ENROLLED

House Bill No. 51
(By Mr. Kidd)

[Passed February 26, 1959; in effect ninety days from passage.]

AN ACT to repeal article nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article nine, creating and establishing a state board of accountancy, prescribing its powers and duties, regulating the practice of public accounting, providing for the certification and registration of persons engaged in accounting and the issuance of certificates and registration cards to such persons, and providing penalties for the violation of the provisions of this article.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article nine be enacted in lieu thereof, to read as follows:
Section 1. *Board of Accountancy.*—There shall be a state board of accountancy, known as the “West Virginia Board of Accountancy”, which shall consist of six members to be appointed by the governor by and with the advice and consent of the senate for terms of three years. All vacancies occurring on the board shall be filled by the governor. The members composing the original board shall be appointed by the governor to serve as follows: two for a term of three years; two for a term of two years; two for a term of one year, from July first, nineteen hundred fifty-nine. Thereafter, as the terms of office respectively of the members expire by the limitation the governor shall appoint, to fill the vacancies so occasioned, qualified persons whose terms shall be for three years from the day on which that of their immediate predecessors expired. At all times, at least three members of the board shall be holders of a certified public accountant certificate issued under the laws of this state, and three members shall be public accountants who are eligible to be registered under the provisions of this article. All members shall have been engaged in the active practice
of public accounting in this state for at least five years
next preceding their appointment. The governor shall
remove from the board any member whose registration
card has become void, revoked or suspended, and may
remove any member of the board for official misconduct,
incompetence, neglect of duty or gross immorality.
Each member of the board shall be paid twenty-five
dollars for each day or portion thereof spent in the dis-
charge of his official duties and shall be reimbursed for
his actual and necessary expenses incurred in the dis-
charge of his official duties.
All fees and other moneys received by the board pur-
suant to the provisions of this article shall be kept in a
separate fund and expended solely for the purposes of
this article. No part of this special fund shall revert to
the general funds of this state. The compensation pro-
vided by this article and all expenses incurred under this
article shall be paid from this special fund. No compen-
sation or expense incurred under this article shall be a
charge against the general funds of this state.
The board shall have the power and it shall be its duty
to make and enforce all necessary rules and regulations, not inconsistent with this article, for the examination, certification, and registration of public accountants; and for the general practice of public accounting.

The board may promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy, which rules shall be applicable to both certified public accountants and registered public accountants. At least sixty days prior to the promulgation of any such rule or amendment, the board shall mail copies of the proposed rule or amendment to each person certified or registered under the provisions of this article with a notice advising him of the proposed effective date of the rule or amendment and requesting that he submit his comments thereon at least fifteen days prior to such effective date; such comments shall be advisory only.

Failure to mail such rule, amendment or notice to all persons certified or registered shall not affect the validity of any such rule or amendment.

Members of the board who do not hold a certificate of
certified public accountant shall have no authority with respect to the granting of certificates of certified public accountant as provided in section two of this article, nor to the issuance of a certificate of certified public accountant by reciprocity as provided in section five of this article.

Sec. 2. Certified Public Accountants.—The certificate of "certified public accountant" shall be granted by the board to any person:

1. (1) Who is a citizen of the United States or who has duly declared his intention of becoming such citizen, and who is domiciled in the state of West Virginia, or has a place of business therein at the time of making application;
2. (2) Who is over the age of twenty-one years;
3. (3) Who is of good moral character;
4. (4) Who is a graduate of a high school with a four-year course, or who, in the opinion of the board, has had equivalent education;
5. (5) Who shall have for at least two years preceding the date of his application been engaged in practice as a public accountant or shall have been employed as a
staff accountant of a practicing certified public accountant
or public accountant; or who shall have been actively
employed for at least four years preceding the date of his
application by the United States treasury department as
an internal revenue agent; or who shall have been actively
employed for at least four years preceding the date of
his application by any federal or state supervisory agency
or instrumentality as an auditor or examiner, whose
duties entail the audit or verification of accounts and
records and the preparation, based thereon, of reports to
such agency or instrumentality for the purposes of su-
 pervision or regulation: Provided, That the experience
required in this subsection shall include the preparation
of balance sheets and operating statements from general
books, or who, in the opinion of the board, shall have had
experience equivalent to that required in the foregoing,
and the board shall recognize that the equivalent expe-
rience may be obtained independently of employment
with a practicing certified public accountant, public ac-
countant, the United States treasury department, or any
federal or state supervisory agency or instrumentality, as
hereinabove set forth; and,
(6) Who shall have passed an examination in theory
of accounts, accounting practice, auditing, commercial
law and/or such other related subjects as the board may
decide advisable. All matters relating to the examination
and certification of applicants for the certificate of cer-
tified public accountant shall be handled by only those
members of the state board of accountancy who are hold-
ers of a certificate of certified public accountant.
No applicant shall be examined in the subjects stated
in subsection (6) until the board shall have been satisfied
in respect to the requirements stated in subsections (1)
to (5) inclusive, except, however, that any person pos-
sessing the necessary qualifications, except the practical
experience, who shall have completed an accountancy
course in a university or college of recognized standing,
or graduated from an accountancy school acceptable to
the board, may be examined in the subjects specified in
subsection (6) and upon receiving a satisfactory grade
shall be granted the certificate of certified public accountant.

Five years after the enactment of this article the educational requirement for taking the examination for a certificate shall be a degree or certificate conferred by a college, university or other educational institution approved by the board, with a major in accounting, or what the board determines to be the equivalent of the foregoing, or with a nonaccounting major supplemented by what the board determines to be the equivalent of an accounting major, including related courses in all areas of business administration: Provided, however, That this requirement shall not apply to persons duly registered as public accountants before January first, one thousand nine hundred sixty.

Any person who has received from the board a certificate as a certified public accountant shall be designated and known as a certified public accountant; and every person holding such certificate, and every copartnership of accountants in which all members practicing in this state hold such a certificate, may assume and use the title
of certified public accountant or the abbreviation thereof, 
"C. P. A." Any certified public accountant may also be known as a "Public Accountant."

Persons, who, on the effective date of this article, held certified public accountants' certificates theretofore issued by the board of this state shall not be required to obtain additional certificates under this article, but shall otherwise be subject to all provisions of this article; and such certificates theretofore issued shall, for all purposes, be considered certificates issued under this article and subject to the provisions hereof.

Sec. 3. Public Accountants—Registration Thereof.—A person shall be deemed to be in practice as a public accountant within the meaning and intent of this article:

(a) Who holds himself out to the public in any manner as one skilled in the knowledge, science and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation; or

(b) Who maintains an office for the transaction of business as a public accountant; or
(c) Who offers to the public to perform for compensation, or who does perform for the public for compensation, professional services that involve or require an examination, verification, investigation or review of financial transactions and accounting records; or

(d) Who prepares reports on examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits and statements, or reports which are to be used for publication, credit purposes or are to be filed with any governmental agency; or

(e) Who, in general or as an incident to such work, renders professional assistance to the public for compensation in any or all matters relating to accounting procedure and to the recording and presentation of financial facts or data.

Any person who is a resident of this state, or has a place of business therein, who has attained the age of twenty-one years, and who is of good moral character, and who holds himself out within this state to be in practice on the date of this article is enacted as a public
accountant as heretofore defined, may register with the board as a public accountant on or before January first, one thousand nine hundred sixty.

After the date this article is enacted and until January first, one thousand nine hundred sixty-seven, any person possessing the necessary qualifications for taking the examination for a certificate of certified public accountant, as provided in section two, shall be registered by the board as a public accountant.

Any person who has been duly registered by the board as a public accountant shall be designated and known as a public accountant; and every person so registered and every copartnership of accountants in which all members practicing in this state have been so registered, may assume and use the title of public accountant or the abbreviation thereof, "P. A."

Sec. 4. Practice of Accountancy by Partnership.—Any partnership practicing accountancy in this state may use the designation or practice as certified public accountants under a firm name only if all the members thereof who practice in this state are holders of certified public ac-
countants' certificates granted under the laws of this state, and any partnership practicing accounting in this state may use the designation or practice as public accountants under a firm name only if all the members thereof who practice in this state are duly registered and qualified as public accountants under the provisions hereof.

Sec. 5. Reciprocity.—The board may, in its discretion, in lieu of the examination provided for in this chapter, issue a certificate of certified public accountant to any person who possesses the other qualifications stated in section two, and who is the holder of a certificate of certified public accountant issued under the laws of any state or territory, or the District of Columbia, which extends similar privileges to certified public accountants of this state provided the requirements for such certificates in the state or territory or the District of Columbia, which has granted it to the applicant, are, in the opinion of the board, equivalent to those herein required; or who is the holder of a certificate of certified public accountant, or the equivalent thereof, granted under the authority of a foreign nation, provided the requirements for such
certificates are, in the opinion of the board, equivalent to those herein required.

Sec. 6. Fees to Be Paid by Applicants.—The board shall charge each applicant for a certificate or "certified public accountant" a fee of forty dollars for the examination provided for in this article, which fee shall be payable at the time of the application. In the case of the failure on the part of any applicant to attend the examination on the date specified by the board, or to pass a satisfactory examination, the applicant may appear at a subsequent examination for re-examination, within a period of one year from the date of the first examination without payment of an additional fee. Subsequent re-examination may be taken upon the payment of a fee of twenty dollars for each re-examination. Upon the applicant receiving a satisfactory grade and having complied with all the other provisions of this article, the fee for the issuance of the certificate shall be five dollars.

The board shall charge each applicant for registration as a "public accountant" a fee of twenty-five dollars, payable at the time registration is made.
Sec. 7. Registration Cards.—The board shall, on July 1st of each year, issue a registration card to any holder of a certificate of "certified public accountant" issued under the laws of this state, or to any duly registered "public accountant", which card shall be good until June thirtieth of the next succeeding year, charging therefor not more than ten dollars per year. Interim registration cards shall be issued to applicants who have complied with the provisions of this chapter. Failure to secure a registration card in any year shall not disqualify a person previously duly registered as a "public accountant" from securing a card in a future year, if such person decided to return to the public practice of accountancy; and shall not operate to revoke a certified public accountant certificate once issued, but shall remove the holder thereof from those registered and authorized to practice during the year.

Sec. 8. Statements Remain Property of Accountants.—All working papers, schedules and memoranda made by a certified public accountant, or a public accountant, or by an employee or employees of a certified public ac-
countant, or public accountant, incident to or in the course of professional service to clients by such certified public accountant, or public accountant, except reports submitted by a certified public accountant, or public accountant, to a client shall be and remain the property of such certified public accountant, or public accountant, in the absence of a written agreement between the certified public accountant, or public accountant, and the client, to the contrary.

Sec. 9. Revocation or Suspension of Certificate or Registration.—After notice and hearing, as provided in article one of this chapter, the board may revoke or suspend any certificate issued under section two of this article, or any registration granted under section three of this article, and may refuse to issue, or refuse to renew any registration card issued under section seven of this article, for any one or combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under this article.
Enr. H.B. No. 51]

12  (b) Dishonesty, fraud or gross negligence in the prac-
13 tice of public accounting.
14  (c) Violation of a rule of professional conduct promul-
15 gated by the board under the authority granted by this
16 article.
17  (d) Conviction of any felony, or any crime, an element
18 of which is dishonesty or fraud, under the laws of any
19 state or of the United States.
20  (e) Cancellation, revocation, suspension, or refusal to
21 renew authority to practice as a certified public account-
22 ant or a public accountant by any other state, for any
23 cause other than failure to pay an annual registration
24 fee in such other state.
25  (f) Habitual drunkenness, addiction to the use of habit-
26 forming drugs, mental incompetence or gross immorality.
27  (g) Unlawful practice of law as defined by the supreme
28 court of appeals and/or statutory law of this state.

Sec. 10. Prohibitions and Penalties; Exceptions.—Any
2 person who shall hold himself out as having received the
3 certificate provided for in this article, or who shall assume
4 to practice as a certified public accountant, or use the
initials C. P. A. or C. A. or any similar title or abbreviation tending to mislead the public or likely to be confused with certified public accountant or C. P. A., without having received the certificate and current registration card provided for in this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars or imprisoned not more than six months, or both, in the discretion of the court.

Any person who shall hold himself out or assume to practice as a public accountant, or uses the initials P. A. or any similar title or abbreviation tending to mislead the public or likely to be confused with public accountant or P. A., without having registered, and without having received a current registration card provided for in this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not to exceed five hundred dollars or imprisoned not more than six months, or both, in the discretion of the court.

Provided, however, That nothing contained in this chapter shall prohibit any person from engaging in any account-
Enr. H. B. No. 51] 18

ancy work for one or more persons so long as such person does not hold himself out to the public as a certified public accountant, public accountant, or accountant or auditor, offering his or her services to all those who may choose to apply: Provided further, That nothing contained in this chapter shall prevent the employment of uncertified persons or nonpublic accountants in subordinate capacities, by a certified public accountant, or public accountant, or by a firm or partnership, the members of which are all holders of certified public accountants' certificates granted under the laws of this state or duly registered public accountants. No person registered hereunder shall engage in the practice of law unless he has been duly licensed as an attorney under the laws of this state, and nothing contained herein shall be construed to authorize persons registered hereunder to practice law in any manner or form unless so licensed.

Sec. 11. Injunction Against Unlawful Act; Evidence.—

Whenever in the judgment of the board, or any other interested person, any person has engaged, or is about to engage in any acts or practices which constitute, or will con-
stitute, a violation of this article, the board, or such other interested person, may make application to the appropriate court for an order enjoining such acts or practices, and upon showing that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, or any other title or abbreviation tending to mislead the public or likely to be confused with certified public accountant or public accountant, shall be prima facie evidence in any action brought under this article that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such person is holding himself out to be a certified public accountant or a public
accountant holding a registration card under this article.

Sec. 12. General Law Applicable.—Except to the extent
that the provisions of this article may be inconsistent
therewith, the board shall conform to the requirements
prescribed in article one of this chapter.

Sec. 13. Construction.—If any provision of this article
or the application thereof to anyone or to any circum-
stances is held invalid, the remainder of the article and
the application of such provision to others or other cir-
cumstances shall not be affected thereby.

Sec. 14. Effective Date.—This article shall take effect
on July first, one thousand nine hundred fifty-nine.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker, House of Delegates

The within approved this the 5th
day of March, 1959.

[Signature]
Governor