

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 856

H. P. 618

House of Representatives, February 2, 1965

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Bishop of Presque Isle by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Regulating Public Accountants Other Than Certified Public
Accountants.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 32, c. 56, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 56, to read as follows:

CHAPTER 56
PUBLIC ACCOUNTANTS
SUBCHAPTER I
GENERAL PROVISIONS

§ 3811 Definitions

The following words and phrases, when used in this chapter, have the following meaning, unless the context clearly indicates otherwise:

1. Board. "Board" means the Maine Public Accountancy Registration Board.
2. Certificate of registration. "Certificate of registration" is a document issued as evidence of registration and qualification to practice as a public accountant or to conduct a public bookkeeping and tax service, showing the name of the registrant, date of issue, serial number, seal and signature of the person authorized by the board to grant such certificate.
3. Person. "Person" includes the plural, and females as well as males.
4. Public bookkeeping and tax service. "Public bookkeeping and tax service" is the performing for a fee or other consideration in any situation in which

a normal employer-employee relationship does not exist by any person other than a certified public accountant or public accountant of any of the following services, for another person, corporation or other organization, or otherwise; recording business transactions in books of account, compiling tax returns and the preparation of financial statements; provided that the performance of bookkeeping and tax service for purposes of this section.

5. The practice of public accountancy. "The practice of public accountancy" is the performing for a fee or other consideration, in any situation in which a normal employer-employee relationship does not exist, any of the following services for another person, corporation or other organization, or otherwise: Auditing, devising and installing accounting systems, presentation of financial information or data, compiling tax returns, preparing and rendering accounting opinions on financial statements, schedules, reports and exhibits for publication, credit purposes, use in courts of law and equity, and for other purposes. Employment as a staff accountant by a firm of certified public accountants or public accountants shall not constitute the practice of public accountancy within the meaning of this chapter.

6. Public accountant. "Public accountant" is a person skilled in the knowledge, science and practice of public accountancy, and who is registered in accordance with this chapter.

§ 3812. Construction

Nothing contained in this chapter shall be construed as repealing, limiting or regulating the laws of this State which provide for the examination and licensing of certified public accountants, nor does any provision contained in this chapter qualify any person to practice as a certified public accountant or use the abbreviation "C.P.A."

Nothing contained in this chapter shall be construed as limiting or regulating the preparation of tax returns or other documents or reports by persons who are admitted to the practice of law in the State of Maine.

§ 3813. Disposition of fees

All registration fees and other fees and charges collected by the board shall be paid to the secretary of the board, who shall give a proper receipt for the same and deposit the entire amount of such receipts with the Treasurer of State. Such receipts are to be credited to an account of the General Fund of the State to be known as the "Maine Public Accountancy Registration Board Fund." Such fund is to be used only for the expenses of the board upon requisition drawn on the Controller.

SUBCHAPTER II

PUBLIC ACCOUNTANCY REGISTRATION BOARD

§ 3821. Board

There is created the Maine Public Accountancy Registration Board, to register qualified public accountants whose professional duties and pursuits are necessary to the promotion and preservation of the economic welfare of Maine citizens.

§ 3822. Membership

The Maine Public Accountancy Registration Board, created under this chapter, shall consist of 5 persons, appointed by the Governor, not more than 3 of whom shall be members of the same political party, and 4 of whom shall be non-certified practicing public accountants who qualify by education and experience for registration under this chapter and one member of such board shall be a teacher of accountancy at a college or university located within the State of Maine. Four years from the effective date of this Act, at least 4 members of the board must be professional public accountants currently registered under this chapter.

§ 3823. Appointment

The Governor shall appoint this initial board within 90 days following the effective date of this Act. Of the board members first appointed by the Governor, one shall be appointed for a term of one year, one shall be appointed for a term of 2 years, one shall be appointed for a term of 3 years, one shall be appointed for a term of 4 years and one who shall be the teacher of accountancy shall be appointed for a term of 5 years. Vacancies shall be filled by appointment for unexpired terms as originally appointed. The Governor may remove any member of the board for misconduct in office, incompetency, neglect of duty or other sufficient cause after due notice and a hearing.

§ 3824. Duties

The members of the board shall, as soon as appointed, organize and annually thereafter in the month of June elect from their number a chairman and vice-chairman. The board shall appoint a secretary who also shall be the treasurer. The secretary shall continue in office at the pleasure of the board.

The board shall adopt and use a seal for the authentication of its orders, certificates and records and it shall have supervision of the enforcement of this chapter and possess the necessary authority to fulfill its duties as prescribed in this chapter. The board shall have authority to employ on a full or part-time basis such employees as may be necessary to maintain records, pertinent to the examination and registration of public accountants, or to assist in any manner in the performance of duties as required under this chapter. The board may hold hearings for the purpose of administrative adjudication of such matters as may properly come before it, make the necessary determinations in conjunction therewith and issue such orders as may be consistent with the findings. The board may employ attorneys, licensed detectives or other persons to investigate cases of alleged illegal practice. The board may designate one or more of its members as a hearing agent. Such agent or representative shall conduct such hearing in the manner provided by Maine law. The board shall establish the procedures for conducting examinations and for obtaining the certificates required by this chapter and methods by which the qualifications of an applicant shall be evaluated. The board shall adopt reasonable rules and regulations to carry out and enforce this chapter. The board shall adopt a code of ethics appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accounting.

The board shall issue a certificate of registration, upon the payment of the registration fee prescribed in this chapter, to any applicant, who, in the opinion of the board, has satisfactorily met all requirements of this chapter. Such registration shall be in effect for the period of time as specified in sections 3834, 3837 and 3838.

The board shall meet at least twice a year to transact necessary business. Four members of the board shall constitute a quorum and special meetings of the board may be called by the chairman, or shall be called upon written notice of any 3 members of the board. Each board member shall be entitled to receive compensation at the rate of \$5 per hour for his services and to receive reimbursement for traveling and subsistence expenses for each day he is necessarily engaged in the performance of the official duties of the board. Such reimbursable expenses shall be paid upon the same basis, at the same rate and subject to the same conditions as expenses of other state employees. If receipts of the board are not sufficient to cover all expenses and compensation of the board, the board may reduce equitably the compensation of its individual members.

§ 3825. Duties of secretary

The secretary of the board shall keep a true and complete record of all proceedings of the board, and shall perform such other duties as may be assigned to him by the board. The secretary of the board shall give a surety bond to the State of Maine in the sum of \$5,000, conditioned upon the faithful performance of his duties and the accurate accounting of all money which may at any time come into his possession. The surety bond for the secretary and necessary supplies, including printed matter and equipment incidental to the administration of this chapter may be purchased by the board.

§ 3826. Records

The board shall keep a record of its proceedings and a register of all applications for registration. The register shall show name, age and residence of each applicant; the date of the application; the place of business of such applicant; his education and other qualifications; whether or not the applicant was rejected; whether a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board as set forth, and a transcript thereof, duly certified by the chairman and attested to by the secretary of the board, under its seal, shall be admissible in evidence with the same force and effect as if the original were produced. Annually, as of the first day of July, the board shall submit to the Governor a report of its transactions of the preceding year.

§ 3827. Registry

The board shall maintain a current registry of all public accountants in the State of Maine, who have been registered in accordance with the provisions of this chapter.

SUBCHAPTER III REGISTRATION

§ 3831. Qualifications

Any person desiring to be registered as a public accountant shall make application to the board on a form prescribed by the board. The board shall process the application when submitted if accompanied by the required fees.

Persons meeting the following qualifications shall be eligible for registration under this chapter.

Persons of good moral character who have passed an examination given by the board under this chapter and are graduates of an accredited or other recognized high school and who have had 5 or more years of full-time experience in the field of public accounting shall be granted a certificate as a public accountant.

The following substitutions for the experience requirement are allowed:

1. **College attendance.** For attendance at an accredited or other recognized college, university, junior college or school of business while enrolled as a major in accounting, one year of substitution for each academic year of instruction up to a total of not over 3 years;
2. **Government employment.** For employment by the State or Federal Government in a capacity which involves substantial audit of civilian records, full substitution;
3. **Armed Forces.** Persons who shall have served with the Armed Forces of the United States, and who immediately prior to entering said service were employed full time in the field of public accounting shall be credited with the experience required by this section with the number of months, not to exceed 12, of service with the Armed Forces.

§ 3832. Examination

Written examinations for registration under section 3831 shall be prescribed by the board. Examination shall include applicable subjects in the field of accounting, such as auditing, theory of accounts, practical accounting problems, commercial law as it affects accountancy, federal and state taxation, and such other subjects pertinent to accounting as the board may prescribe.

Examinations shall be objective and practical in nature. The conducting of the examination shall be the responsibility of the board and the board may use examinations prepared by Maine colleges and universities, by the National Society of Public Accountants, or by a recognized examination agency. The examination papers shall not disclose the name of the applicant but shall be identified by a number assigned by the secretary of the board.

If the applicant fails in the examination to meet the minimum passing grade set by the board, he shall not be registered. He may be reexamined at a time and place specified by the board and upon resubmitting his application accompanied by the necessary fees.

Examinations shall be administered by the board not less than once each calendar year at such time and place in Maine as may be directed by the board.

Examination papers and records pertaining thereto shall be filed with the secretary of the board and retained for at least one year.

§ 3833. Registration without examination

Every person who has been engaged in the actual and continuous practice of public accountancy, as defined in this chapter, in the State of Maine immediately prior to the passage of this Act, or in any 5 years prior thereto may, within 12 months thereafter make application and file satisfactory proof thereof with the board, which shall make and keep a record of such persons, and shall, upon payment of the necessary fee, issue to him a certificate of registration without examination as set forth in section 3832. Any person who is on active duty as a member of the Armed Forces of the United States on the effective date of this Act, may avail himself with the provisions of this section at any time within 12 months after release or discharge from active duty.

Every person who has been engaged in the actual performance of public bookkeeping and tax service, as defined in this chapter in the State of Maine immediately prior to the passage of this Act may, within 12 months thereafter make application and file satisfactory proof thereof with the board which shall make and keep a record of such persons and shall, upon payment of the necessary fee, issue him a certificate of registration entitling him to conduct public bookkeeping and tax service.

§ 3834. Other registration

The board may, upon application therefor, and upon payment of a fee of \$25, issue a certificate of registration as a public accountant to any person who holds a certificate of registration issued to him by the proper authority of any state, or territory, or possession of the United States, or any country, provided that the requirements for the registration of public accountants under which the certificate was issued do not conflict with this chapter and at the time said certificate was granted were of a standard not lower than those specified in section 3831, subsection 1. Nothing herein contained shall be construed as prohibiting a public accountant of another state from temporarily practicing accountancy in this State in the performance of professional engagements originating in such other State as an incident to his regular practice of accountancy in such other State and provided such temporary practice is conducted in conformity with the rules and regulations of professional conduct promulgated by the board.

§ 3835. Partnerships

A partnership engaged in this State in the practice of public accountancy, other than a partnership composed solely of certified public accountants, shall register with the board as a partnership of public accountants, and have and maintain the following requirements:

1. Partners. Each partner thereof personally engaged within this State in the practice of public accountancy must be a certified public accountant or must hold a certificate of registration as a public accountant under this chapter.

2. Resident manager. Each resident manager in charge of an office of a firm in this State must be a certified public accountant or public accountant of this State registered under this chapter.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a certificate of registration as a public accountant or certified public accountant and is authorized to practice public accountancy in this State or some other state.

The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership permit may use the words "public accountants" in connection with this partnership name.

Notification shall be given to the board within one month after the admission to or withdrawal of any partner from any partnership so registered.

Notification shall be given to the board within one month of any change of any resident manager in charge of an office of a firm in this State.

§ 3836. Application; certificates of registration

The board shall prescribe and provide an application form for the use of all applicants. All applicants under this chapter shall deposit a fee of \$25 at the time of making application for registration. The board may assess an additional examination fee of \$10 when deemed necessary. Any person registered under this chapter may renew his certificate annually by paying the board a renewal fee of \$10 for each year. Said fee shall be due and payable on or before the last day of the month of July of each year for which a renewal certificate for the current year shall be issued. All certificates of registration shall expire on the last day of the month of July following the date of their issuance or renewal, and shall be invalid from that date, unless renewed. Failure to renew a certificate in any 3 successive years shall prevent further renewal. It shall be the duty of the secretary of the board to notify by mail every person registered, of the date of the expiration of his certificate and the amount of the required fee for its renewal for one year. Such notice shall be mailed at least one month in advance of the date of expiration of such certificates. The failure on the part of any registrant whose right to renew his certificate has not expired shall not deprive such registrant of the right of renewal thereafter, but the fee to be paid for the renewal of a certificate that has become invalid by failure to renew shall be increased 20% for each month that payment for renewal is delayed, but the maximum fee for a delayed renewal shall not exceed \$25 for each year of delayed renewal.

§ 3837. Revocation or suspension

The board shall suspend or revoke, after due notice and proper hearing, a certificate of registration when the holder is found guilty of unprofessional conduct, the practice of fraud or deceit in obtaining a certificate of registration, dereliction of duty, incompetence in the practice of accounting, or for other good and sufficient cause.

§ 3838. Repeal

Anyone adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Superior Court within 30 days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. The case shall then be tried de novo on the record made before the board, without the introduction of new or additional evidence but the parties shall be permitted to file briefs as in an ordinary case at law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may, in its discretion, stay the effect of the board's order pending its determination of the case. The court's decision shall have the force and effect of a decree in equity.

§ 3839. Penalties

Any person who shall assume the title of a public accountant or use the abbreviation "P.A." or other words or letters to indicate that he is a registered or licensed public accountant of the State of Maine, or who shall engage in the practice of public accountancy, or conduct public bookkeeping and tax service as defined in this chapter without having received from the board a certificate to practice as such, or whose certificate is expired or shall have been suspended or revoked by the board, shall be deemed guilty of a misdemeanor and shall upon conviction be fined in any sum not less than \$50 nor more than \$500. Each violation shall constitute a separate offense. For a 2nd conviction and each subsequent conviction, such person shall be fined in any sum not to exceed \$1,000. To these fines may be added imprisonment for any determinate period not to exceed 6 months.'