

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1353

H. P. 952

House of Representatives, March 20, 1957.

Referred to the Committee on State Government. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Allen of Chelsea.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Relating to the Practice of Public Accountancy.

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

Sec. 1. R. S., c. 79-B, additional. The Revised Statutes are hereby amended by adding thereto a new chapter to be numbered 79-B, to read as follows:

Chapter 79-B.

Accountants.

Sec. 1. Board of Accountancy. The State Board of Accountancy, as heretofore established and hereinafter in this chapter called the "Board," shall consist of 3 members, skilled in the practice of accounting. On or before January 1st in each year, the Governor, with the advice and consent of the Council, shall appoint, as a member of said Board, a resident of this State who is in active practice as a certified public accountant registered under this chapter, to serve for a term of 3 years from January 1st in the year of his appointment and until his successor is appointed and has qualified. The Governor, with the advice and consent of the Council, may fill any vacancy occurring in the membership of said Board, may remove any member for cause, after due notice and hearing, and shall remove any member whose registration card is not renewed or whose registration card has become void, revoked or suspended. Whenever an appointment is to be made, the Maine Society of Public Accountants shall submit to the Governor the names of 5 persons qualified for membership on the Board, and the Governor, with the advice and consent of the Council, shall appoint one of such persons to said Board. The members of said Board, before entering upon the discharge of their duties, shall be sworn to the faithful performance of their duties.

Sec. 2. Organization; duties. At the annual meeting, which shall be held on the 2nd Wednesday of January in each year, the members shall elect from their number a president, secretary and treasurer. The offices of secretary and treasurer may be held by the same person. Said Board may adopt a seal and make by-laws, rules and regulations for the transaction of its business and the government of its affairs. Two members shall constitute a quorum for the transaction of business, and special meetings shall be called upon the request of any 2 members, or upon the call of the president. All fees and other moneys collected by the Board shall be accounted for and paid over according to law. All expenditures of the Board to be paid from the cash receipts shall be made upon requisition. Each member of the Board shall receive \$25 for each day, or portion thereof, and his necessary expenses, while engaged in the discharge of his official duties. If receipts are not sufficient to cover all expenses and compensation of the Board and of the Public Accountants Commission created under the provisions of section 4, the Board may reduce equitably the compensation of its individual members and those of the members of the Commission. No compensation of members or expenses shall be a charge against the general fund.

The Board may make reasonable regulations concerning professional conduct appropriate to establish and to maintain a high standard of integrity and of dignity in the profession of public accountancy.

The Board shall have printed and published for public distribution, annually in January, a register which shall contain the names, arranged alphabetically, of all certified public accountants and of all practitioners holding registration cards under this chapter and the names of the members of the Board of Accountancy and of the Public Accountants Advisory Commission while the latter is in existence, regulations concerning professional conduct and ethics and such other matters as may be deemed proper by the Board of Accountancy. Copies of such registers shall be mailed to each registered practitioner. The publication and mailing expenses of such register shall be paid for from the cash receipts.

Sec. 3. Certificate. No person shall hold himself out as certified public accountant either in his own name, or under an assumed name, or as a member or employee of a partnership or firm, unless such person has been granted a certificate as a certified public accountant by the Board, and unless such person has complied with all the provisions of this chapter, including annual registration.

From and after January 1, 1958, no person shall practice as a public accountant either in his own name or under an assumed name or as a member or employee of a partnership or firm, unless such person has been granted either a certificate as a certified public accountant or authority as a public accountant by the Board, and unless such person has complied with all the provisions of this chapter, including annual registration.

Sec. 4. Public Accountants Advisory Commission. On or before September 1, 1957, the Governor, with the advice and consent of the Council, shall appoint a Public Accountants Advisory Commission which shall consist of 5 members, 2 to serve until June 30, 1959, and 3 to serve until June 30, 1960. Said 3 members shall not be certified public accountants but each shall be determined by the Governor

to have the qualifications necessary to be granted authority to practice as a public accountant in this State under the provisions of section 6. Prior to the appointment of the Commission, the Maine Society of Public Accountants shall submit to the Governor the names of 15 persons qualified for membership on the Commission, and the Governor, with the advice and consent of the Council, shall appoint 5 members from the 15 names so submitted.

The Governor, with the advice and consent of the Council, may fill any vacancy occurring in the membership of said Commission and may remove any member for cause, after due notice and hearing, and shall remove any member whose registration card is not renewed, or whose registration card has become void, revoked or suspended. The members of said Commission, before entering upon the discharge of their duties, shall be sworn to the faithful performance thereof.

During the 3 years of its existence, the Commission shall annually elect from its members a Chairman, a vice-chairman and a secretary. Two members of the Commission shall constitute a quorum for the transaction of business, and meetings shall be called by the Chairman or by any 2 members of the Commission. The Commission shall keep records of its proceedings and actions and may employ such clerks as may be necessary to assist it in the performance of its duties and in the keeping of its records.

Each member shall receive \$25 and his necessary expenses for each day, or portion thereof, while he is engaged in the discharge of his duties. All expenses of the Commission shall be reported to the Treasurer for payment in the manner provided in section 2.

The Commission shall pass upon all applications received under the provisions of section 6 and shall certify its findings to the State Board of Accountancy, and said Board shall issue authority, as provided for in section 6, to all applicants approved by the Commission. The Board shall notify all applicants who may be rejected by the Commission as not meeting the requirements of section 6.

The Commission, during its existence, shall have final jurisdiction in any action taken under section 10 relating to persons holding authority who are not certified public accounts.

Sec. 5. Examinations. The Board shall issue a certificate as a certified public accountant to each person who passes a written examination as prescribed under the provisions of this section.

At such meetings as the Board shall deem necessary, public notice of which shall be given at least 15 days prior thereto in such manner as the Board shall determine, said Board shall examine, in writing, all eligible applicants for a certificate as a certified public accountant, in such accounting and related subjects as the Board shall deem necessary. In its examination procedure, the Board may use the American Institute of Accountants Uniform Examination questions and grading services, or any part thereof. Any person shall be eligible to take such examination who is a citizen of the United States, residing or having a place for the regular transaction of business in this State, who is over 21 years of age, of good moral character, having been educated not below the

high school level and who has had such training or experience, or a combination of such training and experience in the theory and practice of public accountancy as the Board, by its regulations, shall prescribe, or who holds authority under the provisions of section 6. All applications for examination shall be accompanied by a fee of \$25, to be paid at the time the application shall be filed.

No person who, on the effective date of this chapter, holds a valid certificate as a certified public accountant issued prior to the effective date of this chapter under the laws of this State shall be required to obtain an additional certificate under this chapter, but any such person shall otherwise be subject to all the provisions of this chapter, and each such certificate heretofore issued shall, for all purposes, be considered as a certificate issued under this chapter and subject to the provisions hereof.

The Board, in its discretion, upon receipt of a written application and payment to the Board of a fee of \$35, may issue the certificate as a certified public accountant provided for in this section, without an examination, to any citizen of the United States who holds a certificate as a certified public accountant of another state, or a similar certificate or other designation granted under the laws of a foreign country, who presents evidence satisfactory to the Board of good moral character, who has attained the age of 21 years and who has had at least 3 years of experience in the practice of public accountancy, and who has practiced in this State on his own account, or as a member of the accounting staff of a registered accountant in this State, for one year or more immediately prior to the date of his application, provided such other state or foreign country grants a similar privilege to certified public accountants of this State.

Sec. 6. Public accountancy practice. Upon receipt of the findings of the Commission, the Board shall grant, without charge, an authority to practice as a public accountant to any United States citizen or any person who has declared his intention to become a citizen of the United States and who applies for such authority within one year of the effective date of this chapter, and who has been approved by the Commission as having good moral character, having been educated not below the high school level, who is a resident of this State, or who is employed in or who has maintained a place of business in this State, and who has attained the age of 21 years, and who has

I. Held himself out to the public as a public accountant and who was engaged, at the effective date of this chapter, in the practice of public accountancy as his principal occupation; or

II. Who was employed as a staff accountant by a certified public accountant or a public accountant or by a firm of certified public accountants or of public accountants and who was regularly assigned to accounting engagements as his principal occupation on the effective date of this chapter; or

III. Who, immediately prior to entering service in the armed forces of the United States or any of the United Nations, was qualified under the provisions of this section. In the case of a person qualifying under the provisions of this section, the time within which such person may apply for authority shall be extended to one year after his return to civilian status.

Upon receipt of the findings of the Commission under section 4, the Board shall record any application for authority if such application is filed with the Commission within one year of the effective date of this chapter, or within one year after return to civilian status if said applicant is in the armed services on the effective date of this chapter, by any United States citizen or by any person who has declared his intention to become a citizen of the United States, and who has been approved by the Commission as being of good moral character, a resident of this State or employed in or maintaining a place of business in this State, and on the effective date of this chapter had attained the age of 17 years and is preparing for the practice of public accountancy as evidenced by proof to be submitted by a college, university or established school of accounting above the high school level; or on the effective date of this chapter, was employed by an employer in this State in a position which, in the opinion of the Commission, required knowledge and skill substantially equivalent to that required in the practice of public accountancy; or on the effective date of this chapter, was in the armed services and immediately prior to entering such service had been prepared for the practice of public accountancy as evidenced by proof to be submitted by a college, university or established school of accounting above the high school level. Any person whose application has been approved to the Board by the Commission shall be issued authority upon his giving written notice to the Board that he is about to engage in the practice of public accounting as his principal occupation, provided he continues to meet the requirements of this section as to character and residence. Any authority so issued shall be surrendered if the holder fails to engage in the practice of public accounting within 60 days of the date of issuance.

Sec. 7. Public accounting defined. Accounting is the art of recording, classifying and summarizing in a significant manner and in terms of money, transactions, events and circumstances which are in part at least, of a financial character, and interpreting the results thereof.

Public accounting is the practice of this art by one whose services as an independent contractor are available to the public for compensation. It may consist in the performance of original work, in the examination and revision of or reporting on the original work of others, or in the rendering of collateral services for which a knowledge of the art and experience in its practice create a special fitness.

A person, either individually or as a member of a firm or as an officer or employee of a corporation, shall be deemed to be engaged in practice of public accounting within the meaning and intent of this chapter:

- I. Who holds himself out to the public in any manner as one who is skilled in the knowledge, science and practice of accounting and as qualified to render professional services as an accountant for compensation; or
- II. Who maintains an office for the transaction of business as a public accountant, or who, except as an employee of a public accountant, practices accounting, as distinguished from bookkeeping, for more than one employer; or
- III. Who offers to receive clients to perform for compensation, or who does

perform upon behalf of clients for compensation, professional services that involve or require an audit or verification of financial transactions and accounting records; or

IV. Who prepares, signs or certifies for clients, reports of audits, balance sheets and other financial, accounting and related schedules, exhibits, statements or reports which are to be used for publication or for credit purposes, or to be filed with a court or other tribunal or governmental agency, or used for any other purpose; or

V. Who in general, or as an incident to such work, renders professional assistance to clients for compensation in any or all matters relating to accounting procedure and the recording, presentation and certification of financial facts; or

VI. Who prepares for another or signs any statement, schedule, audit, balance sheet or other document or paper reflecting, or purporting to reflect, the results of an audit or examination of the financial records or books of account of such person, which is used, or intended to be used, for the purpose of obtaining or soliciting any loan or credit.

Sec. 8. Registration fee. Upon application made by any holder of an unrevoked certificate as a certified public accountant, or of an unrevoked authority as a public accountant issued under the provisions of this chapter, the Board shall issue an annual registration card valid until the 31st day of December following its issuance unless said certificate or authority shall sooner be revoked. Each applicant who has received a certificate as a certified public accountant from the Board, as a result of having passed the examination under section 5 subsequent to the effective date of this chapter, shall pay no fee for his initial registration card if application for such card is made not later than one year after the date of his certificate as a certified public accountant. Each other applicant shall pay to the Board an initial fee of \$25 for such initial registration card.

Each applicant shall pay to the Board a fee of \$15 for each annual renewal of such registration card, provided failure to renew such registration card before its expiration date shall not deprive the holder thereof of the right of renewal. In such case, a certified public accountant or public accountant, in good standing, may renew his registration card by payment of all annual fees unpaid by him since the expiration of his card.

Sec. 9. Practice. No person who has not received a certificate as a certified public accountant from the Board shall be styled and known as a "certified public accountant," or assume or use such title or the abbreviation "C.P.A." or any other word, words, letters or figures to indicate that such person is entitled to practice as a certified public accountant. No person, other than a certified public accountant, who has not received authority and a registration card as a public accountant from the Board shall be styled and known as a "public accountant," or assume or use such title or any other word, words, letters or figures to indicate that such person is entitled to practice as a public accountant. No individual, partnership, firm or corporation shall assume or use the title or designation "certified accountant," "certified tax accountant," "chartered ac-

countant," "enrolled accountant," "registered accountant," "licensed accountant," or any other title or designation likely to be confused with either "certified public accountant" or "public accountant," or any of the abbreviations "C.A.," "C.T.A.," "P.A.," "E.A.," "R.A.," "L.A.," or any other abbreviation likely to be confused with "C.P.A."

No partnership or firm shall assume or use the title or designation "certified public accountants," or any title or designation, words, letters, abbreviations, sign, card or device tending to indicate that such partnership or firm is composed of certified public accountants unless each resident manager in charge of an office in this State and at least one general partner thereof and all of its members personally practicing public accounting within this State hold valid registration cards issued under this chapter as certified public accountants, and each partner thereof shall be a certified public accountant of some state. No partnership or firm shall use the title or designation "public accountants," or any title or designation, words, letters, sign, card or device tending to indicate that such partnership or firm is composed of public accountants unless each resident manager in charge of an office in this State and at least one general partner thereof, and all of its members personally practicing public accounting within this State, hold valid registration cards issued under this chapter as public accountants.

On and after January 1, 1958, no person shall affix his signature with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion, or to any report on, or to any certificate to, any accounting or financial statement unless he holds a valid registration card issued under this chapter, provided the provisions of this section shall not prohibit any principal or partner or officer or employee of any corporation, or other organization from affixing his signature to any statement or report in reference to the financial affairs of said partnership, corporation or other organization with any wording designating the position, title or office which he holds in said partnership, corporation or other organization; nor shall the provisions of this section prohibit any act of a public official or public employee or officer of a court in the performance of his duties as such.

No person shall sign or affix a partnership or firm name, with any wording indicating that it is a partnership or firm composed of accountants or auditors, or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion or report on, or to any certificate to, any accounting or financial statement unless all of the members of the partnership or firm practicing within this State hold valid annual registration cards issued under this chapter.

No person shall sign or affix a corporate name with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing to any accounting or financial statement or to any report or opinion on, or to any certificate to, any accounting or financial statement.

Whenever, in the judgment of the Board, any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a

violation of this section, the Board may make application to the appropriate court for an order enjoining or restraining such acts or practices, and upon a showing by the Board that such person has engaged in, or is about to engage in, any such acts or practices, an injunction, restraining order or such other order as may be appropriate shall be granted by such court.

Any person violating any provision of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

Sec. 10. Exceptions. Nothing contained in this chapter shall prohibit any person, not a certified public accountant or public accountant, from serving as an employee of or as an assistant to a certified public accountant or public accountant, or a partnership or firm composed of certified accountants or public accountants holding valid registration cards issued under this chapter, provided such employee or assistant shall not issue any accounting or financial statement as a certified public accountant or public accountant. Nothing contained in this chapter shall prohibit a certified public accountant or a registered public accountant of another state, or any accountant of a foreign country holding a certificate, degree or license which permits him to practice therein, from temporarily practicing in this State on professional business incident to his regular practice.

Sec. 11. Investigations and hearings; revocations and suspensions; appeal. The Board may make investigations and conduct hearings and may, on its own complaint, or upon a complaint in writing, filed with it and duly signed and verified by the complainant, suspend for a definite period, not to exceed one year, or revoke any certificate, authority or annual registration card, or may officially censure the holder thereof in any case in which said holder has been convicted of any crime, an essential element of which is dishonesty, deceit or fraud, or has been found by the Board to have employed fraud or deceit in obtaining his certificate as a certified public accountant, authority or annual registration card, or to have violated any provision of this chapter or any duly promulgated and effective regulation adopted by the Board. A copy of the complaint shall be served upon the person complained against by personal service and, if the complaint is against a person who is a member or employee of a partnership or firm, notice of the complaint shall be given to such partnership or firm. The person so served shall file his answer thereto with the Board within 20 days after such service. The Board shall thereupon set the matter for hearing within 30 days after the date of filing of the answer. The person complained against, and, if there be a complainant other than the Board, the complainant may appear at such hearing in person or by attorney or by agent. No order revoking or suspending a certificate, authority or annual registration card or censuring the holder thereof shall be made until after a hearing or hearings held before the Board at such places as may be designated by the Board. The testimony presented and the proceedings at such hearings shall be preserved with the records of the Board. In any case occurring after the termination of the Public Accountants Advisory Commission and wherein the person complained against is not a certified public accountant, he may, at his option, not later than 10 days after receipt of the complaint, request the Board to appoint a special temporary committee to hear his case to be composed of 3 persons who are registered under this chapter and selected as follows: The first, a person named by the person

complained against, the 2nd named by the Board, the 3rd named by agreement of the first 2 selected. Such temporary committee shall substitute for the Board for the particular complaint in question, and its findings shall be reported to the Board. Any person aggrieved by an order made under this chapter may, within 30 days after the entry of such order, appeal to any Superior Court from such order, which appeal shall be accompanied by a citation to said Board to appear before said Court. Such citation shall be signed by the same authority and such appeal shall be returnable at the same time and served and returned in the same manner as is required in the case of a summons in a civil action. The authority issuing the citation shall take from the applicant a bond or recognizance to the State, with sufficient surety, to prosecute the application to effect and to comply with the orders and decrees of the Court in the premises. Such application shall operate as a stay of such order pending the ultimate determination of the appeal, including an appeal to the Supreme Judicial Court, if any. The Board may reissue any certificate, authority or registration card which may have been revoked, and it may modify the suspension of any certificate, authority or registration card which may have been suspended.'

Sec. 2. R. S., c. 80, repealed. Chapter 80 of the Revised Statutes is hereby repealed.