



**THE ATTORNEY GENERAL
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January 14, 1970

Honorable L. Ludwell Jones
Chairman
State Board of Public Accountancy
Perry-Brooks Building
Austin, Texas 78701

Opinion No. M-556

Re: Effect of Article 1528e,
Vernon's Civil Statutes,
the Texas Professional
Corporations Act, upon the
administration of the Public
Accountancy Act of 1945,
Art. 41-A, V.C.S.

Dear Mr. Jones:

In your recent letter to this office, you requested an opinion on the following questions, to wit:

1. Whether the Texas Professional Corporation Act, Acts 1969, 61st Legislature, Regular Session, Chapter 779, page 2304, which became state law on January 1, 1970, has the effect of repealing

Section 8(a), (c), (e), (f), (h),
Section 10(c), (d),
Section 21, and
Section 22(a),

of the Public Accountancy Act of 1945? (Article 41a, Vernon's Civil Statutes)

2. You also requested an opinion as to whether there are any other conflicts between the two Acts.

3. You further enclosed a copy of the Rules of Professional Conduct of the State Board of Public Accountancy and requested that this office review these rules with special attention directed to Rule 10, and advise you if any of these rules are in conflict with the new Professional Corporation Act.

You are advised that in answer to question No. 1, the only parts of the Public Accountancy Act of 1945 which are in effect repealed are all of Section 8(f), Section 10(c), in part,

and Section 21, in part, hereinafter set out.

"Section 8(f). No corporation shall assume or use the title or designation 'certified public accountant,' or 'public accountant,' nor shall any corporation assume or use the title or designation 'certified accountant,' 'chartered accountant,' 'enrolled accountant,' 'licensed accountant,' 'registered accountant,' or any other title or designation likely to be confused with 'certified public accountant' or 'public accountant,' or any of the abbreviations 'CPA,' 'PA,' 'EA,' 'RA,' or 'LA,' or similar abbreviations likely to be confused with 'CPA.' If a corporation was registered under Section 10 of the Public Accountancy Act of 1945, prior to November 1, 1945, and holds a live permit under Section 9 hereof, it may use the same designations applicable to certified public accountants or public accountants hereinabove set out."

All of Section 8(f) is in effect repealed by necessary implication by Section 8 of the Texas Professional Corporation Act, which expressly allows a Professional Corporation to adopt any name that is not contrary to the law or ethics regulating the practice of the professional service rendered through the professional corporation.

Section 10 of the Public Accountancy Act states:

"The following persons shall be registered with the Board for the practice of public accountancy in this state:

"(a) . . .

"(b) . . .

"(c) corporations qualified under Section 21 of the Public Accountancy Act of 1945. Provided, however, that no corporation may hereafter be created for the purpose of engaging in the practice of public accountancy within this state after the effective date of this Act. No corporate charters or corporate permits shall be renewed one (1) year after the effective date of this Act. (Emphasis added.)

"(d) . . ."

The last two sentences which are underlined in subsection (c) of the above Section are in effect repealed by the Texas Professional Corporations Act, which allows the creation of a corporation for the purpose of engaging in the practice of public accountancy within this State upon a perpetual basis or for a period stated in the Articles of Incorporation.

"Section 21. A corporation authorized to engage in the practice of public accountancy in this State and actually engaged in such practice at the time of the enactment of this Act, may register with the Board as a corporation engaged in the practice of public accountancy. Application for such registration must be made upon the affidavit of an officer of such corporation. The Board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a permit issued under this Act may practice public accountancy under a corporate name indicating that it is engaged in such practice, provided it had such corporate name before the enactment of this Act." (Emphasis added.)

The underlined portions of the above Section 21 are in effect repealed by Section 4 of the Texas Professional Corporation Act, which does not restrict the right to practice public accountancy to a corporation which actually engaged in such corporate activity or had such corporate name before the enactment of the Public Accountancy Act of 1945.

In answer to question No. 2, you are advised that no other conflicts are apparent.

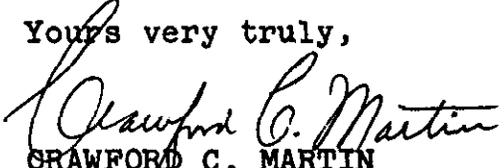
In answer to question No. 3, you are advised that Rule No. 10 is in direct conflict with the Texas Professional Corporation Act. No other conflicts are found.

S U M M A R Y

All of Section 8(f) of the Public Accountancy Act of 1945, Article 41a, V.C.S., the last two sentences of Section 10(c), . . . "Provided, however, that no corporation may hereafter be created for the purpose of engaging in the practice of public accountancy within this state after the effective date of this Act. No corporate charters

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or corporate permits shall be renewed one (1) year after the effective date of this Act" . . . , and the two clauses of Section 21, which read, "and actually engaged in such practice at the time of the enactment of this Act. . ." and ". . . provided it had such corporate name before the enactment of this Act", were the only parts of said Acts which were in effect repealed on January 1, 1970, when the Texas Professional Corporation Act (Article 1528e, V.C.S.) became law. Rule No. 10 of the Rules of Professional Conduct of the State Board of Public Accountancy is in conflict with the Texas Professional Corporation Act.

Yours very truly,

CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Sam L. Jones, Jr.
Assistant Attorney General

APPROVED:
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