

013295540

SENATE BILL NO. 1080

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 2.1-1.5, 2.1-41.2, 2.1-51.40, 9-6.25:3, 54.1-202 and 54.1-300 of the Code of Virginia, to amend the Code of Virginia by adding in Title 54.1 a Subtitle numbered VI and a chapter numbered 44, consisting of sections numbered 54.1-4400 through 54.1-4423, and to repeal Chapter 20 (§§ 54.1-2000 through 54.1-2008) of Subtitle II of Title 54.1 of the Code of Virginia, relating to the Public Accountancy Act.

Patron—Stosch

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 2.1-41.2, 2.1-51.40, 9-6.25:3, 54.1-202 and 54.1-300 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 54.1 a Subtitle numbered VI and a chapter numbered 44, consisting of sections numbered 54.1-4400 through 54.1-4423 as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

Virginia Agriculture Development Authority.

Virginia Coalfield Coalition Authority.

Virginia College Building Authority.

Virginia Commonwealth University Health System Authority.

Virginia Economic Development Partnership.

Virginia Housing Development Authority.

Virginia Information Providers Network Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Boards**Board of Accountancy**

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Coalfield Coalition Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

Board of Directors, Virginia Commonwealth University Health System Authority.

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Advantage Virginia Incentive Program Foundation.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

Board of Trustees, The Science Museum of Virginia.

Board of Trustees, Virginia Museum of Fine Arts.

INTRODUCED

SB1080

59	Board of Trustees, Virginia Museum of Natural History.
60	Board of Trustees, Virginia Outdoors Foundation.
61	Board of Visitors, Christopher Newport University.
62	Board of Visitors, George Mason University.
63	Board of Visitors, Gunston Hall Plantation.
64	Board of Visitors, James Madison University.
65	Board of Visitors, Longwood College.
66	Board of Visitors, Mary Washington College.
67	Board of Visitors, Norfolk State University.
68	Board of Visitors, Old Dominion University.
69	Board of Visitors, Radford University.
70	Board of Visitors, The College of William and Mary in Virginia.
71	Board of Visitors to Mount Vernon.
72	Board of Visitors, University of Virginia.
73	Board of Visitors, Virginia Commonwealth University.
74	Board of Visitors, Virginia Military Institute.
75	Board of Visitors, Virginia Polytechnic Institute and State University.
76	Board of Visitors, Virginia State University.
77	Commonwealth Health Research Board.
78	Governing Board, Virginia College Building Authority.
79	Governing Board, Virginia Public School Authority.
80	Library Board, The Library of Virginia.
81	Motor Vehicle Dealer Board.
82	State Board for Community Colleges, Virginia Community College System.
83	Virginia-Israel Advisory Board.
84	(Effective until July 1, 2002) Wireless E-911 Service Board.
85	Commissions
86	Advisory Commission on the Virginia Schools for the Deaf and the Blind.
87	Alexandria Historical Restoration and Preservation Commission.
88	Charitable Gaming Commission.
89	Chesapeake Bay Bridge and Tunnel Commission.
90	Hampton Roads Sanitation District Commission.
91	Tobacco Indemnification and Community Revitalization Commission.
92	Districts
93	Chesapeake Bay Bridge and Tunnel District.
94	Hampton Roads Sanitation District.
95	Educational Institutions
96	Christopher Newport University.
97	Frontier Culture Museum of Virginia.
98	George Mason University.
99	James Madison University.
100	Jamestown-Yorktown Foundation.
101	Longwood College.
102	Mary Washington College.
103	Miller School of Albemarle.
104	Norfolk State University.
105	Old Dominion University.
106	Radford University.
107	The College of William and Mary in Virginia.
108	The Library of Virginia.
109	The Science Museum of Virginia.
110	University of Virginia.
111	Virginia Commonwealth University.
112	Virginia Community College System.
113	Virginia Military Institute.
114	Virginia Museum of Fine Arts.
115	Virginia Polytechnic Institute and State University.
116	Virginia State University.
117	Foundations
118	Advantage Virginia Incentive Program Foundation.
119	Chippokes Plantation Farm Foundation.
120	Rural Virginia Development Foundation.

Virginia Arts Foundation.
 Virginia Land Conservation Foundation.
 (Contingent repeal - See note) Virginia Historic Preservation Foundation.
 Virginia Outdoors Foundation.
 Virginia Tobacco Settlement Foundation.
 Museum
 Virginia Museum of Natural History.
 Partnership
 A. L. Philpott Manufacturing Extension Partnership.
 Plantation
 A. L. Gunston Hall Plantation.
 § 2.1-41.2. Appointment of agency heads; chief of staff.
 Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the following: the Executive Director of the Virginia Port Authority, the Director of the State Council of Higher Education for Virginia, the Executive Director of the Department of Game and Inland Fisheries, the Executive Director of the Jamestown-Yorktown Foundation, the Executive Director of the Motor Vehicle Dealer Board, *the Executive Director of the Board of Accountancy*, the Executive Director of the Virginia College Savings Plan, and the Librarian of Virginia. However, the manner of selection of those heads of agencies chosen by election as of January 1, 1976, or as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor. The chief of staff who may be appointed by the Governor pursuant to § 2.1-38 shall be confirmed by a majority of the members of each house of the General Assembly. For the purpose of this section, "agency" shall include all administrative units established by law or by executive order which are not arms of the legislative or judicial branches of government, which are not educational institutions as classified under §§ 9-84, 22.1-346, 23-14, and 23-252, which are not regional planning districts, regional transportation authorities or districts, or regional sanitation districts and which are not assigned by law to other departments or agencies, not including assignments to secretaries under Chapter 5.1 (§ 2.1-51.7 et seq.) of this title.
 § 2.1-51.40. Agencies for which Secretary of Commerce and Trade responsible.
 The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance, Department of Forestry, Virginia Economic Development Partnership, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Milk Commission, Department of Agriculture and Consumer Services, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Agricultural Council, Commission for the Arts, *Board of Accountancy*, and Virginia Marine Products Board.
 The Governor, by executive order, may assign any state executive agency to the Secretary of Commerce and Trade, or reassign any agency listed in this section to another secretary.
 § 9-6.25:3. Supervisory boards, commissions, and councils.
 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following supervisory boards, commissions, and councils:
 Alcoholic Beverage Control Board
Board of Accountancy
 Board for Branch Pilots
 Board of Commissioners, Virginia Port Authority
 Board of Game and Inland Fisheries
 Board of Regents, Gunston Hall Plantation
 Board of Regents, James Monroe Memorial Law Office and Library
 Board of Trustees, Chippokes Plantation Farm Foundation
 Board of Trustees, Frontier Culture Museum of Virginia
 Board of Trustees, Jamestown-Yorktown Foundation
 Board of Trustees, the Science Museum of Virginia
 Board of Trustees, Virginia Museum of Fine Arts
 Board of Trustees, Virginia Retirement System
 Board of Trustees, Virginia Veterans Care Center
 Board of Trustees, Virginia War Memorial Foundation
 Board of Visitors, Christopher Newport University
 Board of Visitors, George Mason University
 Board of Visitors, James Madison University

182 Board of Visitors, Longwood College
183 Board of Visitors, Mary Washington College
184 Board of Visitors, Norfolk State University
185 Board of Visitors, Old Dominion University
186 Board of Visitors, Radford University
187 Board of Visitors, The College of William and Mary in Virginia
188 Board of Visitors, University of Virginia
189 Board of Visitors, Virginia Commonwealth University
190 Board of Visitors, Virginia Military Institute
191 Board of Visitors, Virginia Polytechnic Institute and State University
192 Board of Visitors, Virginia State University
193 Charitable Gaming Commission
194 Commonwealth's Attorneys' Services Council
195 Compensation Board
196 Governing Board, Virginia College Building Authority
197 Governing Board, Virginia Public School Authority
198 Motor Vehicle Dealer Board
199 State Board for Community Colleges, Virginia Community College System
200 State Board of Education
201 State Certified Seed Board
202 State Council of Higher Education for Virginia
203 State Executive Council for Comprehensive Services for At-Risk Youth and Families
204 Virginia Agricultural Council
205 Virginia Bright Flue-Cured Tobacco Board
206 Virginia Board for People with Disabilities
207 Virginia Cattle Industry Board
208 Virginia Corn Board
209 Virginia Cotton Board
210 Virginia Dark-Fired Tobacco Board
211 Virginia Egg Board
212 Virginia Horse Industry Board
213 Virginia Marine Products Board
214 Virginia Peanut Board
215 Virginia Pork Industry Board
216 Virginia Soybean Board
217 Virginia State Apple Board
218 Virginia Sweet Potato Board.
219 § 54.1-202. Monetary penalty.

220 Any person licensed or certified by a regulatory board who violates any statute or regulation
221 pertaining to that regulatory board who is not criminally prosecuted shall be subject to the monetary
222 penalty provided in this section. ~~Except as provided by § 54.1-2006, if~~ If a regulatory board determines
223 that a respondent is guilty of the violation complained of, the board shall determine the amount of the
224 monetary penalty for the violation, which shall not exceed \$2,500 for each violation. The penalty may
225 be sued for and recovered in the name of the Commonwealth.

226 § 54.1-300. Definitions.

227 As used in this chapter unless the context requires a different meaning:

228 "Board" means the Board for Professional and Occupational Regulation.

229 "Certification" means the process whereby the Department or any regulatory board issues a certificate
230 on behalf of the Commonwealth to a person certifying that he possesses the character and minimum
231 skills to engage properly in his profession or occupation.

232 "Department" means the Department of Professional and Occupational Regulation.

233 "Director" means the Director of the Department of Professional and Occupational Regulation.

234 "Inspection" means a method of regulation whereby a state agency periodically examines the
235 activities and premises of practitioners of an occupation or profession to ascertain if the practitioner is
236 carrying out his profession or occupation in a manner consistent with the public health, safety and
237 welfare.

238 "Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a
239 license, authorizes a person possessing the character and minimum skills to engage in the practice of a
240 profession or occupation which is unlawful to practice without a license.

241 "Registration" means a method of regulation whereby any practitioner of a profession or occupation
242 may be required to submit information concerning the location, nature and operation of his practice.

243 "Regulatory board" means the Auctioneers Board, ~~Board of Accountancy,~~ Board for Architects,

Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for Barbers and Cosmetology, Board for Branch Pilots, Board for Contractors, Board for Geology, Board for Hearing Aid Specialists, Board for Opticians, Board for Professional Soil Scientists, Board for Waste Management Facility Operators, Board for Waterworks and Wastewater Works Operators, Cemetery Board, Real Estate Appraiser Board, Real Estate Board and Virginia Board for Asbestos and Lead.

SUBTITLE VI

PROFESSIONS REGULATED BY OTHER ENTITIES.

CHAPTER 44.

PUBLIC ACCOUNTANCY ACT.

§ 54.1-4400. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"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 principles or standards.

"Board" means the Board of Accountancy continued by the provisions of this chapter and established by its predecessor under prior law.

"Commission" means compensation generated from the purchase or sale of a product or service and that would not be generated but for the purchase or sale of the product or service.

"Contingent fee" means a fee established for the performance of a service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is obtained, or in which the amount of the fee is dependent upon the finding or result obtained. Fees shall not be considered contingent if fixed by courts or other public authorities, or in tax matters if determined based on the results of judicial proceedings or the findings of governmental agencies. A CPA certificate holder's fees may vary depending on the complexity of services rendered, and such variation shall not be considered a contingent fee.

"CPA certificate" means a certificate as a certified public accountant (CPA) issued by the Board pursuant to this chapter or corresponding provisions of prior law, which shall function as a license, or a corresponding certificate as a certified public accountant issued after examination under the laws of any other state.

"Director" means the Executive Director of the Board of Accountancy.

"Financial statement" means 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.

"Firm" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Licensure" or "licensing" means the process through which an individual obtains a CPA certificate from the Board.

"Peer review" means a study, appraisal, or review, by a CPA certificate holder who is not affiliated with the firm being reviewed, of one or more aspects of the professional work of a firm that engages in the practice of public accounting or compiles financial statements in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Accounting and Review Services (SSARS).

"Practice of public accountancy" or "public accounting" means the giving of an assurance, in a report or otherwise, whether expressly or implicitly, unless this assurance is given by an employee to his employer.

"Registration" or "registered" means the process through which a firm obtains a registration certificate from the Board.

"Registration certificate" means a certificate issued to a firm that has met all of the requirements for registration under this chapter.

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

"State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam.

"Substantial equivalency" means a determination by the Board 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 contained in this chapter, or that an individual CPA from another jurisdiction has met education, examination and experience requirements that are comparable to, or exceed, the education, examination, and experience requirements contained in this chapter.

"SSARS" means Statements on Standards for Accounting and Review Services established by the

305 *American Institute of Certified Public Accountants.*

306 *§ 54.1-4401. Inapplicability of chapter.*

307 *A. This chapter shall not be construed to prevent any person from:*

308 *1. Describing himself as an "accountant" or a "bookkeeper";*

309 *2. Stating that he practices accountancy or bookkeeping;*

310 *3. Performing services involving the use of accounting skills;*

311 *4. Rendering tax services, or management advisory or consulting services;*

312 *5. Keeping the books of account and related accounting records; or*

313 *6. Preparing financial statements without the expression of an opinion or an assurance.*

314 *B. This chapter shall not be construed to prevent any person from stating that he has prepared,*
315 *compiled, assembled or drafted a financial statement, provided he does not use any additional language*
316 *that comprises an assurance, make any claims or representations, or use any of the language prohibited*
317 *by § 54.1-4414.*

318 *C. The prohibitions of § 54.1-4414 and the other provisions of this chapter shall not be construed to*
319 *preclude the use of the following language: "I (We) have compiled the accompanying (financial*
320 *statements) of (name of entity) as of (time period) for the (period) then ended. A compilation is limited*
321 *to presenting in the form of financial statements information that is the representation of management*
322 *(owners). I (We) have not audited or reviewed the accompanying financial statements and, accordingly,*
323 *do not express an opinion or any other form of assurance on them. Management has elected to omit*
324 *substantially all (or certain) required disclosures (and the statement of changes in financial position). If*
325 *omitted disclosures were included in the financial statements, they might influence the user's conclusions*
326 *about the (entity's) financial position, results of operations, and changes in financial position.*
327 *Accordingly, these financial statements are not designed for those who are not informed about these*
328 *matters."*

329 *§ 54.1-4402. Board of Accountancy; membership; qualifications; powers and duties.*

330 *A. The Board of Accountancy established under the former § 54.1-2000 and previously operating in*
331 *the Department of Professional and Occupational Regulation is hereby continued and re-established as*
332 *an independent board in the executive branch of state government. The Board shall consist of seven*
333 *members appointed by the Governor who shall serve for terms of four years. The Governor may remove*
334 *any member as provided in subsection B of § 2.1-43.*

335 *The Board shall be comprised of one public member who may be an accountant who does not hold a*
336 *CPA certificate but otherwise meets the requirements of clauses (i) and (ii) of § 54.1-107; one educator*
337 *in the field of accounting; and five certified public accountants as follows: (i) four of whom have been*
338 *actively engaged in the practice of public accounting for at least three years prior to appointment to the*
339 *Board and (ii) one of whom may be a certified public accountant not engaged in the practice of public*
340 *accounting at the time of his appointment but who has at least three years of experience in the*
341 *accounting field prior to appointment. The Governor shall make each appointment of the four members*
342 *required to be actively engaged in the practice of public accounting from a list of individuals submitted*
343 *by the Virginia Society of Certified Public Accountants. Any certified public accountant member of the*
344 *Board whose CPA certificate is revoked or suspended shall automatically cease to be a member of the*
345 *Board.*

346 *B. The Board shall certify and issue CPA certificates to persons to practice public accountancy and*
347 *restrict the practice of public accountancy to those persons who are so certified, who may call*
348 *themselves CPAs, and shall take such actions as may be authorized by this chapter to ensure their*
349 *continued competence and to aid the public in determining the qualifications of such persons. The Board*
350 *shall issue registration certificates to firms to engage in the practice of public accountancy in the*
351 *Commonwealth as set forth in § 54.1-4413 and take such actions as may be authorized by this chapter*
352 *to ensure that such firms and their certified public accountants adhere to standards of conduct and*
353 *practice.*

354 *C. The Board shall have the responsibility of enforcing this chapter and may by regulation establish*
355 *rules and procedures for the implementation of the provisions of this chapter.*

356 *§ 54.1-4403. General powers and duties of Board.*

357 *The Board shall have the following powers and duties to:*

358 *1. Establish the qualifications of applicants for licensure, provided that all qualifications shall be*
359 *necessary to ensure competence and integrity.*

360 *2. Examine, or cause to be examined, the qualifications of each applicant for licensure, including the*
361 *preparation, administration and grading of examinations.*

362 *3. Promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.)*
363 *necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners*
364 *and to effectively administer the regulatory system.*

365 *4. Levy and collect fees for licensure and registration and renewal that are sufficient to cover all*
366 *expenses for the administration and operation of the Board.*

5. Levy on licensees special assessments necessary to cover expenses of the Board.
6. Receive complaints concerning the conduct of persons and businesses licensed or registered by the Board as well as persons and businesses violating the provisions of this Chapter and to take appropriate disciplinary action if warranted.
7. Revoke, suspend or fail to renew a certificate or license for just causes as enumerated in regulations of the board.
8. Establish requirements for peer reviews of accounting practices or other related programs established to ensure that firms are conducting their practice in accordance with the standards of conduct and practice.
9. Establish continuing professional education standards as a condition for issuance or renewal of a CPA certificate.
10. Establish applicable standards of conduct and practice for CPA certificate holders.
11. Enter into contracts necessary or convenient for carrying out the provisions of this chapter or the functions of the Board.
12. Do all things necessary and convenient for carrying into effect this chapter or as enumerated in regulations promulgated by the Board.
- § 54.1-4404. Board to employ Executive Director; legal counsel.
- The Board shall employ an executive director who shall serve at the pleasure of the Board. He shall direct the affairs of the Board and keep records of all proceedings, transactions, communications, and official acts of the Board. He shall be custodian of all records of the Board and perform such duties as the Board may require. The Executive Director shall call a meeting of the Board at the direction of the chairman or upon written request of three or more Board members. The Executive Director, with approval of the Board, may employ such additional staff as needed. The annual salary of the Executive Director shall be established by the Board.
- The Board may employ counsel, notwithstanding the provisions of § 2.1-122.
- § 54.1-4405. State Personnel and Public Procurement Acts not applicable.
- A. The Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.1-110 et seq.). Personnel actions under this exemption shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation.
- B. The Board and the Director shall be exempt from the Virginia Public Procurement Act (§ 11-35 et seq.).
- § 54.1-4406. Board of Accountancy Fund; receipts; disbursements.
- The Board of Accountancy Fund (Fund) is established as a special fund in the state treasury. Except as otherwise provided in this chapter, all fees collected as provided in this chapter and by regulations promulgated by the Board, shall be paid into the state treasury immediately upon collection and credited to the Fund. Any interest income shall accrue to the Fund. All disbursements from the Fund shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by an authorized officer of the Board or the Director as authorized by the Board.
- Notwithstanding any law to the contrary, the Board shall have the discretion to use the monies deposited in the fund to support its operations as the Board deems appropriate.
- § 54.1-4407. Powers and duties of the Executive Director.
- Based on policies and guidelines established by the Board, the Director shall have the following power and duty to:
1. Employ personnel and assistance necessary for the operation of the Board and the purposes of this chapter.
 2. Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the Board and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth.
 3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Board shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.
 4. Serve as the secretary of the Board;
 5. Maintain all records for the Board;
 6. Collect and account for all fees and deposit the moneys so collected into the Board of Accountancy Fund from which the expenses of the Board shall be paid;
 7. Enforce all statutes and regulations the Director is required to administer;
 8. Exercise other powers necessary to function as the sole administrative officer of the Board; and
 9. Perform any additional administrative functions prescribed by the Board.
- § 54.1-4408. Enforcement of laws by Director or investigators; authority of investigators appointed by Director.

428 *The Director or investigators appointed by him shall be sworn to enforce the statutes and regulations*
429 *pertaining to the Board. The Director or investigators appointed by him shall have the authority to*
430 *investigate violations of the statutes and regulations that the Director is required to enforce. The*
431 *Director or investigators appointed by him shall also have the authority to issue summonses for*
432 *violations of the statutes and regulations governing the unlicensed practice of public accountancy. In the*
433 *event a person issued such a summons fails or refuses to discontinue the unlawful acts or refuses to*
434 *give a written promise to appear at the time and place specified in the summons, the investigator may*
435 *appear before a magistrate or other issuing authority having jurisdiction to obtain a criminal warrant*
436 *pursuant to § 19.2-72.*

437 *All investigators appointed by the Director are vested with the authority to administer oaths or*
438 *affirmations for the purpose of receiving complaints and conducting investigations of violations of this*
439 *Chapter, or any regulation promulgated pursuant to authority given by this chapter or in connection*
440 *with any investigation conducted on behalf of the Board. Such investigators are vested with the authority*
441 *to obtain, serve and execute any warrant, paper or process issued by any court or magistrate or by the*
442 *Board under the authority of the Director and request and receive criminal history information under*
443 *the provisions of § 19.2-389.*

444 § 54.1-4409. Subpoenas.

445 *In addition to the authority granted in § 9-6.14:13 to issue subpoenas and the right to issue*
446 *subpoenas granted the Board, the Director or a designated subordinate shall have the right to make an*
447 *ex parte application to the circuit court for the city or county wherein evidence sought is kept or*
448 *wherein a licensee does business, for the issuance of a subpoena duces tecum in furtherance of the*
449 *investigation of a sworn complaint within the jurisdiction of the Board to request production of any*
450 *relevant records, documents and physical or other evidence of any person, partnership, association or*
451 *corporation licensed or regulated by the Board. The court shall be authorized to issue and compel*
452 *compliance with such a subpoena upon a showing of reasonable cause. Upon determining that*
453 *reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a*
454 *subpoena duces tecum requiring the immediate production of evidence.*

455 § 54.1-4410. Grant of CPA certificate; restrictions on practice; educational and experience
456 requirements.

457 A. *The Board shall issue a CPA certificate only to a person who meets the character, education,*
458 *experience and examination requirements established in this chapter and by regulations of the Board*
459 *and shall renew such certificate only if the certificate holder meets the requirements established by*
460 *§ 54.1-4411.*

461 B. *Before an applicant for a CPA certificate may sit for the examination prescribed by this section,*
462 *the following education requirements shall be met:*

463 1. *For persons applying to sit for the examination prior to July 1, 2006, a baccalaureate degree or*
464 *its equivalent conferred by an accredited college or university with an accounting concentration or*
465 *equivalent as defined by Board regulations.*

466 2. *For persons applying to sit for the examination on or after July 1, 2006, at least 150 semester*
467 *hours of college education, including a baccalaureate or higher degree conferred by an accredited*
468 *college or university with the total educational program to include an accounting concentration or*
469 *equivalent as defined by Board regulations.*

470 C. *An applicant for initial issuance of a CPA certificate shall provide proof acceptable to the Board*
471 *that the applicant has had at least one year of acceptable experience in accounting or a related field.*
472 *This experience may include providing any type of service or advice involving the use of accounting,*
473 *management, financial, tax or consulting advisory skills or services. Acceptable experience shall include*
474 *employment in government, industry, academia or public accounting or related services.*

475 D. *The Board shall grant all privileges of Virginia CPA certificate holders to persons who were*
476 *granted CPA certificates or licenses in other jurisdictions who can demonstrate that they are eligible*
477 *under the substantial equivalency provisions set forth in § 54.1-4412.*

478 E. *For the purpose of meeting the examination requirements of this section, the Board may admit for*
479 *examination graduates of (i) Bristol College, Bristol, Tennessee, who have otherwise completed the*
480 *course work and credit hours required by this chapter and (ii) Benjamin Franklin School of*
481 *Accountancy and Financial Administration, Washington, D.C., who have otherwise completed the course*
482 *work and credit hours required by this chapter.*

483 F. *For the purpose of meeting the examination requirements of this section, the Board shall admit*
484 *graduates with a baccalaureate degree with a major in accounting or a concentration in accounting*
485 *from National Business College of Virginia who have otherwise completed the course work and credit*
486 *hours required by this chapter.*

487 § 54.1-4411. Renewal of CPA certificate; continuing education requirements.

488 A. *The Board shall promulgate regulations establishing procedures and requirements for the renewal*
489 *of a CPA certificate granted by the Board, including the payment of a renewal fee.*

B. Any person referring to himself as a Certified Public Accountant or "CPA," including the use of the "CPA" title on individual business cards, letterhead and all other documents and devices except the CPA certificate, and who is performing or offering to perform any services involving accounting skills or auditing skills, issuing reports on financial advisory or consulting services, preparing tax returns, or furnishing advice on tax matters, for the public, shall meet the continuing professional education (CPE) requirements established by the Board as a condition of renewal of a CPA certificate. Such CPE requirements shall include at least 120 credit hours during each three-year period. The certificate holder may choose the areas of study and courses.

C. Effective July 1, 2002, any person referring to himself as a Certified Public Accountant or "CPA," including the use of the "CPA" title on individual business cards, letterhead and all other documents and devices except the CPA certificate, and who is performing or offering to perform any services involving accounting skills or auditing skills, issuing reports on financial advisory or consulting services, preparing tax returns, or furnishing advice on tax matters, for an employer or other organization and not for the public, or who is employed as an educator in the field of accounting, shall meet CPE requirements as a condition of renewal of the person's CPA certificate as follows: (i) for the three-year reporting period beginning July 1, 2002, a minimum of 45 credit hours, (ii) for the three-year reporting period beginning July 1, 2005, a minimum of 90 credit hours, and (iii) for three-year reporting periods beginning on or after July 1, 2008, a minimum of 120 credit hours. The certificate holder may choose the areas of study and courses.

§ 54.1-4412. Substantial equivalency for nonresident CPA certificate holders and licensees.

A. A nonresident of the Commonwealth shall be granted the privilege of practicing public accounting in the Commonwealth if he holds a valid CPA certificate or license to practice public accounting in another state or foreign jurisdiction that is determined by the Board or its designee to have education, examination and experience requirements substantially equivalent to those provided by this chapter or if the Board determines that the nonresident individual has met education, examination and experience requirements that are substantially equivalent to those provided by this chapter. The Board shall provide by regulation the manner in which the privilege to practice under this section shall be evidenced.

B. Any person intending to exercise the privileges of a CPA certificate holder in the Commonwealth under this section shall:

1. Consent to be subject to (i) the same laws, regulations and standards of conduct applying to holders of CPA certificates issued by the Board, (ii) the jurisdiction of the Board in all disciplinary proceedings arising out of matters related to his exercise of the privileges granted by this section, and (iii) the Board's authority to revoke his privilege to practice public accounting in the Commonwealth under this section.

2. Consent to the appointment of the director of the state board that issued his CPA certificate or license as his agent upon whom process may be served in any action or proceeding by the Board against him, or in any civil action in Virginia courts arising out of his professional activities in the Commonwealth. In the event he holds a CPA certificate or license from more than one state, the Board by regulation shall establish which director shall serve as his agent.

3. Consent to the personal and subject matter jurisdiction of the courts of the Commonwealth in any civil action arising out of his professional activities in the Commonwealth and agree that the proper venue for such actions is in the Commonwealth.

C. A person who holds a CPA certificate issued by the Board and is exercising the privileges of a CPA certificate holder in another state under a comparable substantial equivalency provision of that state's law shall be subject to disciplinary action by the Board for an act or omission committed in the Commonwealth. The Board shall investigate any complaint made to or by the board of accountancy of another state related to the person's exercise of the privileges of a CPA certificate holder in the Commonwealth.

§ 54.1-4413. Firms.

A. Any person holding a valid CPA certificate may organize a firm as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form or organization permitted by law. Any person holding a valid CPA certificate may offer services that do not constitute the practice of public accounting as defined in § 54.1-4400 through any lawful form of organization while representing himself as a "Certified Public Accountant" or "CPA."

B. Any firm with one or more offices in the Commonwealth that practices, directly or indirectly, public accounting or that uses the term "Certified Public Accountant(s)" or the designation "CPA" in the name of the firm shall register under this chapter.

Only one registration certificate shall be required for a firm with multiple offices. Each firm registered under this section shall designate an individual to register as the primary contact on behalf of the firm. A firm with no offices in the Commonwealth may offer public accounting services in this Commonwealth if the individual members or employees providing services are (i) holders of CPA

certificates from the Board, (ii) have met the substantial equivalency requirements of this chapter, or (iii) are otherwise eligible to practice in the Commonwealth as determined by the Board. The Board may revoke the privileges of such firm to offer public accounting services in the Commonwealth for good cause shown, pursuant to regulations promulgated by the Board.

C. Any firm with an office in the Commonwealth providing or offering to provide public accounting services shall be issued a registration certificate by the Board upon application and payment of the required fee and shall maintain such certificate provided that:

1. At least fifty-one percent of the owners of the firm, as determined on a firm-wide basis, hold a valid CPA certificate.

2. At least fifty-one percent of the voting equity interest in the firm, as determined on a firm-wide basis, is owned by persons holding a valid CPA certificate. If this requirement or the requirement of subdivision C. 1. is not met due to the death, retirement or departure of an owner, the requirements shall be met within one year of such event.

3. All non-CPA owners work in the firm as prescribed by Board regulations. Retirees or heirs who do not meet this requirement shall have a period specified by Board regulation to dispose of their interest. Firms in existence as of July 1, 1999, shall comply with this requirement within a period specified by Board regulation.

4. All public accounting services are under the supervision of a person holding a valid CPA certificate.

5. The firm provides evidence satisfactory to the Board that the firm has undergone, no less frequently than every three years, a peer review in accordance with requirements established by the Board.

6. The firm conducts its accounting practice in conformity with the Board's standards of practice for firms and also with standards of conduct and practice that its CPA certificate holders are required to observe in the practice of public accountancy.

7. Any individual CPA who is responsible for supervising public accounting services and signs or authorizes another person to sign the accountant's report on the financial statement on behalf of the firm shall meet the experience requirements for these individuals as established by the Board.

8. The name of the firm is not false, misleading or deceptive.

D. Any firm with an office in the Commonwealth that is not engaged in the practice of public accounting but uses the term "Certified Public Accountant" or the "CPA" designation in its name shall be issued a registration certificate by the Board upon its application and payment of the required fee provided that such firm is in compliance with subdivisions C. 1., 2., 3. and 8. of § 54.1-4413 and the firm:

1. Conducts its practice in conformity with the ethical standards and standards of practice that the CPA certificate holders in the firm are required to observe; and

2. Affirms that it has met the requirements of this section and has not provided nor offered to provide services involving the practice of public accounting in the previous two years and will not provide or offer to provide such services in the future, unless it first meets the requirements set forth in subsection C.

In addition, any such firm using certified public accountants to compile financial statements shall compile such statements in compliance with SSARS and shall provide evidence satisfactory to the Board that the firm has undergone, no less frequently than every three years, a peer review in accordance with the requirements established by the Board.

E. A firm's registration certificate shall be renewed biennially on the anniversary date if such firm meets the requirements for registration and has paid the required fee. The Board shall establish a renewal fee.

§ 54.1-4414. Unprofessional conduct; enforcement against holders of CPA certificates and registration certificates.

A. The Board may revoke any CPA certificate or registration certificate; suspend any CPA certificate or registration certificate or refuse to renew any CPA certificate or registration certificate for a period of not more than five years; reprimand, censure or limit the scope of practice of any CPA certificate holder or registered firm; impose a monetary penalty as provided in § 54.1-4418 or place any CPA certificate holder or registered firm on probation, with or without terms, conditions and limitations, for any of the following reasons:

1. Fraud or deceit in obtaining or renewing a CPA certificate or registration certificate.

2. Cancellation, revocation, suspension or refusal to renew the CPA certificate or license to engage in the practice of public accountancy for disciplinary reasons in another state or foreign jurisdiction.

3. Failure to comply with the requirements for issuance or renewal of a CPA certificate or registration certificate.

4. Revocation or suspension of the right to practice before any state or federal agency.

5. Dishonesty, fraud, or gross negligence in the practice of public accountancy, including but not

limited to the content of a CPA certificate holder's state or federal income tax returns or his failure to file his own state or federal income tax returns or those of his client.

6. Violation of any provision of this chapter or regulation promulgated by the Board under this chapter.

7. Violation of any standard of conduct or applicable standard of practice promulgated by the Board.

8. Subject to the provisions of § 54.1-4420, conviction of a felony, or of any crime involving fraud or dishonesty, under the laws of the United States, of this Commonwealth, or of any other state if the acts involved would have constituted a crime under the laws of the Commonwealth.

B. In lieu of, or in addition to, any authority provided in subsection A or other provisions of this chapter, the Board may require a registered firm to submit to a peer review conducted as the Board may specify, provided such firm performs services involving public accounting or compiles financial statements in accordance with SSARS. The Board may also require a CPA certificate holder to attain satisfactory completion of additional or specific continuing professional education credit hours as the Board may specify.

C. Any person referring to himself as a Certified Public Accountant, including the use of the title on business cards, letterhead or other documents or devices other than the person's CPA certificate, who compiles financial statements must create the report in compliance with SSARS.

§ 54.1-4415. Prohibited acts.

A. A person who does not hold a valid CPA certificate shall not:

1. Claim to hold a valid CPA certificate;

2. Practice or offer to practice public accountancy or public accounting;

3. Make any other claim of licensure, registration, or approval related to the preparation of financial statements that is false or misleading;

4. Describe himself as or assume any of the following titles or designations: certified public accountant, CPA, public accountant, PA, certified accountant, CA, chartered accountant, licensed accountant, LA, registered accountant, RA, independent auditor, IA or auditor;

5. Claim to have used "generally accepted accounting principles," "generally accepted accounting standards," "public accountancy standards," "public accountancy principles," "generally accepted auditing principles," "generally accepted auditing standards," or "standards promulgated by the American Institute of Certified Public Accountants" or any successor thereto including SSARS, in connection with his preparation of any financial statement; nor shall he use any of these terms in describing any complete or partial variation from such standards or principles or to imply complete or partial conformity with such standards or principles;

6. Use the words "audit," "audit report," "independent audit," "attest," "attestation," "examine," "examination," "opinion," or "review" in a report, as that term is defined in this chapter, and that expresses assurance on a financial statement; or

7. State or imply that he is tested, competent, qualified, or proficient in financial standards established by (i) the American Institute of Certified Public Accountants or any agency thereof, (ii) the Governmental Accounting Standards Board or any agency thereof, (iii) the Securities and Exchange Commission or any agency thereof, (iv) the Financial Accounting Standards Board, or (v) any successor entity to an entity named in this subdivision.

B. A firm shall not use a name that is false, misleading or deceptive.

C. This section shall not prohibit any officer, partner, member, manager, or employee of any firm or organization from affixing that person's signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that person holds therein, nor does this section prohibit any act of a public official or employee in the performance of his duties.

D. No CPA certificate holder shall:

1. Recommend or refer to a client any product or services for a commission, or, for a commission, recommend or refer any product or service to be supplied by a client, or receive a commission when the CPA certificate holder also performs for that client any service that involves the practice of public accounting. This prohibition applies during the period in which the CPA certificate holder is providing services that involve the giving of an assurance or during the period covered by any financial statements that were prepared by the CPA certificate holder as a part of such services.

2. Perform for a contingent fee any services for, or receive such a fee from, a client for whom the CPA certificate holder or the CPA certificate holder's firm performs services that involve the practice of public accounting, during the period when such services are being provided and during the period covered by the financial statements.

3. Prepare an original tax return or claim for a tax refund for a contingent fee for any client.

E. A CPA certificate holder who is not prohibited by this section from accepting a commission and

774 who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom
775 the CPA certificate holder recommends or refers a product or service to which the commission applies.

776 F. A CPA certificate holder who accepts a referral fee for recommending or referring any service of
777 a CPA certificate holder shall disclose such payment to the client.

778 § 54.1-4416. Exemptions from unlawful acts.

779 A. The unlawful acts set forth in § 54.1-4415 shall not apply to or prohibit a person or firm holding
780 a certification, designation, degree or license granted in a foreign country entitling the holder thereof to
781 engage in the practice of public accountancy or its equivalent in such country, provided that:

782 1. The practice of the person or firm in the Commonwealth of Virginia is limited to providing
783 services to persons or firms who are residents of, governments of, or business entities of the country in
784 which such entitlement is held;

785 2. Such person or firm does not engage in the practice of public accountancy in the preparation of
786 financial statements about any other person, firm, or governmental unit in the Commonwealth of
787 Virginia; and

788 3. The person or firm designates the country of origin and does not use any title or designation
789 other than the one under which he or it may lawfully practice in the country of origin, which may be
790 followed by a translation of such title or designation into English.

791 B. The provisions of this chapter shall not be construed, interpreted, or applied in such a way as to
792 prohibit any public employee from performing his duly authorized or mandated duties.

793 § 54.1-4417. Board's powers with respect to hearings under this chapter.

794 The Board may, in hearings arising under this chapter, determine the place in the Commonwealth
795 where they shall be held; subpoena witnesses; take depositions of witnesses residing outside the
796 Commonwealth in the manner provided for in civil actions in courts of record; pay these witnesses the
797 fees and mileage for their attendance as is provided for witnesses in civil actions in courts of record;
798 and administer oaths.

799 § 54.1-4418. Monetary penalty.

800 Any person licensed or registered by the Board who violates any statute or regulation pertaining to
801 the Board who is not criminally prosecuted shall be subject to the monetary penalty provided in this
802 section. If the Board determines that a respondent is guilty of the violation complained of, the board
803 shall determine the appropriate penalty, including the amount of any monetary penalty for the violation,
804 which shall not exceed \$2,500 for each violation. Any monetary penalty may be sued for and recovered
805 in the name of the Commonwealth.

806 § 54.1-4419. Recovery of cost after grant of formal fact-finding.

807 After a formal fact-finding pursuant to § 9-6.14:12 wherein a sanction is imposed to fine, or to
808 suspend, revoke or deny renewal of any license or registration, the Board may assess the holder thereof
809 the cost of conducting such fact-finding when the Board has final authority to grant such license,
810 certificate or registration, unless the Board determines that the offense was inadvertent or done in a
811 good faith belief that such act did not violate a statute or regulation. The cost shall be limited to (i) the
812 reasonable hourly rate for the hearing officer and (ii) the actual cost of recording the proceedings.

813 § 54.1-4420. Prior convictions not to abridge rights.

814 A person shall not be refused a license to practice, pursue, or engage in public accountancy solely
815 because of a prior criminal conviction, unless the criminal conviction directly relates to the practice of
816 public accountancy. However, the Board shall have the authority to refuse a license if, based upon all
817 the information available, including the applicant's record of prior convictions, it finds that the
818 applicant is unfit or unsuited to engage in the practice of public accountancy.

819 § 54.1-4421. Annual audit.

820 The Board's financial records and statements shall be prepared in accordance with generally
821 accepted accounting principles and shall be audited annually by the Auditor of Public Accounts, or his
822 legally authorized representatives, or by a certified public accounting firm, as selected by the Board.

823 § 54.1-4422. Biennial report.

824 The Board shall submit a biennial report to the Governor and General Assembly on or before
825 November 1 of each even-numbered year. The biennial report shall contain, at a minimum, the following
826 information (i) a description of the Board's activities, (ii) a report on the audit of the Board's financial
827 statements for the biennium, (iii) statistical information regarding the administrative hearings and
828 decisions of the Board, and (iv) a general summary of all complaints received against licensees and the
829 procedures used to resolve the complaints. The biennial report shall be distributed in accordance with
830 the provisions of § 2.1-467.

831 § 54.1-4423. Transitional provisions.

832 A. In order to implement the transition of the Board of Accountancy as an independent board, the
833 regulations adopted by the Board and approved by the Governor regarding the fee for licenses and
834 certificates, shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first
835 twenty-four month period beginning July 1, 2001. Thereafter, all regulations pertaining to fees shall

736 *comply fully with the provisions of the Administrative Process Act.*

737 *B. The provisions of this section shall expire on July 1, 2004.*

738 2. That Chapter 20 (§§ 54.1-2000 through 54.1-2008) of Subtitle II of Title 54.1 of the Code of
739 Virginia is repealed.

740 3. That upon establishment of the Board for Accountancy (Board) as an independent board as
741 provided for in this act, such Board shall enter into an agreement with the Department of
742 Professional and Occupational Regulation (DPOR), signed by the Director of the Department, to
743 transfer from the Department to the Board tangible personal property and records relevant to the
744 transfer of duties and powers as required by the provisions of this act. This agreement shall also
745 provide for the orderly and expeditious transfer of administrative and other responsibilities as
746 required by the provisions of this act. Such transfer shall begin on July 1, 2001, and be completed
747 no later than December 31, 2001. During the period July 1, 2001, through December 31, 2001, the
748 administrative duties presently performed by DPOR shall be transferred to the Board as
749 expeditiously and orderly as possible to allow the Board to assume all administrative duties as set
750 out in this act by December 31, 2001. In addition, DPOR shall provide administrative support as
751 required by the Board during this transition period.

752 4. That regulations promulgated by the Board of Accountancy shall remain in effect and shall
753 apply mutatis mutandis to licensees and certificate holders licensed or certified by the Board of
754 Accountancy after July 1, 2001.

755 5. That the Governor may transfer an appropriation or any portion thereof within a state agency
756 established or otherwise affected by the provisions of this act, or from such agency to another, to
757 support changes in organization or responsibility resulting from or required by the provisions of
758 this act.

759 6. That two-thirds of the anticipated surplus accumulated by the Board as of June 30, 2001, shall
760 be transferred to the Board of Accountancy Fund on July 1, 2001, and the remainder of the
761 surplus shall be transferred to the Fund no later than September 30, 2001.

762 7. That the provisions of this act shall not affect current members of the Board of Accountancy
763 whose terms have not expired as of July 1, 2001.