

May 25, 1949

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ARIZONA ATTORNEY GENERAL

E. J. Hilkert, President
Board of Accountancy
322 Industrial Building
Phoenix, Arizona

Dear Mr. Hilkert:

We have your request of some time ago concerning the interpretation of the new accountancy law enacted by the recent legislature as Chapter 85, Laws of 1949.

As stated by you, this law does not become effective until June 18, 1949, for the reason it does not carry the emergency clause.

Your questions concern two general subjects, namely: Changes made by Chapter 85 in the schedule of fees for taking examinations for C.P.A., and changes made in the qualifications necessary to make applications for examinations for C.P.A.

Your first statement is as follows:

"(1) Under the old law, those who paid the \$25 fee for the November 1948 examination, and who did not pass, would be entitled to retake the examination the next time (in May 1949) without paying a fee. Does that remain unchanged under the new law which does not go into effect until after the May examinations?"

Inasmuch as Chapter 85 does not become operative until a date subsequent to the May examination you would, of course, operate under the old law in holding that examination.

Your next inquiry is:

"(2) If the new law does not go into effect until June 25th, will those who register for the May 1949 examinations come under the provisions of the old law? If they do, will they be entitled to retake the examinations next November without paying a fee if they fail in the May examinations? In other words, will the fact that they registered under the old law, paid the \$25 fee under it, and took the May examinations and failed, entitle them to the benefits of a free examination in

November even though the new law becomes effective in the period of time between the May and November 1949 examinations?"

It is our opinion when the new law, Chapter 85, becomes effective, it will supersede the old law, and examinations held under Chapter 85, will be conducted without reference to the old law. You will note that the amended sections all read, "Sec. 67-601 (etc.), Arizona Code of 1939, is hereby amended to read:". The old section is hereby eliminated as though it had never existed, and you will operate under Chapter 85 without reference to the old law. The fee paid by applicants under the old law may not be used for an examination held in November, 1949.

Referring to your inquiries regarding applications for reciprocal certificates, your first question as stated is:

"(1) If the application was before the Board before the Governor signed the new law, would the applicant be entitled to a certificate under the old law which required a place to transact business in Arizona and not residence as the new law requires, assuming further that the Board passes on the application before the effective date of the new law in June?"

Obviously, if the application was filed and acted upon by the Board before June 18, 1949, the action of the Board would be valid.

Your next inquiry is:

"(2) Assuming the same facts as in (1) preceding, except that the Board does not pass on the application until after the new law takes effect in June, should the Board continue to pass on eligibility under the provisions of the old law after the effective date because the application had been before the Board and in process during the period of the old law, or should the Board require residence of the applicant as soon as the new law becomes effective even as to those applications which the Board has had under consideration during the period of the old law?"

It is our opinion, if the application was filed before June 18 and at that time the applicant was fully qualified under the old law, he would be entitled to a certificate under that law, even though the Board did not act upon his application until after June 18th.

Inquiry number 3 is:

"(3) As to those applications which either have been, or which will be received before the new law goes into effect in June, Will there be any difference as to those applications received before the Governor signed the new law and those received during the ninety day period after the signing of the law which might be called the waiting period for the new law to become effective?"

As stated before herein, the old law remains operative until Chapter 85 becomes effective on June 18, 1949, and there is no difference in its operation during the period prior to that date.

Inquiry number 4 reads:

"(4) Assuming that all applications which come before the Board prior to the effective date of the new law in June 1949 are to be governed by the eligibility requirements of the old law, and assuming further that the Board decides after the effective date of the new law that the applicant had not qualified under the old law because he did not have a place for the transaction of business in Arizona and denies the application on that ground, would it be sufficient if the applicant then established a place to transact business in Arizona to qualify him for a certificate, or would the fact that the Board had rejected his application make it necessary for him to file a new application and meet the requirements of the new law which would mean residence in the State?"

As indicated in our answers to your other inquiries, when Chapter 85 becomes effective, the situation then created is as though the old law had never been in effect, except as to those applications made prior to June 18 by applicants clearly qualified under the previous law. As to those not so qualified and whose applications are rejected, they must make new applications under the new law and meet all of the requirements of that law.

Several other laws were enacted by the recent legislature posing problems similar to those presented by you, therefore we have deferred answering your request until all of those questions could be answered together.

Trusting we have given you the information you desire, we are

Very truly yours,

FRED O. WILSON
Attorney General

PERRY M. LING
Chief Assistant
Attorney General

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