

June 6, 1950

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ARIZONA ATTORNEY GENERAL

H. Marvin Dennis, C.P.A.  
Secretary to the Board  
Arizona State Board of Accountancy  
514 Heard Building  
Phoenix, Arizona

Dear Mr. Dennis:

This is to acknowledge receipt of your letter of May 29, 1950, in which you request our opinion on the following:

1. Can the C.P.A. examination or a part thereof be given to an applicant who is no longer a resident of Arizona but who has previously been a resident of this state?
2. If a person accepts temporary employment in another state, does he lose his status as an Arizona resident?"

Taking these questions in order, we shall first examine the statute prescribing prerequisites for taking this examination. The Legislature has provided that:

"Examination of persons applying for certificates under this act shall be held, in Phoenix, or elsewhere within the state as the board may elect, at least once in each year. The subjects in which applicants may be examined are: (1) theory of accounts; (2) practical accounting; (3) auditing; (4) commercial laws; and (5) business, finance, and federal and state taxation. No person shall be permitted to take such examination unless he shall have met the requirements set out in

subdivisions (a) and (b) of section 67-602 and shall have presented satisfactory evidence that he has successfully completed a course of studies and instruction in any state or country which is equivalent to the requirements for graduation from the highest grade offered by the high schools in this state, \* \* \*" (Emphasis supplied) Section 67-603, ACA 1939, Laws of 1949, Chapter 85, Section 3.

The subdivisions referred to in the quoted material above read as follows:

"The certificate of certified public accountant shall be issued by the board to any person who:

(a) Has attained the age of twenty-one (21) years, is of good moral character, has established residence in the state of Arizona, and is a citizen of the United States or has duly declared his or her intention, of becoming such citizen; and

(b) Has not been convicted of a violation of any of the provisions of this act; and

(c) Has met the requirements provided in section 67-603; \* \* \*" Section 67-602, ACA 1939, Laws of 1949, Chapter 85, Section 2.

The phrase "has established residence in the State of Arizona", when taken alone without reference to the context, literally means a person who has sometime in the past established such residence. However, this meaning is due entirely to the tense of the verb, and our court has held that strict rules of grammar will not be resorted to, if to do so would defeat the plain purpose of a statute. Mahoney v. Maricopa County, 49 Ariz. 479, 68 P. 2nd 694. Such a meaning, when considered with the context and purpose behind this statute, is clearly at variance with the legislative intent. In such a situation courts will alter, modify or supply words to the stat-

ute in order to give effect to the manifest intention of the Legislature. Keller v. State, 46 Ariz. 106, 47 P. 2d 442. A requirement of residence which has no relation to the present status of an applicant would serve no useful purpose and would be a very unusual if not absurd requirement. This is particularly true in view of the other requirements set up in the same subsection (67-602 (a) supra); these other requirements clearly refer to the present status of the applicant.

It is therefore our opinion that the Legislature intended by Sections 67-602 and 67-603, supra, to require a present status as an Arizona resident. It follows that the examination provided for in Section 67-603 shall not be given to a person who is not at the time of such examination a resident of this state. This prohibition applies to the examination as a whole, and such a legislative mandate cannot be circumvented by the method in which such examinations are given.

It is our opinion that no person shall be permitted to take a C.P.A. examination, or any portion thereof, unless he is at that particular time a resident of Arizona.

The answer to your second question hinges upon the meaning of the term "residence". This term, when used in statutes dealing with domestic policy, usually means the same as "legal residence" or "domicile". Evans v. Evans, 141 Fla. 860, 194 So. 215. When used in this sense, a person's residence can be changed only by a physical removal accompanied by the intention not to return. While the physical removal is in itself often strong evidence of such an intent, it is not conclusive. If the physical act and intent do not both occur, there is no change of such residence.

It is our opinion that a "resident" of Arizona who accepts temporary employment in another state may or may not lose his status as an Arizona "resident", depending upon whether he at all times intends to return to Arizona.

Trusting the foregoing satisfactorily answers your inquiries, we are

Very truly yours,

FRED O. WILSON  
Attorney General

WILBERT E. DOLPH, JR.  
Assistant Attorney General

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