

## ACT 158

S. B. NO. 160

A Bill for an Act to Regulate the Practice of Public Accountancy in the Public Interest; to Provide for a State Board of Public Accountancy and to Prescribe its Powers and Duties; and to Provide Penalties for Violation of the Provisions of this Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 466, Hawaii Revised Statutes, is repealed in its entirety.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to read:

**“CHAPTER 466  
PUBLIC ACCOUNTANCY**

**Sec. 466-1 Purpose.** It is the policy of this State, and the purpose of this chapter to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons attesting as experts in accountancy to the reliability or fairness of presentation of such information be qualified in fact to do so; that a public authority competent to prescribe and assess the qualifications of public accountants be established and continued; and that the attestation of financial information by persons professing special knowledge in accountancy be reserved to persons who demonstrate their ability and fitness to observe and apply the standards of the accounting profession.

**Sec. 466-2 Short title.** This chapter may be cited as the ‘Public Accountancy Law of 1973.’

**Sec. 466-3 Definitions.**

- (1) The term ‘board’ when used in this chapter shall mean the state board of public accountancy established in section 466-4.
- (2) The term ‘state’ when used in this chapter shall include any state, territory or insular possession of the United States, and the District of Columbia.

- (3) Masculine terms when used in this chapter shall also include the feminine.

**Sec. 466-4 Board of public accountancy.** (a) **Members.** There shall be a board of public accountancy to be known as the State board of public accountancy, which shall consist of seven members appointed by the governor in the manner prescribed in section 26-34. All members of the board shall be citizens of the United States and residents of this State. Five members thereof shall be certified public accountants in active practice holding current certificates as such and current permits to practice public accountancy issued under this chapter. The remaining two members thereof shall be public accountants in active practice holding current registrations as such and current permits to practice public accountancy issued under this chapter.

(b) **Removal.** The governor shall remove or suspend any member of the board for cause, in accordance with the provisions of section 26-34, including any member thereof (1) who ceases to engage in active practice as a certified public accountant or as a public accountant, as the case may be, or (2) whose certificate of certified public accountant or registration of public accountant, as the case may be, or whose permit to practice public accountancy (i) has been cancelled, revoked or suspended, (ii) has expired without renewal, or (iii) has otherwise become invalid.

(c) **Organization.** The board shall elect annually a chairman and a secretary-treasurer from its members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92.

(d) **Compensation and expenses.** Members of the board of accountants shall not receive any compensation for performance of the duties imposed upon them by this chapter, but shall be entitled to necessary traveling expenses.

(e) **Employees.** The director of regulatory agencies shall employ clerks, proctors, examiners and other personnel under the provisions of chapters 76 and 77 to assist the board in the performance of its duties.

(f) **Powers.** The board may, in accordance with the provisions of chapter 91, (1) conduct investigations and hearings, either upon complaint or on its own motion on any matter involving the conduct of certified public accountants or public accountants or the violation of any of the provisions of this chapter, and (2) adopt, amend and repeal rules and regulations with the approval of the governor and the director of regulatory agencies, and issue decisions, orders and declaratory rulings, for the orderly conduct of its affairs and for the administration of this chapter including, but not limited to, rules and regulations governing professional qualifications, continuing education and professional conduct, and the affiliations of individuals, partnerships and corporations for the practice of public accountancy, as it deems appropriate to establish and maintain high standards of competence and integrity in the practice of public accountancy.

(g) **Annual report.** The board shall prepare and present an annual report to the governor through the director of regulatory agencies which shall include a statement of the board's activities and its receipts and expenditures during the preceding year, together with such recommendations as the board shall determine to be appropriate.

(h) Existing board. A person who, on January 1, 1974, was serving as a member of the board of public accountants theretofore existing under the laws of this State shall be permitted to continue without reappointment as a member of the State board of public accountancy established in this section for the duration of the term in which he was previously appointed, but shall otherwise be subject to all the provisions of this chapter; and his appointment as a member of the previous board shall, for all purposes, be considered as made under this chapter and subject to the provisions hereof.

**Sec. 466-5 Certificate of certified public accountant.** (a) Issuance. A person (1) who has attained eighteen years of age, (2) who is of good moral character, and (3) who meets the educational and examination requirements hereinafter provided in this section, shall, upon application to the board, be issued a certificate of 'certified public accountant.' The board shall maintain a list of all persons to whom such certificates are issued. Such certificates shall be effective for a period not exceeding one year and shall be renewable annually upon application to the board.

(b) Educational requirements. A person applying for a certificate of certified public accountant (1) before January 1, 1979, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board, and (2) after December 31, 1978, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board and shall be required to have completed not less than 30 semester hours of additional study at such a college or university, such educational program to have included an accounting concentration and such related subjects as the board shall determine to be appropriate.

(c) Exemption from educational requirements. A person (1) who holds a current registration as a public accountant under the provisions of section 466-6, or (2) who holds and has continued to hold a valid certificate of certified public accountant of another state for a period of not less than ten years preceding the date of his application under this section, and who is and continues to be in the active practice of public accountancy in such other state for a period of not less than five years preceding the date of his application under this section, if, upon examination of the credentials of such person, the board is satisfied that he is as well qualified for the practice of public accountancy as if he met the applicable educational requirements specified in subsection (b) of this section and any continuing education requirements established by regulation of the board, shall, upon application to the board, be exempt from the educational requirements specified in subsection (b) of this section.

(d) Examination requirements. A person applying for a certificate of certified public accountant shall be required to have satisfactorily completed an examination in accounting, auditing and such other related subjects as the board shall determine to be appropriate. Such examination shall be held by the board and shall take place as often as the board shall determine to be desirable, but not less frequently than once each year.

(e) Admission to examination. A person (1) who has met the applicable educational requirements prescribed in subsection (b) of this section, or (2) who expects to meet such educational requirements within 120 days following

the examination prescribed in subsection (d) of this section, or (3) who is exempted from such educational requirements by subsection (c) of this section, shall, upon application to the board, be admitted to such examination. In the case of an applicant admitted to the examination on the expectation that he will complete the educational requirements within 120 days, no certificate of certified public accountant shall be issued, and no credit for the examination or any part of it shall be given, unless such educational requirement is, in fact, completed within that time or within such time as the board shall determine to be appropriate.

(f) Re-examination. The board may by regulation prescribe the terms and conditions under which an applicant who has taken the examination described in subsection (d) of this section, but who has not satisfactorily completed that examination, may be given credit for any part thereof he has satisfactorily completed. The board may also provide by regulation for a reasonable waiting period for an applicant to apply for re-examination.

(g) Exemption from examination requirements. A person (1) who is the holder of a valid certificate of certified public accountant issued under the laws of another state, or (2) who is the holder of a valid certificate, license or degree in a foreign country determined by the board to be (i) a recognized qualification for the practice of public accountancy in such other country, (ii) comparable to a certificate of certified public accountant of this State, and (iii) issued to such person on the basis of an examination comparable to the examination described in subsection (d) of this section, shall, upon application to the board, be exempt from the examination requirements specified in subsection (d) of this section.

(h) Existing certificate holders. A person who, on January 1, 1974, holds a certificate of certified public accountant issued under the laws of this State theretofore existing shall not be required to obtain an additional certificate of certified public accountant under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such a certificate theretofore issued shall, for all purposes, be considered a certificate issued under this chapter and subject to the provisions hereof.

**Sec. 466-6 Registration of public accountant.** (a) Registration. A person (1) who has attained eighteen years of age, (2) who is of good moral character, (3) who was serving in the armed forces of the United States on June 15, 1955, (4) who was a resident of the Territory of Hawaii at the time of entering such service in the armed forces, and (5) who at the time of entering such service met the requirements set forth in paragraph (A), (B) or (C) of this subsection, shall, upon application to the board within six months after honorable discharge or release from such service, be registered by the board as a 'public accountant':

(A) Any person who held himself out to the public as being engaged in the practice of public accountancy and who was engaged in the practice of public accountancy as his principal occupation, either on his own account or as a member of a firm or as an employee of a certified public accountant or public accountant and regularly assigned to accountancy engagements.

- (B) Any person who was engaged in accounting or auditing work in the Territory of Hawaii as an employee of the United States, of said Territory or of any county in a position in grade GS-9 under the territorial classification schedule in effect on March 1, 1955, or the equivalent or higher grade.
- (C) Any person who was engaged in private accounting or auditing who has had not less than three years' experience in such work or in public accounting or both and whose experience was of such character and for a length of time sufficient in the opinion of the board to be substantially equivalent to three years of public accounting experience.

The Board shall maintain a list of all persons who are so registered. Such registrations shall be effective for a period not exceeding one year and shall be renewable annually upon application to the board.

(b) Existing registrations. A person who, on January 1, 1974, holds a registration of public accountant under the laws of this State theretofore existing, shall not be required to register again under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such previous registration shall, for all purposes, be considered registration under this chapter and subject to the provisions hereof.

**Sec. 466-7 Permits to practice.** (a) Annual practice permits. A person (1) who is holding a current certificate of certified public accountant or a current registration as a public accountant, (2) who has had at least one year's experience in any state of the United States with a person or firm in the practice of public accounting, and (3) who has complied with continuing education requirements established by regulation of the board, shall, upon application to the board, be issued a permit to practice public accountancy in this State; provided, however, that the experience requirement set forth in (2) above shall not apply after December 31, 1978, or to any person who has met the educational requirements set forth in section 466-5(b)(2). Such permit to practice shall be effective for a period not exceeding one year.

(b) Temporary practice permits. A person (1) who has attained eighteen years of age, (2) who is of good moral character, (3) who holds a valid certificate of certified public accountant or a valid registration as a public accountant issued under the laws of another state, or who holds a valid certificate, license or degree of a foreign country determined by the board to be a recognized qualification for the practice of public accountancy in such other country, and (4) who, incidental to his practice in such other state or country, desires to practice public accountancy in this State on a temporary basis, shall, upon application to the board, be issued a temporary practice permit. Such permit shall be effective for a period not exceeding three months, and shall specify the nature and extent of the practice so permitted.

**Sec. 466-8 Fees.** (a) Examination. An applicant for admission to the examination described in section 466-5(d) shall pay a fee with such application for admission in such amount as the board shall prescribe by regulation. The board may also prescribe by regulation the terms and conditions upon which an applicant who is unable to attend such examination may receive a credit

in the amount of the fee paid toward a subsequent examination.

(b) Issuance of certificate or registration. An application for the issuance of a certificate of certified public accountant under section 466-5(a) or a registration of public accountant under section 466-6(a) shall pay a fee with such application in such amount as the board shall prescribe by regulation.

(c) Renewal of certificate or registration. An applicant for the renewal of a current certificate of certified public accountant under section 466-5(a) or for the renewal of a registration of public accountant under section 466-6(a) shall pay a fee of \$15. An applicant for the renewal of a certificate of certified public accountant or for the renewal of a registration of public accountant which is not current under the provisions of this chapter or under the laws of this State theretofore existing shall pay a fee with such application for renewal in an amount equal to twice the amount of the fees which the applicant would have paid had he timely renewed such certificate or registration since the date it was last current.

(d) Annual permits to practice. An applicant for the issuance of an annual permit to practice under section 466-7(a) who is in the practice of public accountancy in his own name as a sole proprietor, or as a partner of a partnership in the practice of public accountancy, or as a shareholder of a corporation in the practice of public accountancy, shall pay a fee with such application in the amount of \$15. All other applicants for the issuance of an annual permit to practice shall pay a fee of \$5.

(e) Temporary permits to practice. An applicant for the issuance of a temporary permit to practice under section 466-7(b) shall pay a fee with such application in the amount of \$30.

(f) Disposition of fees. All fees and other monies received by the board pursuant to the provisions of this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

**Sec. 466-9 Disciplinary action.** (a) Causes. The board may, in accordance with the provisions of chapter 91, (1) cancel, revoke, suspend for a period not exceeding two years, or refuse to renew any certificate of certified public accountant, registration of public accountant or permit to practice issued under this chapter, or it may (2) censure a person holding any such certificate, registration or permit, for any one or a combination of the following causes:

- (A) Conviction of a felony under the laws of the United States or of any state.
  - (B) Conviction of any crime, an element of which is dishonesty, deceit or fraud, under the laws of the United States or of any state.
  - (C) Dishonesty, deceit or fraud in obtaining any certificate, registration or permit to practice issued under the provisions of this chapter.
  - (D) Dishonesty, deceit, fraud or gross negligence in the practice of public accountancy.
  - (E) Violation of any of the provisions of section 446-10 or of any rule or regulation of the board relating to professional conduct.
- (b) Reinstatement. Upon application of any person against whom disci-

plinary action has been taken under the provisions of subsection (a) of this section, the board may, in accordance with the provisions of chapter 91, reinstate such person and reissue any certificate, registration or permit to practice which was affected by such disciplinary action.

**Sec. 466-10 Prohibited acts.** (a) Use of title 'certified public accountant.'

- (1) Except as otherwise provided in subsection (c) of this section, no person shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, sign, card or device likely to be confused with 'certified public accountant' or 'CPA' or tending to indicate that such person is a certified public accountant, unless such person holds a current certificate of certified public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (2) No partnership or corporation shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'certified public accountant' or 'CPA' or tending to indicate that such partnership or corporation is composed of certified public accountants, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current certificate of certified public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (3) No person shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'certified public accountant' or 'CPA,' in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation 'and Company' or 'and Co.' or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this State.

(b) Use of title 'public accountant.'

- (1) Except as otherwise provided in subsection (c) of this section, no person shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, sign, card or device likely to be confused with 'public accountant' or 'PA' or tending to indicate that such person is a public accountant unless such person holds a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (2) No partnership or corporation shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'public accountant' or 'PA' or tending to indi-

cate that such partnership or corporation is composed of public accountants, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.

- (3) No person shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'public accountant' or 'PA,' in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation 'and Company' or 'and Co.' or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this State.
- (c) Representation of special knowledge.
  - (1) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating, suggesting or implying that he is an accountant or auditor, or with any wording indicating, suggesting or implying that he has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
    - (A) Financial information, or
    - (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless such person holds a current certificate or registration and a current permit to practice issued under this chapter.
  - (2) No person shall sign or affix a partnership or corporate name with any wording indicating, suggesting or implying that it is a partnership or corporation composed of accountants or auditors or persons having special knowledge of accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
    - (A) Financial information, or
    - (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current certificate of certified public accountant or a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (d) Exceptions. Nothing contained in this chapter shall prohibit any person:



- (1) Who holds a current certificate of certified public accountant issued under this chapter from assuming and using the title and designation 'certified public accountant' or 'CPA;' provided, however, that if such person does not also hold a current permit to practice as such issued under this chapter, he shall clearly indicate in assuming and using said title that he does not hold himself out to be in the practice of public accountancy.
- (2) Who holds a current registration of public accountant issued under this chapter from assuming and using the title and designation 'public accountant' or 'PA;' provided, however, that if such person does not also hold a current permit to practice as such issued under this chapter, he shall clearly indicate in assuming and using said title that he does not hold himself out to be in the practice of public accountancy.
- (3) Who holds a temporary practice permit issued under this chapter from using the title and designation under which he is generally known in the state or country from which he received his certificate, registration, license or degree for the practice of public accountancy.
- (4) Who is not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant; provided, however, that such employee or assistant works under the control and supervision of a person who holds a current certificate of certified public accountant or a current registration of public accountant and a current permit to practice as such issued under this chapter, and provided further that such employee or assistant does not issue any statement or report over his name except such office reports to his employer as are customary, and that such employee or assistant is not in any manner held out to the public as a certified public accountant or public accountant.
- (5) Who is an officer, employee, partner or principal of any organization from signing or affixing his name to any statement or report in reference to the affairs of that organization; provided, however, that in so signing or affixing his name he shall clearly indicate that he is an officer, employee, partner or principal of the organization, and the position, title or office which he holds therein.
- (6) Who is a public official or public employee from the performance of his duties as such.
- (7) Who is an attorney at law from engaging in practice as such.

**Sec. 466-11 Measures against violation.** (a) Injunctions. Whenever the board has reason to believe that any person has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of section 466-10, the board may certify the facts underlying such belief to the attorney general of this State, who shall make application to the appropriate court for an order enjoining such act or practice, and upon a showing that such person has engaged, or is about to engage, in any such act or practice, an injunction, restraining order or such other order as may be appropriate shall

be granted by such court without bond.

(b) Criminal penalties. Any person who violates any provision of section 466-10 shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts underlying such belief to the county attorney or prosecuting attorney of the county in which the violation occurred who shall cause appropriate proceedings to be brought.

(c) Evidence of practice. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words 'certified public accountant' or any abbreviation thereof, or the words 'public accountant' or any abbreviation thereof, shall be prima facie evidence in any action brought under subsection (a) or subsection (b) of this section that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a certified public accountant or public accountant holding a current permit to practice issued under section 466-7. In any such action, evidence of the commission of a single act prohibited in section 466-10 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

**Sec. 466-12 Ownership of accountant's working papers.** All statements, records, schedules, working papers and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients by such accountant, except reports submitted by a certified public accountant or public accountant to a client, shall be and remain the property of such accountant in the absence of an express agreement between such accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or new partners of such accountant or to his corporation."

SECTION 3. Construction. If any provision of this Act or the application thereof to any person or to any circumstance is held invalid, the remainder of the Act and the application of such provision to such other persons or other circumstances shall not be affected thereby.

SECTION 4. Acts or proceedings under prior law. Nothing in this Act shall invalidate or affect any action taken under any law in effect prior to the effective date hereof, nor shall it invalidate or affect any proceeding instituted under such law before the effective date hereof.\*

SECTION 5. Effective date. This Act shall take effect on January 1, 1974.

(Approved May 22, 1973.)

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\*Edited accordingly.