WEST VIRGINIA CODE CHAPTER 30 ARTICLE 9

WV Legislature

§30-9-1. License required to practice.

To protect the public interest in receiving accurate and reliable financial information and assurance, certified public accountants, public accountants, and accounting firms are required to be licensed as provided in this article.

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§30-9-2. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context or associated language clearly indicates otherwise:

(1) "Affiliated entity" means an entity that controls, is controlled by, or is under common control with, a firm. For purposes of this definition, an entity controls another entity if the entity directly or indirectly or acting in concert with one or more other affiliated entities, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 50 percent of the voting interest in such entity.

(2) "Assurance" means any act or action, whether written or oral, expressing an opinion or conclusion about the reliability of a financial statement or about its conformity with any financial accounting standards.

(3) "Attest services" means providing the following services:

(A) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

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

(C) Any examination of prospective financial information to be performed in accordance with applicable Statements on Standards for Attestation Engagements (SSAE);

(D) Any engagement to be performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board (PCAOB); or

(E) Any examination, review, or agreed upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE), other than an examination described in paragraph (C) of this subdivision.

(4) "Audit" means expressing an opinion about the fairness of presentation of financial statements in accordance with the Statements on Auditing Standards.

(5) "Authorization" means an authorization issued pursuant to this article that entitles a permit holder or an individual practitioner to perform, attest, or compilation services.

(6) "Board" means the West Virginia Board of Accountancy.

(7) "Business entity" means any corporation, partnership, limited partnership, limited liability partnership, professional limited liability partnership, limited liability company, professional limited liability company, joint venture, business trust or any other form of business organization. The term "business entity" includes a firm.

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(8) "Certificate" means a certificate as a certified public accountant issued or renewed by the board pursuant to this article or corresponding provisions of prior law.

(9) "Certified public accountant" or "CPA" means the holder of a certificate.

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

(11) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person.

(12) "Compilation services" means providing a service performed in accordance with the Statements on Standards for Accounting and Review Services that presents, in the form of a financial statement, information that is the representation of management without an expression of assurance on the statement: *Provided*, That this definition does not apply to the use of the term "compilation" in §30-9-31 of this code.

(13) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. A fee fixed by a court, taxing authority, or other public authority is not a contingent fee.

(14) "Examination", when used with reference to prospective financial statements, means expressing an opinion about the fairness of presentation of financial information in accordance with the Statements on Standards for Attestation Engagements.

(15) "Financial statement" means a writing or other presentation, including accompanying notes, which presents, in whole or in part, historical or prospective financial position, results of operations or changes in financial position of any person, corporation, partnership, or other entity.

(16) "Firm" means any business entity, including, but not limited to, accounting corporations and professional limited liability companies, in which two or more certified public accountants or public accountants hold an ownership or membership interest, in terms of the financial interests and voting rights of all partners, officers, shareholders, members or managers, and the primary business activity of which is the provision of professional services to the public by certified public accountants or public accountants.

(17) "Firm ownership requirements" means, with respect to:

(A) Any professional limited liability company organized pursuant to §31B-13-1 *et seq.* of this code, consisting of one or more licensed certified public accountants or licensed public accountants;

(B) Any other firm where:

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(i) A simple majority of ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs either to:

(I) Certified public accountants holding a certificate under §30-9-12 of this code or the equivalent provision of another state; or

(II) Public accountants who have met the continuing professional education requirements of §30-9-12(b) of this code and who are not subject to the exemption or limitation set forth in §30-9-12(b)(1) or (2) of this code or similar provisions of another state.

(ii) All owners of the firm who are not certified public accountants or public accountants are active participants in the firm or in affiliated entities.

(18) "Foreign" means any country other than the United States.

(19) "Home office" means the client's office address.

(20) "Individual practitioner" means a certified public accountant or a public accountant who offers professional services to the public, but who does not practice in a firm.

(21) "License" means a certificate, permit, registration, or authorization.

(22) "Licensee" means the holder of a license.

(23) "Manager" means a manager of a professional limited liability company.

(24) "Member" means a member of a professional limited liability company.

(25) "Nonlicensee" means a person or business entity that does not hold a license.

(26) "Out-of-state certificate" means a valid certificate as a certified public accountant or equivalent designation issued or renewed under the laws of another state: *Provided*, That "out-of-state certificate" does not include any certificate as a certified public accountant or equivalent designation that was issued or renewed solely by virtue of a holder's prior status as a public accountant or its equivalent in the state of issuance and not by virtue of the holder's having met the certification requirements of the state of issuance.

(27) "Out-of-state permit" means a valid permit as a firm of certified public accountants or another designation equivalent to a permit issued or renewed by the board and that is issued or renewed under the laws of another state.

(28) "Peer Review" means a study, appraisal, or review of one or more aspects of the professional work of a licensee by a person who holds a certificate or an out-of-state certificate and who is not affiliated with the licensee being reviewed.

(29) "Permit" means a permit issued to a firm pursuant to this article.

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(30) "Principal place of business" means the licensee's office location in the state where the licensee holds a certificate or registration.

(31) "Professional services" means those services that involve the specialized knowledge and skills of a certified public accountant or a public accountant delivered by any means, including, but not limited to, in person, by mail, telephone, or by electronic means.

(32) "Public accountant" means a person holding a registration who is not a certified public accountant.

(33) "Referral fee" means compensation for recommending or referring any service of a licensee to any person.

(34) "Registration" means a registration as a public accountant issued by the board pursuant to prior law governing the registration of public accountants and renewed by the board pursuant to this article.

(35) "Report", when used with reference to financial statements, means an opinion or disclaimer of opinion or other form of language or representation which states or implies any form of assurance or denial of assurance.

(36) "Rule" means any rule proposed for legislative approval by the board pursuant to this article.

(37) "State" means any state of the United States, the District of Columbia, Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, or Guam.

(38) "Substantial equivalency" or "substantially equivalent" means or refers to a determination by the West Virginia Board of Accountancy or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements of the State of West Virginia, or that an individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency, as used in this article, the board shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

(39) "Substantial equivalency practitioner" means any certified public accountant whose principal place of business is not in this state, who holds a certificate from another state and has complied with the provisions of §30-9-16 of this code.

(40) "Uniform Accountancy Act" means the most recent edition of the model act to regulate the practice of public accounting, jointly published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

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§30-9-3. Board of accountancy; appointment; terms, qualifications of members; removal of members; compensation of members; civil liability protection for members.

(a) The West Virginia board of accountancy is hereby continued.

(b) (1) Commencing with the board terms beginning July 1, 2001, the board shall consist of seven members appointed for terms of three years by the Governor with the advice and consent of the Senate. Five members must be certified public accountants; one member must be a public accountant so long as twenty-five or more public accountants are registered by the board, but if there are fewer than twenty-five public accountants registered by the board, then the member may be either a public accountant or a certified public accountant; and one member must be a citizen member who is a resident of this state, who is not licensed under the provisions of this article and who also is not a bookkeeper, enrolled agent or a person who provides or offers to provide to the public any bookkeeping, tax preparation, financial advisory or insurance service: Provided, That the members of the board in office on July 1, 2001, shall continue to serve until their respective terms expire.

(2) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for a period of not less than five years immediately preceding the appointment and each member must be a resident of this state during the appointment term.

(3) Each appointment of a public accountant, whether for a full term or to fill a vacancy, must be made by the Governor from among three nominees selected by the West Virginia Public Accountants Association and each appointment of a certified public accountant, whether for a full term or to fill a vacancy, must be made by the Governor from among three nominees selected by the West Virginia Society of Certified Public Accountants: Provided, That when the appointment of a certified public accountant is to fill the seat held on July 1, 2001, by a public accountant, then the appointment, whether for a full term or to fill a vacancy, must be made by the Governor from among three nominees selected by the West Virginia Public Accountants Association. When the appointment is for a full term, the nominations must be submitted to the Governor not later than eight months prior to the date on which the appointment will become effective. When the appointment is to fill a vacancy, the nominations must be submitted to the Governor within ten days after a request for the nominations has been made by the Governor to the president of the West Virginia Society of Certified Public Accountants or president of the West Virginia Public Accountants Association. If the society or the association fails to submit to the Governor nominations for an appointment in accordance with the requirements of this section, the Governor may make the appointment without the nominations.

(c) No member may serve more than two consecutive full terms, and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

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(d) If a board member is unable to complete a term, the Governor shall appoint a person of similar qualifications to complete the unexpired term: Provided, That if the board member is a certified public accountant or public accountant, the Governor shall appoint a person from any nominees submitted pursuant to subdivision (3), subsection (b) of this section. Each vacancy occurring on the board must be filled by appointment within sixty days after the vacancy is created.

(e) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(f) Any member of the board shall immediately and automatically forfeit his or her membership if he or she has his or her certificate or registration suspended or revoked by the board, is convicted of a felony under the laws of any state or the United States, or becomes a nonresident of this state.

(g) Each member of the board shall receive compensation and expense reimbursement in accordance with section eleven, article one of this chapter.

(h) Board members are exempt from civil liability for any decision made or any act done in good faith in the performance of any duty or the exercise of any power granted under this article.

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§30-9-4. Powers of the board.

The board has all the powers set forth in article one of this chapter, and in addition may:

(1) Sue and be sued in its official name as an agency of this state;

(2) Hire, fix the compensation of and discharge the employees necessary for the administration of this article;

(3) Examine and determine the qualifications of any applicant for a license;

(4) Issue, renew, deny, suspend, revoke or reinstate licenses and take disciplinary action against licensees;

(5) Investigate alleged violations of the provisions of this article, reasonable rules promulgated hereunder and orders and final decisions of the board;

(6) Conduct hearings upon charges calling for the revocation or suspension of a license or take disciplinary action against a licensee, firm or substantial equivalency practitioner;

(7) Cooperate with the appropriate authorities in other states in the investigation and enforcement of violations of this article or comparable acts of other states;

(8) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code; and

(9) Take all other actions necessary and proper to effectuate the purposes of this article.

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§30-9-5. Rule-making authority.

(a) The board shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including, but not limited to, the following:

(1) The education required of an applicant;

(2) The experience required of an applicant;

(3) The examination administered under this article;

(4) Issuing or renewing a certificate, registration, permit, or authorization;

(5) Denying, suspending, revoking, or reinstating a certificate, registration, permit, or authorization;

(6) The conduct of investigations;

(7) Firm ownership requirements;

(8) Accounting corporations;

(9) Substantial equivalency practice privileges;

(10) Continuing professional education requirements for licensees, including exemptions;

(11) Peer review requirements;

(12) Professional conduct requirements;

(13) Identifying professional services required to be performed in accordance with the applicable statements on standards;

(14) Use of the titles "certified public accountant," "CPA," "public accountant" and "PA";

(15) Use of commissions, referral fees, and contingent fees;

(16) Fees for the issuance and renewal of a certificate, registration, permit, or authorization and other fees authorized by this article; and

(17) Other rules the board considers necessary and proper for implementing the provisions of this article.

(b) All rules in effect on July 1, 2001, will remain in effect until they are superseded.

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§30-9-6. Fees; special fund; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board must be deposited in the separate special fund which has been established for the board in the State Treasury and must be used for the administration of this article. Except as may be provided in section eleven, article one of this chapter, the board shall retain the amounts in the special fund from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as administrative fines imposed pursuant to this article must be deposited into the General Revenue Fund of the State Treasury.

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§30-9-7. Issuance of certificate; certificates issued prior to July 1, 2001.

(a) The board shall issue an original certificate to an applicant who demonstrates that:

(1) He or she has met one of the following qualifications for a certificate:

(A) He or she meets the qualifications for a certificate set forth in §30-9-8 of this code;

(B) He or she holds an out-of-state certificate and meets the requirements of §30-9-9 of this code;

(C) He or she holds an out-of-state certificate, does not meet the requirements of §30-9-9 of this code but does meet the requirements of §30-9-10 of this code; or

(D) He or she holds a substantially equivalent foreign designation that meets the requirements of §30-9-11 of this code.

(2) He or she has submitted an application, in writing, on a form prescribed by the board: *Provided*, That the application must require an applicant to list all states in which he or she has applied for or holds an out-of-state certificate and any past denial, revocation, or suspension of an out-of-state certificate;

(3) He or she has paid the appropriate fee prescribed by the board;

(4) He or she has submitted to a state and national criminal history record check, as set forth in this subdivision:

(A) This requirement is found not to be against public policy;

(B) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation;

(C) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(i) Submitting fingerprints for the purposes set forth in this subsection; and

(ii) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a certificate.

(D) The results of the state and national criminal history record check may not be released to or by a private entity except:

(i) To the individual who is the subject of the criminal history record check;

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(ii) With the written authorization of the individual who is the subject of the criminal history record check; or

(iii) Pursuant to a court order.

(E) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code;

(F) The applicant shall pay the actual costs of the fingerprinting and criminal history record check;

(G) The board may propose rules to implement the provisions of this section for legislative approval in accordance with §29A-3-1 *et seq.* of this code. The rules must be consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact as authorized by 42 U. S. C. §14611, *et seq.*

(b) Certificates will initially be issued for a period to expire on June 30 following the date of issue.

(c) A certificate issued by the board prior to July 1, 2001, will for all purposes be considered a certificate issued under this section: *Provided*, That a person holding a certificate issued prior to July 1, 2001, must renew the certificate pursuant to §30-9-12 of this code.

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§30-9-8. Education, examination, and experience certificate requirements.

The board shall issue a certificate to an applicant who meets the following requirements:

(1) The education requirement for a certificate shall be met through any of the following pathways:

(A) A post baccalaureate degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule;

(B) A baccalaureate degree plus an additional 30 semester credit hours, conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule; or

(C) A baccalaureate degree conferred by a college or university acceptable to the Board, the total education program to include an accounting concentration or equivalent as determined by board rule.

(2) Passage of the Uniform Certified Public Accountant Examination published by the American Institute for Certified Public Accountants or its successor and any additional examination required by the board by rule that tests the applicant's knowledge of the subjects related to the practice of accounting: *Provided*, That before applying for the examination required by this subdivision, an applicant is required to have obtained at minimum a baccalaureate degree or higher with an accounting concentration or equivalent as determined by board rule.

(3) One of the following experience requirements:

(A) At least one year of experience for an applicant who is applying for licensure on the basis of either of the educational requirements set forth in subparagraph (1)(A) or (1)(B) of this section; or

(B) At least two years of experience for an applicant who is applying for licensure on the basis of the educational requirement in subparagraph (1)(C) of this section.

(4) Qualifying experience for either subparagraph (3)(A) or (3)(B) may consist of providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. Either experience requirement may be satisfied by employment in private practice, government, industry, not-for-profit organization, academia, or public practice. An applicant's experience must be verified by a licensee and must meet any additional requirements determined by the board by rule to be appropriate.

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§30-9-9. Substantial equivalency certificate requirements.

The board shall issue a certificate to an applicant who holds a valid out-of-state certificate if the state of issuance extends similar privileges to holders of certificates under circumstances similar to those described in this section and if the board determines that:

(1) The state of issuance of the out-of-state certificate has certified public accountant certification requirements that are substantially equivalent to the certified public accountant certification requirements of the uniform accountancy act; or

(2) The applicant has individual qualifications that are substantially equivalent to the certified public accountant certification requirements of the uniform accountancy act.

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§30-9-10. Not substantially equivalent certificate requirements.

The board shall issue a certificate to an applicant who holds a valid out-of-state certificate but who does not qualify for a certificate under the provisions of §30-9-9 of this code if the applicant meets the education, experience, examination, and continuing education requirements specified by the board by rule.

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§30-9-11. Foreign designation certificate requirements.

The board shall issue a certificate to an applicant who holds a foreign designation in public accountancy if:

(1) The foreign authority that granted the designation regulates the practice of public accountancy and allows a person holding a certificate issued by this state to obtain the foreign authority's comparable designation; and

(2) The applicant meets the education, examination, experience, and continuing education requirements specified by the board by rule.

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§30-9-12. Certificate renewal; conditions of renewal.

(a) The board shall renew a certificate for a one-year period beginning on July 1, of each year after its issuance in accordance with renewal procedures and fees specified by rule: Provided, That an applicant for renewal of a certificate shall list on his or her application all states and foreign jurisdictions in which he or she has applied for or held an out-of-state certificate or foreign designation and any denial, revocation or suspension of an out-of-state certificate or foreign designation.

(b) The board shall require as a condition for the renewal of a certificate that each certified public accountant participate in continuing professional education in accordance with the requirements specified by rule, subject to the following exemptions and limitations:

(1) The board shall by rule exempt from the continuing professional education requirements set forth in this subsection any certified public accountant who does not perform or offer to perform any professional service to the public, either directly or indirectly through his or her employer.

(2) Any certified public accountant receiving the exemption from continuing professional education requirements must place the word "inactive" adjacent to his or her "CPA" title on any business card, telephone directory listing, letterhead or any other similar document or device, with the exception of the licensee's certificate on which the "CPA" title appears: Provided, That a certified public accountant receiving the exemption from continuing professional education requirements who has completely discontinued his or her performance of professional services, who has no active management or supervisory responsibilities in a firm, and who is at least sixty-two years of age is not required to place the word "inactive" or any other word adjacent to his or her "CPA" title on any business card, telephone directory listing, letterhead or any other similar document or device.

(3) The board may by rule phase in continuing professional education requirements over a period of three years for any certified public accountant who, as of July 1, 2001, has not been subject to continuing professional education requirements and who subsequently elects to perform or offers to perform any professional service to the public during a subsequent certificate renewal period within the three-year phase-in period.

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§30-9-13. Duty to inform board of denials, suspensions, revocations, limitations.

Each licensee must notify the board, within thirty days of its occurrence, of any denial, suspension or revocation of or any limitation placed on a license or out-of-state certificate.

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§30-9-14. Holder of out-of-state certificate establishing principal place of business in state.

A holder of an out-of-state certificate who intends to establish his or her principal place of business in this state must first apply for the issuance of a certificate.

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§30-9-15. Public accountants.

A person who on July 1, 2001, holds a registration as a public accountant issued under prior law is entitled to have the registration renewed under the same terms, upon fulfillment of the same continuing professional education requirements, on the same renewal schedule and subject to the same restrictions and the payment of the same fees that are required for the renewal of a certificate under section twelve of this article. Any registration not so renewed will expire on June 30, 2002.

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§30-9-16. Substantial equivalency practice privileges.

(a) An individual whose principal place of business is not in this state, holds a valid out-of-state certificate in good standing, and whose initial license requirements have met the certification requirements of §30-9-8 of this code shall have all the rights and privileges of a certificate holder of this state without the need to obtain a certificate.

(b) An individual whose principal place of business is not in this state, and who holds a valid license as a certified public accountant from any state as of December 31, 2025, has practice privileges in this state and shall continue to have all of the privileges of a license in this state without the need to obtain a certificate.

(c) An individual who offers or renders professional services under this section shall be granted practice privileges in this state, and no notice, fee, or other submission is required of any such individual. Such an individual is subject to the requirements in subsection (e) of this section.

(d)(1) Any individual performing or offering to perform any services in the state as a substantial equivalency practitioner and the firm which employs that out-of-state certificate holder are simultaneously subject to the jurisdiction of the board concerning all matters within the scope of this article and are required to comply with the provisions of this article and applicable rules;

(2) The state board of accountancy of the state of issuance of any substantial equivalency practitioner's certificate is appointed as his or her agent upon which process may be served in an action or proceeding by the board.

(e) In the event the certificate from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm.

(f) Subject to the provisions of subsection (g) of this section, an individual who qualifies for the practice privileges under this section may only perform any of the following services, for any entity with its home office in this state, through a firm which has obtained a permit issued under §30-9-17 of this code and an authorization issued under §30-9-19 of this code:

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

(2) An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements; or

(3) An engagement to be performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

(g) An individual practitioner who is also a substantial equivalency practitioner may provide

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the services set out in subsection (f) of this section without obtaining a permit issued under §30-9-17 of this code, but must obtain the authorization issued under §30-9-19 of this code.

(h) A certificate holder of this state offering or rendering services or using their CPA title in another state is subject to disciplinary action in this state for an act committed in another state for which the certificate holder would be subject to discipline in that other state.

(i) The board shall investigate any complaint made by the board of accountancy of another state.

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§30-9-17. Issuance and renewal of permits.

(a) The board shall grant or renew permits to firm applicants that demonstrate their qualifications in accordance with this section.

(b) Firms meeting the following criteria must hold a permit issued under this section:

(1) Any firm with an office in this state performing attest or compilation services;

(2) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or

(3) Any firm that does not have an office in this state but performs attest services described in subdivisions (A), (C) or (D), subsection (3), section two of this article for a client having its home office in this state.

(c) A firm that does not have an office in this state may perform services described in subdivision (B), subsection (3), section two of this article, or subsection (12), section two of this article, for a client having its home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this section only if it meets firm ownership requirements and is undergoing a peer review program that conforms with applicable rules, and performs the services through an individual with practice privileges under section sixteen of this article.

(d) A firm that does not have an office in this state and does not perform attest services or compilation services for a client having its home office in this state may perform other professional services while using the title "CPA" or "CPA firm" in this state without a permit issued under this section only if it performs the services through an individual with practice privileges under section sixteen of this article: Provided, That the firm may lawfully perform the services in the state where the individuals with practice privileges have their principal place of business.

(e) Applicants for a permit must demonstrate that:

(1) Each partner, officer, shareholder, member or manager of the firm whose principal place of business is in this state and who performs or offers to perform professional services in this state holds a certificate or a registration; and

(2) The firm meets firm ownership requirements.

(f) An application for the issuance of a permit must be made in the form specified by the board by rule and must include the following information:

(1) The names of all partners, officers, shareholders, members or managers of the firm whose principal place of business is in this state;

(2) The location of each office of the firm within this state and the name of the certified

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public accountant or public accountant in charge of each office; and

(3) Any issuance, denial, revocation or suspension of an out-of-state permit.

(g) Permits will initially be issued for a period to expire on June 30 following the date of issue.

(h) The board shall renew a permit for a one-year period beginning on July 1, of each year after initial issuance in accordance with the requirements for initial issuance of a permit in this section.

(i) The board shall charge an application fee for the initial issuance or renewal of a permit in an amount specified by rule.

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§30-9-18. Notification of changes in firm ownership; revocation of permit.

(a) A permit holder must notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, shareholders, members or managers whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of those offices, and any issuance, denial, revocation or suspension of a permit or equivalent designation by any other state.

(b) The board shall suspend or revoke the permit of any firm that ceases to meet firm ownership requirements due to changes in firm ownership or personnel due to the death or retirement of a partner, officer, shareholder, member or manager and that fails to take corrective action in the manner and during the time period specified by rule.

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§30-9-19. Issuance and renewal of authorizations.

(a) Commencing with July 1, 2001, no person or business entity may provide attest or compilation services without having first obtained an authorization issued by the board. An applicant may apply to provide attest services or compilation services or both. This requirement does not apply to individuals performing attest or compilation services based on the practice privilege under section sixteen of this article except as required under subsection (e) of that section, or to business entities performing attest or compilation services that are not required to obtain a permit under subsections (c) or (d), section seventeen of this article. Any substantial equivalency practitioner who issues a compilation report as an individual practitioner or on behalf of a business entity may do so without obtaining an authorization under this section so long as such individual does so in accordance with the requirements set out in subdivisions (1) and (2), subsection (f) of this section.

(b) Applications for the issuance of authorizations must be made in the form specified by the board by rule.

(c) Authorizations will initially be issued for a period to expire on June 30 following the date of initial issuance.

(d) The board shall issue an authorization to a permit holder that demonstrates that:

(1) Any certified public accountant, public accountant or substantial equivalency practitioner who signs or authorizes someone to sign an attest or compilation report on behalf of the permit holder meets the competency requirements set forth in the professional standards for those services specified by rule;

(2) All attest and compilation services rendered by the permit holder in this state are verified by a certified public accountant, substantial equivalency practitioner or a public accountant; and

(3) The permit holder is undergoing a peer review program that conforms with applicable rules.

(e) A firm may simultaneously apply for the issuance or renewal of a permit and the issuance or renewal of an authorization by demonstrating that the firm meets the requirements of section seventeen of this article and subsection (d) of this section.

(f) The board shall issue an authorization to an individual practitioner who demonstrates that he or she:

(1) Signs an attest or compilation report as a certified public accountant, public accountant or substantial equivalency practitioner, as applicable and meets the competency requirements set forth in the professional standards for those services specified by rule; and

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(2) Is undergoing a peer review program that conforms with applicable rules.

(g) The board shall renew an authorization for a one year period beginning on July 1, of each year after initial issuance in accordance with the requirements for initial issuance of an authorization in this section.

(h) The board shall charge an application fee for the initial issuance or renewal of an authorization in an amount specified by rule.

WV Legislature

§30-9-20. Refuse to issue or renew; suspension, revocation of license; disciplinary action.

(a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any license or practice privilege of any licensee, substantial equivalency practitioner or firm and may take disciplinary action against a licensee or substantial equivalency practitioner practicing in this state who, after hearing, has been adjudged by the board as unqualified because of any of the following reasons:

(1) Fraud or deceit in obtaining or maintaining a license or substantial equivalency practice privilege;

(2) Cancellation, revocation, suspension or refusal to renew an out-of-state certificate, an out-of-state permit or substantial equivalency practice privilege for disciplinary reasons in any other state for any cause other than a failure to pay an annual fee for the renewal of an out-of-state certificate or out-of-state permit in the other state;

(3) Failure by any licensee to maintain compliance with requirements for issuance or renewal of a license or to timely notify the board as required under section eighteen of this article;

(4) Revocation or suspension of the right of a licensee or substantial equivalency practitioner to practice before any state or federal agency;

(5) Dishonesty, fraud, professional negligence in the performance of services as a licensee or substantial equivalency practitioner or in the filing or failure to file the licensee's or substantial equivalency practitioner's own income tax returns, or a willful departure from accepted standards of professional conduct applicable to licensees and substantial equivalency practitioners;

(6) Violation of any provision of this article or any rule, including the violation of any professional standard or rule of professional conduct;

(7) Conviction of a felony or any crime an element of which is dishonesty or fraud under the laws of the United States or this state, or conviction of any similar crime under the laws of any other state if the underlying act or omission involved would have constituted a crime under the laws of this state;

(8) Performance of any fraudulent act by any licensee or substantial equivalency practitioner;

(9) Any conduct adversely reflecting upon the licensee's or substantial equivalency practitioner's fitness to perform professional services;

(10) Making any false or misleading statement or verification in support of an application for a license filed by another person or firm; or

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(11) Engaging in the unlawful practice of law as defined by the West Virginia Supreme Court of Appeals.

(b) If the board suspends, revokes, refuses to issue, refuses to renew or limits any license or practice privilege, the board shall give written notice of the denial, including a statement of charges setting forth the reasons for the denial, and notice of the date, time and place for hearing. The hearing must be held in accordance with the provisions of section twenty-two of this article.

(c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, administrative fine not to exceed $1,000 per day per violation, and mandatory attendance at continuing professional education seminars.

WV Legislature

§30-9-21. Complaints; investigation.

(a) Upon receipt of a written complaint filed against any licensee, substantial equivalency practitioner or firm, the board shall provide a copy of the complaint to the licensee, substantial equivalency practitioner or firm.

(b) The board may investigate the complaint. If the board finds upon investigation that probable cause exists that the licensee, substantial equivalency practitioner or firm has violated any provision of this article or the rules, the board shall serve the licensee, substantial equivalency practitioner or firm with a written statement of charges and a notice specifying the date, time and place of hearing. The hearing must be held in accordance with section twenty-two of this article.

(c) The board may review the publicly available professional work of a licensee, substantial equivalency practitioner, or firm on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety. If the board discovers reasonable grounds, the board may conduct an investigation and upon its own motion, may file a written statement of charges, including a notice specifying the date, time and place of hearing, against the licensee, firm or substantial equivalency practitioner.

WV Legislature

§30-9-22. Hearing; judicial review; notification to out-of-state board of accountancy; costs of proceedings.

(a) A hearing on a statement of charges must be held in accordance with the provisions for hearing set forth in section eight, article one of this chapter and procedures specified by rule.

(b) Any licensee, substantial equivalency practitioner or firm adversely affected by any decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article five, chapter twenty-nine-a of this code.

(c) If the board renders a decision refusing to issue, refusing to renew, suspending or revoking a license, or the board takes disciplinary action, the board shall determine whether the licensee, substantial equivalency practitioner or firm holds an out-of-state certificate or permit, and if so, the board shall notify the board of accountancy of the state of issuance of its decision in the manner, under the circumstances and within the time specified by rule.

(d) In addition to other sanctions imposed, the board shall require a licensee, firm or substantial equivalency practitioner to pay the costs of the proceeding.

WV Legislature

§30-9-23. Reinstatement.

If the board has suspended, revoked or refused to renew a license or has revoked the practice privileges of a substantial equivalency practitioner, the licensee, firm or substantial equivalency practitioner against whom action has been taken under the provisions of this article, must be afforded an opportunity to demonstrate the qualifications to resume practice. The application for reinstatement must be in writing and is subject to the procedures specified by rule.

WV Legislature

§30-9-24. Licensees' working papers; clients' records.

(a) Any statement, record, schedule, working paper, and memorandum made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee incident to, or in the course of, rendering services to a client while a licensee, remains the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary: Provided, That this subsection does not apply to a report submitted by the licensee to the client or to a statement, record, schedule, working paper or memorandum provided by the client to the licensee or to a partner, shareholder, officer, director, member, manager or employee of a licensee.

(b) No statement, record, schedule, working paper, or memorandum made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee incident to, or in the course of, rendering services to a client while a licensee may 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, stockholders, members or new partners, new stockholders, or new members of the licensee, or any combined or merged firm or successor in interest to the licensee.

(c) Nothing in this section may be construed to prohibit any temporary transfer of a workpaper or other material necessary in the course of carrying out a peer review or as otherwise interfering with the disclosure of information as authorized by rule.

(d) In addition to any statement, record, schedule, working paper, memorandum or report required to be furnished or returned to a client in accordance with subsection (a) of this section, a licensee shall furnish to a client or former client, upon request made within a reasonable time after original issuance of the document in question:

(1) A copy of the tax return of the client;

(2) A copy of any report or other document issued by the licensee to or for the client and not formally withdrawn or disavowed by the licensee prior to the request;

(3) A copy of any working paper, to the extent that it would ordinarily constitute part of the client's records and is not otherwise available to the client; and

(4) Any accounting or other record belonging to, or obtained from or on behalf of, a client that the licensee removed from the client's premises or received for the client's account: Provided, That a licensee may make and retain copies of the documents of the client when they form the basis for work done by the licensee.

(e) Nothing in this section requires a licensee to keep any workpaper beyond the period prescribed in any other applicable statute.

WV Legislature

§30-9-25. Commissions, referral fees and contingent fees.

(a) To the extent specified by rule, a licensee may for a contingent fee represent a client before a taxing authority within the scope of practice of public accounting: Provided, That this provision may not be construed either to limit or to expand the scope of practice of public accounting, and may not be construed to permit the unauthorized practice of law.

(b) All agreements or arrangements in which a licensee is to be paid a commission, referral fee or contingent fee must be in writing, state the method by which the fee is to be determined, must be signed by both the licensee and the client, and must be delivered to the client before the performance of any services or the delivery of any product to which the commission, referral fee or contingent fee relates. A contingent fee arrangement must state the method of calculation of the fee, including the percentage or percentages which accrue to the licensee in the event of all foreseeable outcomes, the expenses to be deducted from any recovery, collection or other amount on which the fee may be based, and whether the expenses are to be deducted before or after the contingent fee is calculated.

WV Legislature

§30-9-26. Unlawful Acts.

(a) No authorization holder or substantial equivalency practitioner may perform attest or compilation services in a manner other than pursuant to the statements on standards relating to those services specified by rule.

(b) (1) No licensee or substantial equivalency practitioner or firm may, for a commission or referral fee, recommend or refer to a client any product or service or refer any product or service to be supplied by a client, or perform for a contingent fee any professional services for or receive a referral fee, commission, or contingent fee from a client for whom the licensee, the substantial equivalency practitioner or firm works or associates or in which either of them owns an interest or who performs for that client:

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

(B) A compilation of a financial statement when the licensee or substantial equivalency practitioner expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence; or

(C) An examination of prospective financial information.

(2) The prohibition in subdivision one of this subsection applies only during the period in which the licensee or substantial equivalency practitioner is engaged to perform any of the services listed in subdivision (1) of this subsection and the period covered by any historical financial statements involved in any of those listed services.

(c) No licensee or substantial equivalency practitioner may for a contingent fee prepare an original or amended tax return or claim for a tax refund or serve as an expert witness.

(d) No person holding a certificate or registration or firm holding a permit shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter: *Provided*, That names of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor: *Provided* further, That a common brand name, including common initials, used by a CPA firm in its name, is not misleading if said firm is a Network Firm as defined in the current AICPA Code of Professional Conduct and when offering or rendering services that require independence under AICPA standards, said firm complies with the AICPA Code of Professional Conduct’s applicable standards on independence.

(e) No person or firm that does not hold an authorization to perform attest services, or is not otherwise exempt from the authorization requirement, may perform or offer to perform attest services, and no person or firm that does not hold an authorization to perform compilation services, or is not otherwise exempt from the authorization requirement, may perform or offer to perform compilation services.

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(f) No individual practitioner who holds an authorization may perform or offer to perform attest services for a client of his or her employer through or on behalf of his or her employer.

(g) No person who is not a certified public accountant, a public accountant, or a substantial equivalency practitioner may:

(1) Issue a report on financial statements of any other person, business entity, or governmental unit or otherwise render or offer to render any attest or compilation service: *Provided*, That this subdivision does not prohibit any act of a public official or public employee in the performance of that person's duties or the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon: *Provided, however*, That this subdivision does not prohibit any person who is not a certified public accountant, a public accountant, or a substantial equivalency practitioner to prepare financial statements or issue nonattest transmittals of information thereon that do not purport to have been performed in accordance with the applicable statements on standards;

(2) Claim to hold a certificate, registration, or authorization or make any other claim of licensure or approval related to the preparation of financial statements or the issuance of reports thereon that is false or misleading;

(3) Claim to have used "generally accepted accounting principles," "generally accepted accounting standards," "public accountancy standards," "public accountancy principles," "generally accepted auditing principles" or "generally accepted auditing standards" in connection with the preparation of any financial statement, or use any of these terms to describe any complete or partial variation from those standards or principles or to imply complete or partial conformity with those standards or principles;

(4) State or imply that he or she is tested, competent, qualified, or proficient in financial standards established by the American Institute of Certified Public Accountants or any agency thereof, the governmental accounting standards board or any agency thereof, the Securities and Exchange Commission or any agency thereof, the Financial Accounting Standards Board or any agency thereof, or any successor entity to any of these entities;

(5) Assume or use the titles "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "Auditor," "independent Auditor" or any other title or designation that a reasonable person may confuse with the titles "certified public accountant" or "public accountant," or assume or use the abbreviations "CA," "LA," "RA," or similar abbreviation that a reasonable person may confuse with the abbreviations "CPA" or "PA": *Provided*, That the title "Enrolled Agent" and the abbreviation "EA" may only be used by individuals so designated by the Internal Revenue Service;

(6) Use language in any statement relating to the financial affairs of a person or entity that is

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conventionally used by a licensee in a report on a financial statement;

(7) Use the words "audit," "audit report," "independent audit," "examine," "examination," "opinion" or "review" in a report on a financial statement;

(8) Assume or use any title that includes the words "accountant," "Auditor," or "accounting" in connection with any other language (including the language of a report) that implies that the person or business entity holds a license or has special competence in accounting or auditing: *Provided*, That this subdivision does not prohibit any officer, partner, member, manager, or employee of any business entity from affixing that person's own signature to any statement in reference to the financial affairs of the business entity with any wording designating the position, title, or office that the person holds therein, nor does it prohibit any act of a public official or employee in the performance of the person's duties;

(9) Use or assume the title "certified public accountant," the abbreviation "CPA," or any other title, designation, word, combination of letters, abbreviation, sign, card, or device that may lead a reasonable person to believe that the person is a certified public accountant or the holder of an out-of-state certificate; or

(10) Assume or use the title "public accountant," the abbreviation "PA," or any other title, designation, word, combination of letters, abbreviation, sign, card, or device that may lead a reasonable person to believe that the person is a public accountant.

(h) Only a business entity that holds a permit or is exempt from the permit requirement under §30-9-17(c) or (d) of this code, may assume or use the designations "certified public accountants," "CPA firm," "public accountants," or "PA firm" or the abbreviations "CPAs," or "PAs," or any other title, designation, word, combination of letters, abbreviation, sign, card, or device that may lead a reasonable person to believe that the business entity is a firm or holds a permit.

(i) The display or uttering by a person of any printed, engraved, or written instrument, bearing the name of the person in conjunction with any of the claims, titles, words, or phrases listed in this section is, for purposes of this section, prima facie evidence that the person has engaged in the acts.

(j) Notwithstanding any provision in this section to the contrary, it is not a violation of this section for a firm or business entity which does not hold a permit under §30-9-17 of this code or an authorization under §30-9-19 of this code and which does not have an office in this state to provide its professional services in this state so long as it complies with §30-9-17(c) or (d) of this code, whichever is applicable, and with any applicable provision of §30-9-19 of this code.

WV Legislature

§30-9-27. Injunctions against unlawful acts.

When, as a result of an investigation under this article or otherwise, the board or any other interested person believes that any person or business entity has engaged, is engaging, or is about to engage in any acts or practices that constitute or will constitute a violation of section twenty-six of this article, the board or any other interested person may make application to any court of competent jurisdiction for an order enjoining the acts or practices, and upon a showing that the person or business entity has engaged or is about to engage in any act or practice, an injunction, restraining order, or another appropriate order may be granted by the court without bond.

WV Legislature

§30-9-28. Criminal proceedings; penalties.

(a) When, by reason of an investigation under section twenty-one of this article or otherwise, the board has reason to believe that any person or firm has knowingly engaged in acts or practices that constitute a violation of section twenty-six of this article, the board may bring its information to the attention of the Attorney General or other appropriate law-enforcement officer who may cause appropriate criminal proceedings to be brought thereon.

(b) Any person or firm who knowingly violates any provision of section twenty-six of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned in the county or regional jail not more than one year, or both fined and imprisoned.

WV Legislature

§30-9-29. Single act evidence of practice.

In any action or proceeding brought under sections twenty-seven or twenty-eight of this article or any proceeding initiated under section twenty-one of this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction, respectively, without evidence of a general course of conduct.

WV Legislature

§30-9-30. Accounting corporations.

(a) All accounting corporations created prior to July 1, 2001, are hereby continued.

(b) On or after July 1, 2001, one or more certified public accountants or public accountants may organize and become a shareholder or shareholders of an accounting corporation domiciled within this state under the terms and conditions and subject to the limitations and restrictions specified by rule.

(c) When the Secretary of State receives a certification of authorization to act as an accounting corporation, he or she shall attach the authorization to the corporation application and, upon compliance with the applicable provisions of §31-1-1 *et seq*. of this code, the Secretary of State shall issue to the incorporators a certificate of incorporation for the accounting corporation.

(d) The corporate name shall contain the words "accounting corporation" or the abbreviation "A.C.". The use of the word "company", "corporation", or "incorporated" or any other words or abbreviations in the name of a corporation organized under this article which indicates that such corporation is a corporation, other than the words "accounting corporation" or the abbreviation "A.C.", is specifically prohibited.

WV Legislature

§30-9-31. Inapplicability of article.

(a) Nothing contained in this article may be construed to prevent any person from describing himself or herself as an "accountant" or a "bookkeeper" or from stating that he or she practices accountancy or bookkeeping; nor, subject to certification and registration requirements herein imposed, may this article be construed to prevent any person from: (1) Performing services involving the use of accounting skills; (2) rendering tax services, management advisory or consulting services; (3) keeping of books of account and related accounting records; or (4) preparing, compiling or assembling financial statements without the expression of an assurance.

(b) The prohibitions of this section and the other provisions of this article may not be construed to preclude a person or business entity not holding a certificate or registration from using the following or substantially similar language: "I (We) have compiled the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. A compilation is limited to presenting in the form of financial statements information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them. Management has elected to omit substantially all (or certain) required disclosures (and the statement of changes in financial position). If omitted disclosures were included in the financial statements, they might influence the user's conclusions about the (entity's) financial position, results of operations and changes in financial position. Accordingly, these financial statements are not designed for those who are not informed about these matters."

(c)Nothing contained in this article may be construed to prohibit an employee from furnishing services to his or her employer.

(d) Nothing in this article prohibits a practicing attorney or group of attorneys from preparing or presenting records or documents customarily prepared by an attorney or group of attorneys in connection with the attorney's professional work in the practice of law.

WV Legislature

§30-9-32.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§30-9-33. Mandatory training in federal antitrust law and state action immunity.

It shall be required of the West Virginia Board of Accountancy, and their representatives from the Attorney General's office, to obtain initial training on the subject of federal antitrust law and state action immunity by July 1, 2016, and thereafter on an annual basis. The purpose of the training is to provide those members with the knowledge to be able to identify the risks of any action that may be taken by the board that could be construed as possible antitrust violations.

WV Legislature

§30-9-34. Indemnification.

In the event that a lawsuit is filed alleging violation of federal antitrust laws, the board may indemnify its board members and current and former employees for expenses reasonably incurred in connection with judicial or administrative proceedings to which they are or may become parties by reason of the performance of their official duties

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