

ACT 110

S.B. NO. 300

A Bill for an Act Relating to Public Accountancy.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- [(4)] Chapter 466 (Board of Public Accountancy)
- (5) (4) Chapter 467 (Real Estate Commission)
- [(6)] (5) Chapter 439 (Board of Cosmetology)
- [(7)] (6) Chapter 454 (Mortgage Brokers and Solicitors)

- [(8)] (7) Chapter 454D (Mortgage and Collection Servicing Agents)
- (b) The following chapter and sections are hereby repealed effective December 31, 1990:
- (1) Chapter 466J (Board of Radiologic Technology)
 - (2) Sections 321-13 to 321-15 (midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, and sanitarians)
- (c) The following chapters are hereby repealed effective December 31, 1991:
- (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
 - (8) Chapter 468K (Travel Agencies)
- (d) The following chapters are hereby repealed effective December 31, 1992:
- (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1993:
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
 - (4) Chapter 446 (Debt Adjusters)
 - (5) Chapter 436E (Board of Acupuncture)
- (f) The following sections are hereby repealed effective December 31, 1993:
- (1) Sections 445-21 to 38 (Auctions)
 - (2) Sections 445-131 to 136 (Pawnbrokers)
 - (3) Sections 445-171 to 172 (Secondhand Dealers)
 - (4) Sections 445-231 to 235 (Scrap Dealers)
- (g) The following chapters are hereby repealed effective December 31, 1994:
- (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
 - (6) Chapter 442 (Board of Chiropractic Examiners)
 - (7) Chapter 373 (Commercial Employment Agencies)
 - (8) Chapter 448 (Board of Dental Examiners)
 - (9) Chapter 465 (Board of Psychology)
- (10) Chapter 468E (Speech Pathology and Audiology)
- (h) The following chapter is hereby repealed effective December 31, 1995:
- (1) Chapter 466 (Board of Public Accountancy)
- [(h)] (i) The following chapters are hereby repealed effective December 31, 1997:
- (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Chapter 466, Hawaii Revised Statutes, is amended by adding new sections to be designated and to read as follows:

“§466-11.5 Single act evidence of practice. In any action brought under this section, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

§466-13 Quality review committee. The board may appoint a quality review committee to review the publicly available professional work of firms on a random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular firm. The identity of the person for whom the professional work is done shall be preserved in confidence. In the event the review discloses information that a firm has not met the appropriate professional standards, the board may require further investigation of the firm.

Neither the proceedings nor the records of the quality review committees shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of the committee shall be required to testify as to what transpired at the meeting; provided that the statements made by any person in attendance at the meeting who is a party to an action or proceeding the subject matter of which was reviewed at the meeting, shall be subject to discovery.

§466-14 Hearings. In every case in which it is proposed to revoke or suspend a license or permit or in which an application has been denied, the board shall give the person concerned an opportunity for a hearing in conformity with chapter 91.

§466-15 Advisory committees. (a) The director may establish advisory committees, the members of which shall serve as consultants to the board in their review of certified public accountants and public accountants referred for possible disciplinary action, and as experts to the department for investigation. The advisory committee shall be appointed by the director from a list of certified public accountants and public accountants submitted annually by the board.

(b) Each member of the committee shall serve until a new committee is established, or until the particular case for which the member was designated a consultant or expert has been concluded.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) No member of the advisory committee shall bear any civil liability for any act done in furtherance of the purpose for which the advisory committee was established.

§466-17 Construction; severability. If any provision of this chapter or the application thereof to any person or entity or in any circumstance is held invalid, the remainder of the chapter and the application of such provision to others or in other circumstances shall not be affected thereby.”

SECTION 3. Section 466-1, Hawaii Revised Statutes, is amended to read as follows:

“§466-1 Purpose. It is the policy of this State, and the purpose of this chapter to promote the [dependability] reliability of information [which] that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial and noncommercial enterprises, whether public

or private. The public interest requires that persons [attesting as experts] professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information [be qualified in fact to do so;] shall have demonstrated their qualifications to do so, and that persons who have demonstrated and maintained such qualifications be permitted to hold themselves out as having such special competence or to offer such assurance; that the professional conduct of persons licensed as having special competence in accountancy be regulated in a manner consistent with nationally recognized standards of professional conduct; that a public authority competent to prescribe and assess the qualifications [of public accountants] and to regulate the professional conduct of practitioners of public accountancy 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.] the use of titles relating to the practice of public accountancy that are likely to mislead the public as to the status or competence of the persons using such titles be prohibited."

SECTION 4. Section 466-3, Hawaii Revised Statutes, is amended to read as follows:

"§466-3 Definitions. [(1) The term "board" when] When used in this chapter [shall mean the state board of public accountancy established in section 466-4.], the following terms have the meanings indicated:

- (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.]

"Board" means the state board of public accountancy established under section 466-4.

"Certified public accountant" means the designation given to a person licensed under section 466-5 or the law of any other state or foreign country.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Firm" means a sole proprietorship, a corporation, or a partnership.

"License" means the document issued by the board to a person designated as a certified public accountant under section 466-5, or a person licensed as a public accountant under section 466-6, or a valid comparable certificate, registration, or license of certified public accountant or public accountant issued after examination under the law of any other state or foreign country, or of a permit issued under section 466-7.

"Licensee" means the holder of a license issued by the board under sections 466-5 and 466-6.

"Permit" means a permit to actively practice public accountancy issued under section 466-7.

"Practice of public accountancy" means the performance or the offering to perform, by a person or firm holding itself out to the public as a licensee, for a client or potential client of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

"Public accountant" means the designation given to a person licensed under section 466-6, or the law of any other state or foreign country.

"Quality review" means a study, appraisal, or review of one or more aspects of the professional work of a firm in the practice of public accountancy by a person

or persons who hold certificates and who are not affiliated with the firm being reviewed.

"Report", when used with reference to financial statements, means an opinion, report, or other form of language that states or implies the measure of assurance as to the reliability of any financial statements, and that also includes, or is accompanied by, any statement or implication that the firm issuing it has special knowledge or competence in accounting or auditing.

"State" means any state, territory, or insular possession of the United States, except that "this State" means the State of Hawaii."

SECTION 5. Section 466-4, Hawaii Revised Statutes, is amended to read as follows:

"§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 nine 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] licenses and current permits to practice public accountancy[,], issued under this chapter. Two members thereof shall be public accountants in active practice holding current [registrations as such] licenses and current permits to practice public accountancy issued under this chapter, and two shall be public members.

(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] 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] Whose license of certified public accountant or [registration] of public accountant, as the case may be, or whose permit to practice public accountancy:
 - [(i) has] (A) Has been [cancelled,] canceled, revoked, or suspended[,];
 - [(ii) has] (B) Has expired without renewal[,]; or
 - [(iii) has] (C) Has otherwise become invalid.

(c) [Organization.] The board shall elect annually a [chairman] chairperson and a [secretary-treasurer] vice chairperson 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] public accountancy 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 commerce and consumer affairs] 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] Initiate 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 firms, or the violation of any of the provisions of this chapter[, and] or the rules of the board;

- (2) [adopt,] Adopt, amend, and repeal rules [with the approval of the governor, and the director of commerce and consumer affairs, and issue decisions, orders and declaratory rulings, for the orderly conduct of its affairs and for the administration of this chapter] governing the administration and enforcement of this chapter and the conduct of the licensees [including, but not limited to, rules 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.
- (3) Grant, deny, suspend, or revoke licenses which are authorized by this chapter and impose such conditions as may be necessary in connection with the granting, denial, suspension, or revocation of licenses;
- (4) Prescribe the proof to be furnished for the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement for any indemnity deemed appropriate to the case;
- (5) Grant, renew, forfeit and restore permits to practice which are authorized by this chapter and impose such conditions as may be necessary in connection with the granting, renewal, forfeiture and restoration of permits.

[(g) 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 the person was previously appointed, but shall otherwise be subject to all the provisions of this chapter; and the person's 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.]"

SECTION 6. Section 466-5, Hawaii Revised Statutes, is amended to read as follows:

"§466-5 [Certificate] License of certified public accountant. (a) [Issuance.] A license and a permit are required to practice public accountancy. The board may license and grant the designation of "certified public accountant" to any person [(1)] who has [attained] met the following:

- (1) Attained eighteen years of age[,];
- (2) [who has a reputation for] Possesses a history of competence, trustworthiness, [and fairness,] and fair dealing;
- (3) [who meets the educational] Educational [and examination] requirements [hereinafter provided in this section, and] of subsection (b);
- (4) [who meets the experience requirement hereinafter provided in this section shall, upon application to the board, be issued a certificate of "certified public accountant".] Experience requirements of subsection (d);
- (5) Examination requirements of subsection (e); and
- (6) Paid the appropriate fees and assessments.

[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 two years and shall be renewable biennially upon application to the board.]

(b) [Educational requirements. A person applying for a certificate of certified public accountant (1) before January 1, 1979,] The educational requirement for a license shall [be required to have obtained] include a baccalaureate degree conferred

by a college or university recognized by the board¹ [or (2) after December 31, 1978 shall:] and:

- [(A) Obtain a baccalaureate degree conferred by a college or university recognized by the board;
- (B) Complete the study of accounting and related courses as the board by rule deems appropriate; and
- (C) Complete] (1) Completion of not less than thirty semester hours of study in addition to those semester hours required for a baccalaureate degree [at a college or university recognized by the board. The person may commence the additional hours of study required by this subparagraph prior to obtaining of a baccalaureate degree but only after the completion of one hundred five semester hours towards the baccalaureate degree]. The baccalaureate degree and the thirty semester hours of additional study shall include a minimum of eighteen semester hours of upper division or graduate level accounting or auditing subjects. The content of the additional qualifying hours of study shall be determined by rules adopted by the board pursuant to chapter 91[.]; or
- (2) If the applicant has a minimum of eighteen semester hours of upper division or graduate level accounting and auditing subjects, the applicant may elect to replace the thirty semester hours with an additional thirty months of professional experience in a public accounting practice. This experience shall not be credited toward the experience requirements in subsection (d).

(c) [Exemption from educational requirements.] A person[:] shall be exempt from the requirements in subsection (b) if that person:

- (1) [Who holds] Holds a current [registration] license as a public accountant under section 466-6; or
- (2) [Who: (A)] Holds, and has continued to hold, a valid comparable certificate, registration, or license of certified public accountant of another state for a period of not less than ten years preceding the date of the person's application under this section, and has been in active practice of public accountancy in one or more states for a period of not less than five years preceding the date of the application [under this section]; or
- [(B) The] (3) As the board determines, has met the educational requirements of this State for a [certificate] license of certified public accountant as [they] the requirements existed when the person was originally issued a [certificate] license of certified public accountant by the other state[;

shall, upon application to the board and demonstration that the continuing education requirements established by rule of the board have been satisfied, be exempt from the educational requirements of subsection (b)].

(d) [Experience requirement. A person applying for a certificate of certified public accountant shall be required to:] Each applicant shall present satisfactory evidence in the form of a notarized or certified statement from present or former employer(s) that the applicant has met one of the following experience requirements for license:

- (1) [Complete] Completion of one thousand five hundred chargeable hours in the performance of audits involving the application of generally accepted accounting principles and¹ auditing standards[;] earned while in public accounting practice; or
- (2) [Complete] Completion of two years of professional experience in public accounting practice[. Representation of satisfaction of the experience requirement by an applicant for a certificate of certified public

accountant and by any of the applicant's employers shall be submitted to the board under oath.] as defined in section 466-3.

(e) [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.] The examination required to be passed shall be in writing, shall be held twice a year, and shall test the applicant's knowledge of the subjects of accounting theory, accounting practice, auditing, and other related subjects as the board may specify by rule. The time for holding the examination shall be fixed by the board and may be changed from time to time. The board shall prescribe the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required by an applicant for a license; provided that the board shall, to the extent possible, see to it that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may use the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants, and may contract with third parties to perform the administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties herein.

(f) [Admission to examination. A person (1) who has met the applicable educational requirements prescribed in subsection (b) of this section, or (2) who has not met all of the requirements prescribed by subsection (b)(2) of this section but who expects to meet the requirements of subsections (b)(2)(A) and (b)(2)(B) of this section within one hundred twenty days following the examination prescribed in subsection (e), or (3) who is exempted from such educational requirements by subsection (c), shall, upon application to the board, be admitted to such examination. An applicant who has been admitted to the examination pursuant to subsection (f)(2) will not receive any conditional credit pursuant to subsection (g) for any portion of the examination, unless the applicant completes all of the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination. An applicant admitted to the examination pursuant to subsection (f)(2), who satisfactorily completes the entire examination, will not be entitled to receive a certificate of certified public accountant unless:

- (1) The applicant completes the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination; and
- (2) The applicant completes the educational requirements of subsection (b)(2)(C) within a time period following the examination which shall be established by the board by rules promulgated pursuant to chapter 91.] The board may allow an applicant to sit for the Uniform Certified Public Accountant Examination, if the applicant has met at least one of the following:
 - (1) Baccalaureate degree in accounting conferred by a college or university acceptable to the board; or
 - (2) Baccalaureate degree with a major in a subject other than in accounting, plus eighteen semester hours of upper division or graduate level accounting or auditing subjects, conferred by a college or university acceptable to the board; or
 - (3) Baccalaureate degree or its equivalent in accounting, conferred by a college or university outside of the United States and submission of a letter of acceptance from an accredited United States college or university to its advanced degree program.

(g) [Re-examination.] The board [may by regulation] shall prescribe the terms and conditions under which an applicant who has taken the examination [described] prescribed in subsection (e), but who has not satisfactorily completed [that] the examination, may be given credit for any part thereof that the applicant has satisfactorily completed. The board may also provide [by regulation for a reasonable waiting period] a specific length of time for an applicant to apply for re-examination.

(h) [Exemption from examination requirements.] A person [(1)] who is the holder of a valid comparable certificate, registration, or license of certified public accountant issued under the laws of another state[, or (2) who is] may be exempted from taking the Uniform Certified Public Accountant Examination. The board shall prescribe the methods and requirements for exemption from examination requirements. The board shall prescribe the methods and requirements for exemption for the holder of a valid comparable certificate, registration, or license[, or] and a degree [in] from a foreign country [determined by the board to be (A) a recognized qualification for the practice of public accountancy in such other country, (B) comparable to a certificate of certified public accountant of this State, and (C) issued to such person on the basis of an examination comparable to the examination described in subsection (e), shall, upon application to the board, be exempt from the examination requirements specified in subsection (e)].

(i) [Existing certificate holders.] A person who, on January 1, 1974, holds a [certificate] license of certified public accountant issued under the laws of this State theretofore existing shall not be required to obtain an additional [certificate] license of certified public accountant under this chapter, but shall otherwise be subject to all the provisions of this chapter; and [such a certificate] the license theretofore issued shall¹ for all purposes¹ be considered a [certificate] license issued under this chapter and subject to the provisions [hereof.] herein.

(j) A person applying for a [certificate] license of certified public accountant after December 31, 1983, shall be allowed the option of electing to replace the requirements of subsection [(b)(2)(C)] (b)(1) with an additional thirty months of professional experience in a public accounting practice.

(k) Licenses shall be effective for a period not exceeding two years and shall be renewable biennially on or before December 31 of every odd-numbered year upon application to the board.

(l) The board may renew the license of a certified public accountant who completes a renewal application and fulfills the following requirements:

- (1) Holds a valid and current license; and
- (2) Paid appropriate fees and assessments.

(m) Failure to renew a license on or before December 31 of every odd-numbered year, shall constitute a forfeiture of license. Continued practice in public accountancy without renewing or restoring a license and permit shall constitute unlicensed activity. Any person engaged in unlicensed activity shall be subject to sections 466-9, 466-11, 487-13, and 26-9.

(n) The board shall specify the method and requirements of application for restoration of a forfeited license. The date of restoration of the license shall be the date of board approval of the restoration. Restorations shall not be retrospective."

SECTION 7. Section 466-6, Hawaii Revised Statutes, is amended to read as follows:

"§466-6 [Registration] License of public accountant. (a) [Registration.] A license and a permit are required to actively practice public accountancy. A person;

- (1) [who] Who has attained eighteen years of age[.];
- (2) [who is of good moral character,] Who possesses a history of competence, trustworthiness, and fair dealing;
- (3) [who] Who was serving in the armed forces of the United States on June 15, 1955[.];
- (4) [who] Who was a resident of the Territory of Hawaii at the time of entering such service in the armed forces[.]; and
- (5) [who] Who at the time of entering such service, met the requirements set forth in [paragraph] subparagraph (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] licensed by the board as a "public accountant":
 - (A) Any person who held oneself out to the public as being engaged in the practice of public accountancy and who was engaged in the practice of public accountancy as the person's principal occupation, either on the person's own account or as a member of a firm, or as an employee of a certified public accountant or public accountant, and was 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 the 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[.]; or
 - (C) Any person who was engaged in private accounting or auditing who has had not less than three [years'] years of experience in such work, or in public accounting, or both, and whose experience was of such a 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]

(b) Licenses shall be effective for a period not exceeding two years and shall be renewable biennially on or before December 31 of every odd-numbered year upon application to the board.

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

SECTION 8. Section 466-7, Hawaii Revised Statutes, is amended to read as follows:

"§466-7 Permits to practice. (a) [Biennial practice permits. A person (1) who is holding a current certificate of certified public accountant or a current registration as a public accountant and (2) who has complied with continuing education requirements established by rule of the board, shall, upon application to the board, be issued a permit to practice public accountancy in this State. Such permit to practice shall be effective for a period not exceeding two years.] A license and permit are required to actively engage in the practice of public accountancy. The board may grant or renew a permit to actively engage in the practice of public accountancy. Permits shall be initially issued and renewed for periods of two years

but in any event shall expire on December 31 of every odd-numbered year. The board shall prescribe the methods and requirements for application.

(b) [Temporary practice permits. A person] An applicant for the initial issuance or renewal of a permit shall have:

- (1) A valid license;
- (2) Completed continuing professional education hours, the content of which shall be specified by the board which may provide for special consideration by the board to applicants for permit renewal when, in the judgment of the board, full compliance with all requirements of continuing education cannot reasonably be met;
- (3) Completed an application; and
- (4) Paid appropriate fees and assessments.

(c) The board may grant a temporary permit to actively engage in the practice of public accountancy to any person who:

- (1) [who has] Has attained eighteen years of age[.];
- (2) [who is of good moral character,] Possesses a history of competence, trustworthiness, and fair dealing;
- (3) [who holds] Holds a valid [certificate] license of certified public accountant or [a valid registration as a] of public accountant issued under the laws of another state, or who holds a valid comparable certificate, registration, or license or degree [of] from 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] Incidental to the person's 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.]; and
- (5) Has completed an application.

Such permit shall be effective for a period not exceeding three months, and shall specify the nature and extent of the practice so permitted.

(d) All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board.

(e) Failure to submit the required fees, continuing education hours, or other requirements for renewal as specified in this section by December 31 of every odd-numbered year, shall constitute forfeiture of the permit. Continued performance in the practice of public accountancy without a permit shall constitute unlicensed activity and the individual or firm shall be subject to sections 466-9 and 466-11, section 487-13, and section 26-9.

(f) The board may restore forfeited permits to the individual or firm which satisfies the following:

- (1) The requirements of subsections (a), (b), (c) or (d) of this section; and
- (2) Payment of required fees."

SECTION 9. Section 466-8, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) An application for the issuance of a biennial permit to practice for an individual or firm under section 466-7(a) and (d) shall be accompanied by the application and permit to practice fees. An applicant for the restoration of a forfeited permit shall pay a fee with the application for restoration in an amount equal to twice the amount of the fees which the applicant would have paid had the applicant renewed the permit by December 31 of every odd-numbered year."

SECTION 10. Section 466-9, Hawaii Revised Statutes, is amended to read as follows:

“§466-9 Disciplinary action. (a) [Causes. The] In accordance with chapter 91, the board may[, in accordance with the provisions of chapter 91,] take the following action:

- (1) [cancel,] Cancel or revoke[, any license or permit issued under section 466-5, 466-6, or 466-7, or corresponding provisions of prior law;
 - (2) [suspend] Suspend a license or permit for a period of not [exceeding] more than two years[, or refuse];
 - (3) Refuse to renew [any certificate of certified public accountant, registration of public accountant] a license or permit [to practice issued under this chapter, or it may (2)] for a period of not more than two years;
 - (4) Reprimand, censure [a person holding any such certificate, registration or permit, for any one or a combination of the following causes: (A) Dishonesty,] or limit the scope of practice of any licensee or firm;
 - (5) Impose an administrative fine not exceeding \$1,000;
 - (6) Place a licensee or firm on probation;
 - (7) Require a firm to have a quality review conducted in the manner specified by the board; or
 - (8) Require a licensee to attain satisfactory completion of additional continuing professional education hours as specified by the board.
- (b) Any one or more of the following shall constitute grounds for disciplinary action:

- (1) Fraud or deceit [or fraud] in obtaining [any certificate, registration] a license or permit; [to practice issued under the provisions of this chapter.]
- (2) Disciplinary action taken by another state where the license is canceled, revoked, suspended, denied, or refused renewal;
- (3) Failure, on the part of a holder of a license or a permit under sections 466-5, 466-6, or 466-7, to maintain compliance with the requirements for issuance of a license or a permit, or renewal of a license or permit, or to report changes to the board;
- (4) Revocation or suspension of the right to practice before any state or federal agency;
- [(B)] (5) Dishonesty, deceit, fraud, or gross negligence in the practice of public accountancy[.] or in the filing or failure to file a licensee's or firm's own income tax returns;
- [(C)] (6) Violation of any [of the provisions] provision of [section 466-10] this chapter or of any rule [or regulation of] adopted by the board [relating to professional conduct.];
- (7) Violation of any provision of professional conduct established by the board under this chapter;
- (8) Conviction of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the act involved would have constituted a crime under the laws of this State;
- (9) Performance of any fraudulent act while holding a license or permit issued under this chapter; or
- (10) Any conduct reflecting adversely upon the licensee's or permit holder's fitness to engage in the practice of public accountancy.

[(b) Reinstatement.] (c) Upon application of any person against whom disciplinary 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] license or permit to practice which was affected by such disciplinary action.

- (1) The board shall specify the manner in which an application shall be made, the time within which it shall be made, and the circumstances under which the forfeited license may be reinstated.
- (2) Before reissuing, the board may:
 - (A) Require the applicant to show successful completion of specified continuing professional education; and
 - (B) Make the reinstatement of a license or permit conditional and subject to satisfactory completion of a quality review conducted in a manner as the board may specify."

SECTION 11. Section 466-10, Hawaii Revised Statutes, is amended to read as follows:

"§466-10 Prohibited acts. (a) Use of title "certified public accountant"[.];

- (1) Except as otherwise provided in subsection (d) 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] the person is a certified public accountant, unless [such] the person holds a current [certificate] license 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] the partnership who are in the practice of public accountancy in this State, or each of the shareholders of [such] the corporation who are in the practice of public accountancy in this State, holds a current [certificate] license of certified public accountant issued under this chapter and a current permit to practice [as such] issued under this chapter[.]; and
 - (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 (d) 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] the person is a public accountant unless [such] the 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 indicate that [such] the partnership or corporation is composed of public accountants, unless each of the partners of [such] the partnership who are in the practice of public accountancy in this State, or each of the shareholders of [such] the corporation who are in the practice of public accountancy in this State, holds a current [registration] license of public accountant issued under this chapter and a current permit to practice [as such] issued under this chapter[.]; and
 - (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] the person's name or any trade or assumed name used by [him] the person in [his] the person's profession or business with any wording indicating, suggesting, or implying that [he] the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that [he] the person 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] the person holds a current [certificate or registration] license 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] the partnership who are in the practice of public accountancy in this State or each of the shareholders of [such] the corporation who are in the practice of public accountancy in this State holds a current [certificate] license 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] license of certified public accountant issued under this chapter from assuming and using the title and designation “certified public accountant” or “CPA”; provided that if [such] the person does not also hold a current permit to practice [as such] issued under this chapter, [he] the person shall clearly indicate in assuming and using said title that [he] the person does not hold [himself] the person’s self out to be in the practice of public accountancy[.];
- (2) Who holds a current [registration] license of public accountant issued under this chapter from assuming and using the title and designation “public accountant” or “PA”; provided that if [such] the person does not also hold a current permit to practice [as such] issued under this chapter, [he] the person shall clearly indicate in assuming and using [said] the title that [he] the person does not hold [himself] the person’s self 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] the person is generally known in the state or country from which [he] the person received [his] a valid comparable certificate, registration, or 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 that [such] the employee or assistant works under the control and supervision of a person who holds a current [certificate] license 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] the employee or assistant does not issue any statement or report over [his] the person’s name except [such] office reports to [his] the person’s employer as are customary, and that [such] the 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] the person’s name to any statement or report in reference to the affairs of that organization; provided that in so signing or affixing [his] the person’s name [he] the person shall clearly indicate that [he] the person is an officer, employee, partner, or principal of the organization, and the position, title, or office which [he] the person holds therein[.];
- (6) Who is a public official or public employee from the performance of [his] the person’s duties as such[.]; or
- (7) Who is an attorney at law from engaging in practice as such.”

SECTION 12. Section 466-11, Hawaii Revised Statutes, is amended to read as follows:

“§466-11 [Measures] Injunctions against [violation.] prohibited acts. (a) Whenever, as a result of an investigation under section 466-13 or otherwise, the board has reason to believe that any person or firm has engaged, or is about to engage, in any act, or acts, or [practice which constitutes,] practices that constitute or will constitute[,], a violation of section 466-10, the board may certify the facts underlying the belief to the attorney general of this State, who shall make application to the appropriate court for an order enjoining the act, or acts, or [practice,] practices, and, upon a showing by the board that the person or firm has engaged, or is about to engage, in any act, or acts, or [practice,] practices, an injunction, restraining

order, or other order as may be appropriate shall be granted by the court without bond.

(b) [Any person who violates any provision] A violation of section 466-10 [shall be guilty of] is a misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts underlying the 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) Any person [violating] or firm who violates this chapter [shall] may be fined not more than \$1,000 for each violation.

(d) The display or uttering by a person or firm of a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's or firm's name in conjunction with the words "certified public accountant" or any abbreviation thereof, of the words "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under subsection (a) or (b) of this section that the person or firm whose name is so displayed, caused or procured the display or uttering of the card, sign, advertisement, or other printed, engraved, or written instrument or device and that the person or firm is holding [oneself] itself out to be a certified public accountant or public accountant holding a current permit to practice issued under section 466-7. [In any 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.]

(e) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 13. Section 466-12, Hawaii Revised Statutes, is amended to read as follows:

"§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] the licensee, partner, shareholder, officer, director, or employee incidental to, or in the course of [professional service] rendering services to [clients by such accountant,] a client in the practice of public accountancy, except reports submitted by [a certified public accountant or public accountant] the licensee to [a] the client[,] and except for records that are part of the client's records, shall be and remain the property of [such accountant] the licensee in the absence of an express agreement between [such accountant] the licensee 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 the client's personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of [such accountant or to the accountant's corporation.] the licensee, or any combined or merged firm or successor in interest to the licensee or operation of law."

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 15. This Act shall take effect upon its approval.

(Approved June 7, 1989.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.