except reports submitted by a certified
21 public accountant or public accountant to a client, shall be and remain the property of such certified
22 public accountant or public accountant, in the absence of an express agreement between the certified
23 public accountant or public accountant and the client to the contrary. No such statement, record,
24 schedule, working paper or memorandum shall be sold, transferred or bequeathed, without the

1 consent of the client or his personal representative or assignee, to anyone other than one or more
2 surviving partners or new partners of such accountant.

3 **§ 250p PRIVACY OF CONTRACT**

4 (a) This Section applies to all causes of action of the type specified herein filed on or
5 after the effective date.

6 (b) This Section governs any action based on negligence brought against any accountant or
7 firm of accountants practicing in this State by any person or entity claiming to have been injured as a
8 result of financial statements or other information examined, compiled, reviewed, certified, audited
9 or otherwise reported or opined on by the defendant accountant or in the course of an engagement to
10 provide other services.

11 (c) No action covered by this Section may be brought unless:

12 (1) The plaintiff (1) is issuer (or successor of the issuer) of the financial
13 statements or other information examined, compiled, reviewed, certified, audited or
14 otherwise reported or opined on by the defendant and (2) engaged the defendant licensee to
15 examine, compile, review, certify, audit or otherwise report or render an opinion on such
16 financial statements or to provide other services; or

17 (2) The defendant permittee or firm: (1) was aware at the time the engagement
18 was undertaken that the financial statements or other information were to be made available
19 for use in connection with a specified transaction by the plaintiff who was specifically
20 identified to the defendant accountant, (2) was aware that the plaintiff intended to rely upon
21 such financial statements or other information in connection with the specified transaction,
22 and (3) had direct contact and communication with the plaintiff and expressed by words or
23 conduct the defendant accountant's understanding of the reliance on such financial
24 statements or other information.

25

1 **§ 250q SUBSTANTIAL EQUIVALENCY**

2 (a)(1) An individual whose principal place of business is not in this state and who holds a
3 valid license as a Certified Public Accountant from any state which the NASBA National
4 Qualification Appraisal Service has verified to be in substantial equivalence with the CPA licensure
5 requirements of the AICPA/NASBA Uniform Accountancy Act shall be presumed to have
6 qualifications substantially equivalent to this state's requirements and shall have all the privileges of
7 permittees of this state without the need to obtain a permit under Sections 250c or 250d.
8 Notwithstanding any other provision of law, an individual who offers or renders professional
9 services, whether in person, by mail, telephone or electronic means, under this section shall be
10 granted practice privileges in this state and no notice or other submission shall be provided by any
11 such individual. Such an individual shall be subject to the requirements in subsection (a) (3).

12 (2) An individual licensee of another state exercising the privilege afforded under
13 this section and the firm which employs that licensee hereby simultaneously consents, as a
14 condition of the grant of this privilege:

15 (A) to the personal and subject matter jurisdiction and disciplinary
16 authority of the Board,

17 (B) to comply with this chapter and the Board's rules;

18 (C) that in the event the license from the state of the individual's principal
19 place of business is no longer valid, the individual will cease offering or rendering
20 professional services in the Virgin Islands individually and on behalf of a firm; and

21 (D) to the appointment of the State Board which issued their license as
22 their agent upon whom process may be served in any action or proceeding by this
23 Board against the licensee.

24 (3) An individual who has been granted practice privileges under this section
25 who, for any entity with its home office in the Territory, performs any of the following

1 services;

2 (A) any financial statement audit or other engagement to be performed in
3 accordance with Statements on Auditing Standards;

4 (B) any examination of prospective financial information to be performed
5 in accordance with Statements on Standards for Attestation Engagements; or

6 (C) any engagement to be performed in accordance with PCAOB auditing
7 standards;

8 **May only do so through a firm which has obtained a permit issued under Section 250d of this**
9 **chapter.**

10 (b) A permittee of the Territory offering or rendering services or using their CPA title in
11 another state shall be subject to disciplinary action in the Territory for an act committed in another
12 state for which the licensee would be subject to discipline for an act committed in the other state.
13 Notwithstanding Section 250h (a), the Board shall be required to investigate any complaint made by
14 the board of accountancy of another state.

15 **§ 250r CONSTRUCTION; SEVERABILITY**

16 If any provision of this chapter or the application thereof to any person or entity or in any
17 circumstances is held invalid, the remainder of the chapter and the application of such provision to
18 others or in other circumstances shall not be affected thereby.

19 **SECTION 2 REPEAL OF PRIOR LAWS**

20 TITLE TWENTY-SEVEN: Professions and Occupations. Chapter 5. Public Accounting and
21 all other acts or parts of acts in conflict herewith are repealed, but nothing contained in this Act
22 invalidates or affects any action taken or any proceeding instituted under any law in effect prior to
23 the effective date hereof.

24 **SECTION 3 EFFECTIVE DATE**

25 This Act shall take effect one year after enactment.

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BILL SUMMARY

Section 1 of this Bill establishes the Accountancy Act of 2013. Internal section 250 defines certain terms necessary for the implementation of the Act. Internal section 250a establishes the Accountancy Board and sets the criterion for the selection of the members and the powers and duties of the body. Internal section 250b sets the ground rules and method and qualification(s) necessary to obtain a certificate to practice the accounting profession. Internal section 250c encompasses the procedure to follow in obtaining a renewal of the permits to practice accounting. Internal section 250d is similar to section 250c and is applicable to persons who desire to obtain a permit to become licensed CPAs and also provides for continuing education in the field of practice. Internal sections 250e, 250f, 250g 250h and 250i are guidelines for disciplinary action against a practicing member(s) and establish penalties upon the finding of wrongdoing by the Board as well as a process for reinstatement. Internal section 250j defines the acts that are prohibited in the practice of accounting and internal sections 250k, 250l and 250m establish a court process to stop certain practices as well as specific penalties for specific violations and rules of evidence. Internal sections 250n, 250o and 250p defines certain communications and papers as confidential and private to safeguard the work product of the practitioners of the profession. Internal section 250q sets the rules for reciprocity for the practice of the profession in states within the United States as well as the procedure to follow.

Section 2 of the Bill repeals chapter 5 of title 27 Virgin Islands Code pertaining to the practice of Public Accounting in the Virgin Islands.

Section 3 sets a timeline for the provisions of this Act to become effective.

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