

By the Committee on Financial Services and Representatives
Safley, Lippman, Bainter, Rayson, Tamargo, Lawson, Cosgrove,
Dennis and Flanagan

1 A bill to be entitled
2 An act relating to public accountancy; amending
3 s. 473.302, F.S.; revising and providing
4 definitions; amending s. 473.303, F.S.;
5 revising provisions relating to membership on
6 probable cause panels of the Board of
7 Accountancy; amending s. 473.306, F.S.;
8 providing conditions under which the board may
9 adopt an alternative licensure examination for
10 persons licensed to practice public accountancy
11 or its equivalent in a foreign country;
12 providing for appointment of an Educational
13 Advisory Committee for purposes of maintaining
14 proper educational qualifications for licensure
15 of certified public accountants; amending s.
16 473.308, F.S.; revising licensure requirements
17 relating to public accountancy experience
18 outside this state; amending s. 473.309, F.S.;
19 providing additional requirements for a
20 partnership, corporation, or limited liability
21 company to practice public accountancy in this
22 state; amending s. 473.3101, F.S.; revising
23 licensure requirements; amending s. 473.312,
24 F.S.; providing for appointment of a Continuing
25 Professional Education Advisory Committee for
26 purposes of maintaining proper continuing
27 education requirements for renewal of licensure
28 of certified public accountants; amending s.
29 473.313, F.S.; providing continuing education
30 requirements for reactivation of certain
31 inactive licenses; amending ss. 473.319 and

1 473.3205, F.S., relating to contingent fees and
2 to commissions or referral fees, respectively;
3 correcting cross references to clarify
4 applicability to specified public accounting
5 services; amending s. 473.322, F.S.; revising a
6 prohibition relating to attesting as an expert
7 in accountancy; providing a penalty; providing
8 an effective date.

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

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

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

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

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

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

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

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

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

28 (7)(5) "Practice of," "practicing public accountancy,"
29 or "public accounting" means:

30 (a) Offering to perform or performing for the public
31 one or more types of services involving the expression of an

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

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

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 ~~so holding herself or himself or itself out.~~

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 to who shall serve as chair and at
18 least two additional board members of whom or one may be a
19 past member of the board who is a licensee in good standing.
20 If a past member of the board is to be appointed to the panel,
21 such the past board member shall be appointed to the panel for
22 a maximum of 2 years by the chair of the board with the
23 approval of the secretary of the department.

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

27 473.306 Examinations.--

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

1 the National Association of State Boards of Accountancy has
2 ratified an agreement with that country for reciprocal
3 licensure ~~Canadian chartered accountants who have completed~~
4 ~~the Canadian chartered accountant licensure examination and~~
5 ~~hold a chartered accountant license from a Canadian province.~~

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

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

15 473.308 Licensure.--

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

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

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

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 some state and
7 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 some
14 other 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 some state and is domiciled in this state must be a
31

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 some other 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.

31

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 some
4 other 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 this section, a licensed audit firm may be an
15 owner of all or part of 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 other legal entity seeking to
23 engage in the practice of public accounting, as defined in s.
24 473.302(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 other legal entity meets the requirements for such

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

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

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

13 473.312 Continuing education.--

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

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

29 (2) Programs of continuing professional education
30 approved by the board shall be formal programs of learning
31 which contribute directly to the professional competency of an

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. Subsection (2) of section 473.313, Florida
25 Statutes, is amended to read:

26 473.313 Inactive status.--

27 (2) A license that has become inactive may be
28 reactivated under s. 473.311 upon application to the
29 department. The board may prescribe by rule continuing
30 education requirements as a condition of reactivating a
31 license. The minimum continuing education requirements for

1 reactivating a license shall be those of the most recent
2 biennium plus one-half of the requirements in s. 473.312 for
3 each year or part thereof during which the license was
4 inactive. However, notwithstanding any other provision of this
5 section, the continuing education requirements shall be 120
6 hours for the reactivation of a license that is inactive on
7 June 30, 1998, provided the licensee notifies the board by
8 December 31, 1998, of an intention to reactivate such license
9 and completes such reactivation by June 30, 2000.

10 Section 9. Section 473.319, Florida Statutes, is
11 amended to read:

12 473.319 Contingent fees.--Public accounting services
13 as defined in s. 473.302(7)(a) and (c)~~(5)(a)~~, and those that
14 include tax filings with federal, state, or local government,
15 shall not be offered or rendered for a fee contingent upon the
16 findings or results of such service. This section does not
17 apply to services involving federal, state, or other taxes in
18 which the findings are those of the tax authorities and not
19 those of the licensee. Fees to be fixed by courts or other
20 public authorities, which are of an indeterminate amount at
21 the time a public accounting service is undertaken, shall not
22 be regarded as contingent fees for purposes of this section.

23 Section 10. Section 473.3205, Florida Statutes, is
24 amended to read:

25 473.3205 Commissions or referral fees.--A licensee may
26 not accept or pay a commission or referral fee in connection
27 with the sale or referral of public accounting services as
28 defined in s. 473.302(7)(a) and (c)~~(5)(a)~~. Any certified
29 public accountant or business entity that is engaged in the
30 practice of public accounting and that accepts a commission
31 for the sale of a product or service to a client must disclose

1 that fact to the client in writing in accordance with rules
2 adopted by the board. However, this section shall not
3 prohibit:

4 (1) Payments for the purchase of an accounting
5 practice;

6 (2) Retirement payments to individuals formerly
7 engaged in the practice of public accounting or payments to
8 their heirs or estates; or

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

12 Section 11. Paragraph (c) of subsection (1) of section
13 473.322, Florida Statutes, is amended to read:

14 473.322 Prohibitions; penalties.--

15 (1) A person may not knowingly:

16 (c) Attest, or offer to attest,as an expert in
17 accountancy to the reliability or fairness of presentation of
18 financial information or utilize any form of disclaimer of
19 opinion that is intended or conventionally understood to
20 convey an assurance of reliability as to matters not
21 specifically disclaimed unless such person holds an active
22 license under this chapter and is a licensed audit firm or
23 provides such services through a licensed audit firm. This
24 paragraph does not prohibit the performance by persons other
25 than certified public accountants of other services involving
26 the use of accounting skills, including the preparation of tax
27 returns and the preparation of financial statements without
28 expression of opinion thereon;

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

614-117A-98

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

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5 HOUSE SUMMARY

6 Amends various provisions of law relating to public
 7 accountancy. Revises and provides definitions. Revises
 8 provisions relating to membership on probable cause
 9 panels of the Board of Accountancy. Provides conditions
 10 under which the board may adopt an alternative licensure
 11 examination for persons licensed to practice public
 12 accountancy or its equivalent in a foreign country.
 13 Provides for appointment of an Educational Advisory
 14 Committee for purposes of maintaining proper educational
 15 qualifications for licensure of certified public
 16 accountants. Revises licensure requirements relating to
 17 public accountancy experience outside this state.
 18 Provides additional requirements for a partnership,
 19 corporation, or limited liability company to practice
 20 public accountancy in this state. Revises licensure
 21 requirements for sole proprietors, partnerships,
 22 corporations, limited liability companies, and other
 23 legal entities. Provides for appointment of a Continuing
 24 Professional Education Advisory Committee for purposes of
 25 maintaining proper continuing education requirements for
 26 renewal of licensure of certified public accountants.
 27 Provides continuing education requirements for
 28 reactivation of certain inactive licenses. In provisions
 29 relating to contingent fees and commissions or referral
 30 fees, corrects cross references to clarify applicability
 31 to specified public accounting services. Revises a
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