

By Senator Latvala

19-662C-98

1 A bill to be entitled
2 An act relating to public accountancy; amending
3 s. 473.302, F.S.; providing definitions;
4 amending s. 473.303, F.S.; revising provisions
5 relating to membership on probable cause panels
6 of the Board of Accountancy; amending s.
7 473.306, F.S.; providing conditions under which
8 the board may adopt an alternative licensure
9 examination for persons licensed to practice
10 public accountancy or its equivalent in a
11 foreign country; providing for appointment of
12 an Educational Advisory Committee for purposes
13 of maintaining proper educational
14 qualifications for licensure of certified
15 public accountants; amending s. 473.308, F.S.;
16 revising licensure requirements relating to
17 public accountancy experience outside this
18 state; amending s. 473.309, F.S.; providing
19 additional requirements for a partnership,
20 corporation, or limited liability company to
21 practice public accountancy in this state;
22 amending s. 473.3101, F.S.; providing
23 requirements for the licensure of sole
24 proprietors and other legal entities; amending
25 s. 473.312, F.S.; providing for appointment of
26 a Continuing Professional Education Advisory
27 Committee for purposes of maintaining proper
28 continuing education requirements for renewal
29 of licensure of certified public accountants;
30 amending s. 473.313, F.S.; providing continuing
31 education requirements for the reactivation of

1 certain licenses; amending ss. 473.319,
2 473.3205, F.S.; revising provisions relating to
3 contingency fees, commissions, and referral
4 fees; amending s. 473.322, F.S.; providing
5 certain requirements for persons attesting or
6 offering to attest as experts; providing an
7 effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 473.302, Florida Statutes, is
12 amended to read:

13 473.302 Definitions.--As used in this chapter, the
14 term:

15 (1) "Board" means the Board of Accountancy.

16 (2) "Department" means the Department of Business and
17 Professional Regulation.

18 (3) "Division" means the Division of Certified Public
19 Accounting.

20 (4) "Certified public accountant" means a person who
21 holds a license to practice public accounting in this state
22 under the authority of this chapter.

23 (5) "Firm" means any entity that is engaged in the
24 practice of public accounting.

25 (6) "Licensed audit firm" or "public accounting firm"
26 means a firm licensed under s. 473.3101.

27 (7)~~(5)~~ "Practice of," "practicing public accounting,"
28 or "public accounting" means:

29 (a) Offering to perform or performing for the public
30 one or more types of services involving the expression of an
31 opinion on financial statements, the attestation as an expert

1 | in accountancy to the reliability or fairness of presentation
2 | of financial information, the utilization of any form of
3 | disclaimer of opinion which conveys an assurance of
4 | reliability as to matters not specifically disclaimed, the
5 | expression of an opinion on the reliability of an assertion by
6 | one party for the use by a third party; ~~or the preparation of~~
7 | ~~financial statements by a certified public accountant, a firm~~
8 | ~~of certified public accountants, or a firm in which a~~
9 | ~~certified public accountant has an ownership interest,~~
10 | ~~including the performance of such services in the employ of~~
11 | ~~another person; or~~

12 | (b) Offering to perform or performing for the public
13 | one or more types of services involving the use of accounting
14 | skills, or one or more types of tax, management advisory, or
15 | consulting services, by any person who is holding herself or
16 | ~~himself or itself out as a certified public accountant or a~~
17 | ~~firm of certified public accountants, including the~~
18 | performance of such services by a certified public accountant
19 | in the employ of a person so holding herself or firm; or
20 | ~~himself or itself out.~~

21 | (c) Offering to perform or performing for the public
22 | one or more types of service involving the preparation of
23 | financial statements by a certified public accountant, a firm
24 | of certified public accountants, or a firm in which a
25 | certified public accountant has an ownership interest,
26 | including the performance of such services in the employ of
27 | another person.

28 |
29 | However, these terms shall not include services provided by
30 | the American Institute of Certified Public Accountants or the
31 | Florida Institute of Certified Public Accountants, or any full

1 service association of certified public accounting firms whose
2 plans of administration have been approved by the board, to
3 their members or services performed by these entities in
4 reviewing the services provided to the public by members of
5 these entities.

6 ~~(6) "Holding out" means advertising, as a part of a~~
7 ~~licensee's business activities, that the licensee is a~~
8 ~~certified public accountant when providing, or offering to~~
9 ~~provide, services or products to the public which involve the~~
10 ~~use of accounting skills or one or more types of management~~
11 ~~advisory or consulting services.~~

12 Section 2. Subsection (2) of section 473.303, Florida
13 Statutes, is amended to read:

14 473.303 Board of Accountancy.--

15 (2) ~~Notwithstanding the provisions of s. 455.225(4),~~
16 The probable cause panel of the board may be composed of at
17 least one board member who shall serve as chair and additional
18 board members or ~~one~~ past members member of the board who are
19 licensees ~~is a licensee~~ in good standing. The past board
20 members member shall be appointed to the panel for a maximum
21 of 2 years by the chair of the board with the approval of the
22 secretary of the department.

23 Section 3. Subsection (5) of section 473.306, Florida
24 Statutes, is amended, and subsection (6) is added to that
25 section, to read:

26 473.306 Examinations.--

27 (5) The board may adopt an alternative licensure
28 examination for persons who have been licensed to practice
29 public accountancy or its equivalent in a foreign country so
30 long as the International Qualifications Appraisal Board of
31 the National Association of State Boards of Accountancy has

1 ratified an agreement with that country for reciprocal
2 licensure ~~Canadian chartered accountants who have completed~~
3 ~~the Canadian chartered accountant licensure examination and~~
4 ~~hold a chartered accountant license from a Canadian province.~~

5 (6) For the purposes of maintaining the proper
6 educational qualifications for licensure under this chapter,
7 the board may appoint an Educational Advisory Committee, which
8 shall be composed of one member of the board, two persons in
9 public practice who are licensed under this chapter, and four
10 academicians on faculties of universities in this state.

11 Section 4. Paragraph (a) of subsection (3) and
12 subsection (4) of section 473.308, Florida Statutes, are
13 amended to read:

14 473.308 Licensure.--

15 (3) The board shall certify as qualified for a license
16 by endorsement an applicant who:

17 (a)1. Is not licensed and has not been licensed in
18 another state or territory and who qualifies to take the
19 examination as set forth in s. 473.306, who has passed a
20 national, regional, state, or territorial licensing
21 examination which is substantially equivalent to the
22 examination required by s. 473.306, and who has satisfied the
23 experience requirements set forth in s. 473.307; and

24 2. Has completed such continuing education courses as
25 the board deems appropriate, within the limits for each
26 applicable 2-year period as set forth in s. 473.312, but at
27 least such courses as are equivalent to the continuing
28 education requirements for a licensee in this state during the
29 2 years immediately preceding her or his application for
30 licensure by endorsement; or

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1 (4) If application for licensure is made prior to
2 August 1, 2000, and the applicant has 5 years of experience in
3 the practice of public accountancy, ~~either~~ in the United
4 States or in the practice of public accountancy or its
5 equivalent in a foreign country that the International
6 Qualifications Appraisal Board of the National Association of
7 State Boards of Accountancy has determined has licensure
8 standards that are substantially equivalent to those in the
9 United States ~~as a licensed chartered accountant in Canada,~~
10 the board shall waive the requirements of s. 473.306(2)(b)2.
11 that are in excess of a baccalaureate degree. All experience
12 that is used as a basis for waiving said requirements of s.
13 473.306(2)(b)2. must be experience outside this state.
14 Furthermore, said experience must be after licensure as a
15 certified public accountant by another state or territory of
16 the United States or after licensure in the practice of public
17 accountancy or its equivalent in a foreign country that the
18 International Qualifications Appraisal Board of the National
19 Association of State Boards of Accountancy has determined has
20 licensure standards that are substantially equivalent to those
21 in the United States. The board shall have the authority to
22 establish the standards for experience that meet this
23 requirement.

24 Section 5. Section 473.309, Florida Statutes, is
25 amended to read:

26 473.309 Practice requirements for partnerships,
27 corporations, and limited liability companies; business
28 entities practicing public accounting.--

29 (1) A partnership may not engage in the practice of
30 public accounting, as defined in s. 473.302(7)(a), in this
31 ~~state~~ unless:

1 (a) It is a form of partnership recognized by Florida
2 law.

3 (b) Partners owning at least two-thirds of the
4 financial interest and voting rights of the partnership are
5 certified public accountants in some state. However, each
6 partner who is a certified public accountant in another state
7 and is domiciled in this state must be a certified public
8 accountant of this state and hold an active license.

9 (c) At least one general partner is a certified public
10 accountant of this state and holds an active license.

11 (d) All noncertified public accountant partners are
12 engaged in the business of the partnership as their principal
13 occupation and are not certified public accountants in another
14 state.

15 (e) It is in compliance with rules adopted by the
16 board pertaining to minimum capitalization, letters of credit,
17 and adequate public liability insurance.

18 (f) It is currently licensed as required by s.
19 473.3101.

20 (2) A corporation may not engage in the practice of
21 public accounting, as defined in s. 473.302(7)(a),~~in this~~
22 ~~state~~ unless:

23 (a) It is a corporation duly organized in this or some
24 other state.

25 (b) Shareholders of the corporation owning at least
26 two-thirds of the financial interest and voting rights of the
27 corporation are certified public accountants in some state and
28 are principally engaged in the business of the corporation.
29 However, each shareholder who is a certified public accountant
30 in another state and is domiciled in this state must be a
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1 certified public accountant of this state and hold an active
2 license.

3 (c) The principal officer of the corporation is a
4 certified public accountant in some state.

5 (d) At least one shareholder of the corporation is a
6 certified public accountant and holds an active license in
7 this state.

8 (e) All noncertified public accountant shareholders
9 are engaged in the business of the corporation as their
10 principal occupation and are not certified public accountants
11 in another state.

12 (f) It is in compliance with rules adopted by the
13 board pertaining to minimum capitalization, letters of credit,
14 and adequate public liability insurance.

15 (g) It is currently licensed as required by s.
16 473.3101.

17 (3) A limited liability company may not engage in the
18 practice of public accounting, as defined in s. 473.302(7)(a),
19 ~~in this state~~ unless:

20 (a) It is a limited liability company duly organized
21 in this or some other state.

22 (b) Members of the limited liability company owning at
23 least two-thirds of the financial interest and voting rights
24 of the company are certified public accountants in some state.
25 However, each member who is a certified public accountant in
26 some state and is domiciled in this state must be a certified
27 public accountant of this state and hold an active license.

28 (c) At least one member of the limited liability
29 company is a certified public accountant and holds an active
30 license in this state.

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1 (d) All noncertified public accountant members are
2 engaged in the business of the company as their principal
3 occupation and are not certified public accountants in another
4 state.

5 (e) It is in compliance with rules adopted by the
6 board pertaining to minimum capitalization, letters of credit,
7 and adequate public liability insurance.

8 (f) It is currently licensed as required by s.
9 473.3101.

10 (4) A partnership, corporation, limited liability
11 company, or any other business entity is engaged in the
12 practice of public accounting if its employees are engaged in
13 the practice of public accounting. Notwithstanding any other
14 provision of law, a licensed audit firm may own all or part of
15 another licensed audit firm.

16 Section 6. Section 473.3101, Florida Statutes, is
17 amended to read:

18 473.3101 Licensure of sole proprietors,partnerships,
19 corporations, ~~and~~ limited liability companies, and other legal
20 entities.--

21 (1) Each sole proprietor,partnership, corporation, or
22 limited liability company, or any other legal entity seeking
23 to engage in the practice of public accounting, as defined in
24 s. 473.302(7)(a),in this state must file an application for
25 licensure with the department and supply the information the
26 board requires. An application must be made upon the affidavit
27 of a sole proprietor,general partner, shareholder, or member
28 who is a certified public accountant.

29 (2) The board shall determine whether the sole
30 proprietor,partnership, corporation, or limited liability
31 company, or any other legal entity meets the requirements for

1 practice and, pending that determination, may certify to the
2 department the partnership, corporation, or limited liability
3 company for provisional licensure.

4 (3) Each license must be renewed every 2 years. Each
5 sole proprietor, partnership, corporation, or limited
6 liability company, or any other legal entity licensed under
7 this section must notify the department within 1 month after
8 any change in the information contained in the application on
9 which its license is based.

10 Section 7. Section 473.312, Florida Statutes, is
11 amended to read:

12 473.312 Continuing education.--

13 (1)(a) As part of the license renewal procedure, the
14 board shall by rule require licensees to submit proof
15 satisfactory to the board that during the 2 years prior to
16 application for renewal, they have successfully completed not
17 less than 48 or more than 80 classroom hours of continuing
18 professional education programs in public accounting subjects
19 approved by the board. The board may prescribe by rule
20 additional continuing professional education hours, not to
21 exceed 25 percent of the total hours required, for failure to
22 complete the hours required for renewal by the end of the
23 reestablishment period.

24 (b)~~(1)~~ Not less than 25 percent of the total hours
25 required by the board shall be in accounting-related and
26 auditing-related subjects, as distinguished from federal and
27 local taxation matters and management services.

28 (2) Programs of continuing professional education
29 approved by the board shall be formal programs of learning
30 which contribute directly to the professional competency of an
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1 individual following licensure to practice public accounting
2 and may be any of the following:

3 (a) Professional development programs of the American
4 Institute of Certified Public Accountants, state societies of
5 certified public accountants, or other organizations.

6 (b) Technical sessions at meetings of the American
7 Institute of Certified Public Accountants, state societies,
8 chapters, or other organizations.

9 (c) University and college courses.

10 (d) Formal organized in-firm education programs.

11 (3) The board shall adopt rules establishing the
12 continuing education requirements for licensees who are
13 engaged in the audit of a governmental entity. The board shall
14 approve subjects directly related to the governmental
15 environment and to governmental auditing for purposes of
16 satisfying the requirement of this subsection.

17 (4) For the purposes of maintaining proper continuing
18 education requirements for renewal of licensure under this
19 chapter, the board may appoint a Continuing Professional
20 Education Advisory Committee, which shall be composed of one
21 member of the board, one academician on the faculty of a
22 university in this state, and six certified public
23 accountants.

24 Section 8. Section 473.313, Florida Statutes, is
25 amended to read:

26 473.313 Inactive status.--

27 (1) A licensee may request that her or his license be
28 placed in an inactive status by making application to the
29 department. The board may prescribe by rule fees for placing
30 a license on inactive status, renewal of inactive status, and
31 reactivation of an inactive license.

1 (2) A license that has become inactive may be
2 reactivated under s. 473.311 upon application to the
3 department. The board may prescribe by rule continuing
4 education requirements as a condition of reactivating a
5 license. The minimum continuing education requirements for
6 reactivating a license shall be those of the most recent
7 biennium plus one-half of the requirements in s. 473.312 for
8 each year or part thereof during which the license was
9 inactive. Notwithstanding any other provision of law, the
10 continuing education requirements are 120 hours for the
11 reactivation of a license that is inactive on June 30, 1998,
12 if the licensee notifies the Board of Accountancy by December
13 31, 1998, of an intention to reactivate such a license and
14 completes such reactivation by June 30, 2000.

15 Section 9. Section 473.319, Florida Statutes, is
16 amended to read:

17 473.319 Contingent fees.--Public accounting services
18 as defined in s. 473.302(7)(a) and (c)~~s. 473.302(5)(a)~~, and
19 those that include tax filings with federal, state, or local
20 government, shall not be offered or rendered for a fee
21 contingent upon the findings or results of such service. This
22 section does not apply to services involving federal, state,
23 or other taxes in which the findings are those of the tax
24 authorities and not those of the licensee. Fees to be fixed
25 by courts or other public authorities, which are of an
26 indeterminate amount at the time a public accounting service
27 is undertaken, shall not be regarded as contingent fees for
28 purposes of this section.

29 Section 10. Section 473.3205, Florida Statutes, is
30 amended to read:

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1 473.3205 Commissions or referral fees.--A licensee may
2 not accept or pay a commission or referral fee in connection
3 with the sale or referral of public accounting services as
4 defined in s. 473.302(7)(a) and (c)~~s. 473.302(5)(a)~~. Any
5 certified public accountant or business entity that is engaged
6 in the practice of public accounting and that accepts a
7 commission for the sale of a product or service to a client
8 must disclose that fact to the client in writing in accordance
9 with rules adopted by the board. However, this section shall
10 not prohibit:

11 (1) Payments for the purchase of an accounting
12 practice;

13 (2) Retirement payments to individuals formerly
14 engaged in the practice of public accounting or payments to
15 their heirs or estates; or

16 (3) Payment of fees to a referring licensee for public
17 accounting services to either the successor licensee or the
18 client in connection with an engagement.

19 Section 11. Section 473.322, Florida Statutes, is
20 amended to read:

21 473.322 Prohibitions; penalties.--

22 (1) A person may not knowingly:

23 (a) Practice public accounting unless the person is a
24 certified public accountant or a public accountant;

25 (b) Assume or use the titles or designations
26 "certified public accountant" or "public accountant" or the
27 abbreviation "C.P.A." or any other title, designation, words,
28 letters, abbreviations, sign, card, or device tending to
29 indicate that the person holds an active license under this
30 chapter, unless the person holds an active license under this
31 chapter;

1 (c) Attest or offer to attest as an expert in
2 accountancy to the reliability or fairness of presentation of
3 financial information or utilize any form of disclaimer of
4 opinion that is intended or conventionally understood to
5 convey an assurance of reliability as to matters not
6 specifically disclaimed unless such person holds an active
7 license under this chapter and is a licensed audit firm or
8 provides such services through a licensed audit firm. This
9 paragraph does not prohibit the performance by persons other
10 than certified public accountants of other services involving
11 the use of accounting skills, including the preparation of tax
12 returns and the preparation of financial statements without
13 expression of opinion thereon;

14 (d) Present as her or his own the license of another;

15 (e) Give false or forged evidence to the board or a
16 member thereof;

17 (f) Use or attempt to use a public accounting license
18 that has been suspended, revoked, or placed on inactive or
19 delinquent status;

20 (g) Employ unlicensed persons to practice public
21 accounting; or

22 (h) Conceal information relative to violations of this
23 chapter.

24 (2) Any person who violates any provision of this
25 section commits a misdemeanor of the first degree, punishable
26 as provided in s. 775.082 or s. 775.083.

27 Section 12. This act shall take effect October 1 of
28 the year in which enacted.

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SENATE SUMMARY

Amends various provisions of law relating to public accountancy. Revises provisions relating to membership on probable cause panels of the Board of Accountancy. Provides conditions under which the board may adopt an alternative licensure examination for persons licensed to practice public accountancy or its equivalent in a foreign country. Provides for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants. Revises licensure requirements relating to public accountancy experience outside this state. Provides additional requirements for a partnership, corporation, or limited liability company to practice public accountancy in this state. Provides for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants. Provides definitions and provides requirements for the licensure of sole proprietors. Provides continuing education requirements for the reactivation of certain licenses. Provides requirements for persons attesting or offering to attest as experts. (See bill for details.)