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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 s. 473.315, F.S.;  
2 providing an exemption for attorneys; amending  
3 ss. 473.319, 473.3205, F.S.; revising  
4 provisions relating to contingency fees,  
5 commissions, and referral fees; amending s.  
6 473.322, F.S.; providing certain requirements  
7 for persons offering certain public accounting  
8 services; providing an effective date.

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

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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 opinion or financial statements that provide a level of  
5 assurance, the utilization of any form of disclaimer of  
6 opinion which conveys an assurance of reliability as to  
7 matters not specifically disclaimed, the expression of an  
8 opinion on the reliability of an assertion by one party for  
9 the use by a third party; ~~or the preparation of financial~~  
10 ~~statements by a certified public accountant, a firm of~~  
11 ~~certified public accountants, or a firm in which a certified~~  
12 ~~public accountant has an ownership interest, including the~~  
13 ~~performance of such services in the employ of another person;~~  
14 or

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

24 (c) Offering to perform or performing for the public  
25 one or more types of service involving the preparation of  
26 financial statements not included within s. 473.302(7)(a), by  
27 a certified public accountant who holds an active license, a  
28 firm of certified public accountants, or a firm in which a  
29 certified public accountant has an ownership interest,  
30 including the performance of such services in the employ of  
31 another person. The board shall adopt rules establishing

1 standards of practice for such reports and financial  
2 statements, provided, however, that nothing in this paragraph  
3 shall be construed to permit the board to adopt rules that  
4 have the result of prohibiting licensees employed by  
5 unlicensed firms from preparing financial statements as  
6 authorized by this paragraph.

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8 However, these terms shall not include services provided by  
9 the American Institute of Certified Public Accountants or the  
10 Florida Institute of Certified Public Accountants, or any full  
11 service association of certified public accounting firms whose  
12 plans of administration have been approved by the board, to  
13 their members or services performed by these entities in  
14 reviewing the services provided to the public by members of  
15 these entities.

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

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

24 473.303 Board of Accountancy.--

25 (2) ~~Notwithstanding the provisions of s. 455.225(4),~~  
26 The probable cause panel of the board may be composed of at  
27 least one board member who shall serve as chair and additional  
28 board members or ~~one past members member~~ of the board who are  
29 licensees ~~is a licensee~~ in good standing. The past board  
30 members ~~member~~ shall be appointed to the panel for a maximum

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1 of 2 years by the chair of the board with the approval of the  
2 secretary of the department.

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

6 473.306 Examinations.--

7 (5) The board may adopt an alternative licensure  
8 examination for persons who have been licensed to practice  
9 public accountancy or its equivalent in a foreign country so  
10 long as the International Qualifications Appraisal Board of  
11 the National Association of State Boards of Accountancy has  
12 ratified an agreement with that country for reciprocal  
13 licensure ~~Canadian chartered accountants who have completed~~  
14 ~~the Canadian chartered accountant licensure examination and~~  
15 ~~hold a chartered accountant license from a Canadian province.~~

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

22 Section 4. Paragraph (a) of subsection (3) and  
23 subsection (4) of section 473.308, Florida Statutes, are  
24 amended to read:

25 473.308 Licensure.--

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

28 (a)1. Is not licensed and has not been licensed in  
29 another state or territory and who qualifies to take the  
30 examination as set forth in s. 473.306, who has passed a  
31 national, regional, state, or territorial licensing

1 examination which is substantially equivalent to the  
2 examination required by s. 473.306, and who has satisfied the  
3 experience requirements set forth in s. 473.307; and  
4 2. Has completed such continuing education courses as  
5 the board deems appropriate, within the limits for each  
6 applicable 2-year period as set forth in s. 473.312, but at  
7 least such courses as are equivalent to the continuing  
8 education requirements for a licensee in this state during the  
9 2 years immediately preceding her or his application for  
10 licensure by endorsement; or  
11 (4) If application for licensure is made prior to  
12 August 1, 2000, and the applicant has 5 years of experience in  
13 the practice of public accountancy, ~~either~~ in the United  
14 States or in the practice of public accountancy or its  
15 equivalent in a foreign country that the International  
16 Qualifications Appraisal Board of the National Association of  
17 State Boards of Accountancy has determined has licensure  
18 standards that are substantially equivalent to those in the  
19 United States ~~as a licensed chartered accountant in Canada,~~  
20 the board shall waive the requirements of s. 473.306(2)(b)2.  
21 that are in excess of a baccalaureate degree. All experience  
22 that is used as a basis for waiving said requirements of s.  
23 473.306(2)(b)2. must be experience outside this state.  
24 Furthermore, said experience must be after licensure as a  
25 certified public accountant by another state or territory of  
26 the United States or after licensure in the practice of public  
27 accountancy or its equivalent in a foreign country that the  
28 International Qualifications Appraisal Board of the National  
29 Association of State Boards of Accountancy has determined has  
30 licensure standards that are substantially equivalent to those  
31 in the United States. The board shall have the authority to

1 establish the standards for experience that meet this  
2 requirement.

3 Section 5. Section 473.309, Florida Statutes, is  
4 amended to read:

5 473.309 Practice requirements for partnerships,  
6 corporations, and limited liability companies; business  
7 entities practicing public accounting.--

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

11 (a) It is a form of partnership recognized by Florida  
12 law.

13 (b) Partners owning at least two-thirds of the  
14 financial interest and voting rights of the partnership are  
15 certified public accountants in some state. However, each  
16 partner who is a certified public accountant in another state  
17 and is domiciled in this state must be a certified public  
18 accountant of this state and hold an active license.

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

21 (d) All ~~noncertified public accountant~~ partners who  
22 are not certified public accountants in any state are engaged  
23 in the business of the partnership as their principal  
24 occupation.

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

28 (f) It is currently licensed as required by s.  
29 473.3101.

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

4           (a) It is a corporation duly organized in this or some  
5 other state.

6           (b) Shareholders of the corporation owning at least  
7 two-thirds of the financial interest and voting rights of the  
8 corporation are certified public accountants in some state and  
9 are principally engaged in the business of the corporation.  
10 However, each shareholder who is a certified public accountant  
11 in another state and is domiciled in this state must be a  
12 certified public accountant of this state and hold an active  
13 license.

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

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

19           (e) All ~~noncertified public accountant~~ shareholders  
20 who are not certified public accountants in any state are  
21 engaged in the business of the corporation as their principal  
22 occupation.

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

26           (g) It is currently licensed as required by s.  
27 473.3101.

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

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

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

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

12 (d) All ~~noncertified public accountant~~ members who are  
13 not certified public accountants in any state are engaged in  
14 the business of the company as their principal occupation.

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 (4) A partnership, corporation, limited liability  
21 company, or any other business entity is engaged in the  
22 practice of public accounting if its employees are engaged in  
23 the practice of public accounting. Notwithstanding any other  
24 provision of law, a licensed audit firm may own all or part of  
25 another licensed audit firm.

26 Section 6. Section 473.3101, Florida Statutes, is  
27 amended to read:

28 473.3101 Licensure of sole proprietors, partnerships,  
29 corporations, and limited liability companies, and other legal  
30 entities.--

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

9           (2) The board shall determine whether the sole  
10 proprietor, partnership, corporation, or limited liability  
11 company, or any other legal entity meets the requirements for  
12 practice and, pending that determination, may certify to the  
13 department the partnership, corporation, or limited liability  
14 company for provisional licensure.

15           (3) Each license must be renewed every 2 years. Each  
16 sole proprietor, partnership, corporation, or limited  
17 liability company, or any other legal entity licensed under  
18 this section must notify the department within 1 month after  
19 any change in the information contained in the application on  
20 which its license is based.

21           Section 7. Section 473.312, Florida Statutes, is  
22 amended to read:

23           473.312 Continuing education.--

24           (1)(a) As part of the license renewal procedure, the  
25 board shall by rule require licensees to submit proof  
26 satisfactory to the board that during the 2 years prior to  
27 application for renewal, they have successfully completed not  
28 less than 48 or more than 80 classroom hours of continuing  
29 professional education programs in public accounting subjects  
30 approved by the board. The board may prescribe by rule  
31 additional continuing professional education hours, not to

1 exceed 25 percent of the total hours required, for failure to  
2 complete the hours required for renewal by the end of the  
3 reestablishment period.

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

8 (2) Programs of continuing professional education  
9 approved by the board shall be formal programs of learning  
10 which contribute directly to the professional competency of an  
11 individual following licensure to practice public accounting  
12 and may be any of the following:

13 (a) Professional development programs of the American  
14 Institute of Certified Public Accountants, state societies of  
15 certified public accountants, or other organizations.

16 (b) Technical sessions at meetings of the American  
17 Institute of Certified Public Accountants, state societies,  
18 chapters, or other organizations.

19 (c) University and college courses.

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

21 (3) The board shall adopt rules establishing the  
22 continuing education requirements for licensees who are  
23 engaged in the audit of a governmental entity. The board shall  
24 approve subjects directly related to the governmental  
25 environment and to governmental auditing for purposes of  
26 satisfying the requirement of this subsection.

27 (4) For the purposes of maintaining proper continuing  
28 education requirements for renewal of licensure under this  
29 chapter, the board may appoint a Continuing Professional  
30 Education Advisory Committee, which shall be composed of one  
31 member of the board, one academician on the faculty of a

1 university in this state, and six certified public  
2 accountants.

3 Section 8. Section 473.313, Florida Statutes, is  
4 amended to read:

5 473.313 Inactive status.--

6 (1) A licensee may request that her or his license be  
7 placed in an inactive status by making application to the  
8 department. The board may prescribe by rule fees for placing  
9 a license on inactive status, renewal of inactive status, and  
10 reactivation of an inactive license.

11 (2) A license that has become inactive may be  
12 reactivated under s. 473.311 upon application to the  
13 department. The board may prescribe by rule continuing  
14 education requirements as a condition of reactivating a  
15 license. The minimum continuing education requirements for  
16 reactivating a license shall be those of the most recent  
17 biennium plus one-half of the requirements in s. 473.312 for  
18 each year or part thereof during which the license was  
19 inactive. Notwithstanding any other provision of this section  
20 the continuing education requirements are 120 hours, including  
21 at least 30 hours in accounting-related and auditing-related  
22 subjects and not more than 30 hours in behavioral subjects,  
23 for the reactivation of a license that is inactive on June 30,  
24 1998, if the licensee notifies the Board of Accountancy by  
25 December 31, 1998, of an intention to reactivate such a  
26 license and completes such reactivation by June 30, 2000.

27 (3) Any licensee holding an inactive license may be  
28 permitted to reactivate such license in a conditional manner.  
29 The conditions of reactivation shall require, in addition to  
30 the payment of fees, the passing of the examination approved  
31 by the board concerning chapters 455 and 473, and the related

1 administrative rules, and the completion of required  
2 continuing education.

3 Section 9. Subsection (4) is added to section 473.315,  
4 Florida Statutes, to read:

5 473.315 Independence, technical standards.--

6 (4) Attorneys who are admitted to practice law by the  
7 Supreme Court of Florida are exempt from the standards of  
8 practice of public accounting as defined in s. 473.302(7)(b)  
9 and (c) when such standards conflict with the rules of The  
10 Florida Bar or orders of the Florida Supreme Court.

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

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

25 Section 11. Section 473.3205, Florida Statutes, is  
26 amended to read:

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

1 in the practice of public accounting and that accepts a  
2 commission for the sale of a product or service to a client  
3 must disclose that fact to the client in writing in accordance  
4 with rules adopted by the board. However, this section shall  
5 not prohibit:

6 (1) Payments for the purchase of an accounting  
7 practice;

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

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

14 Section 12. Section 473.322, Florida Statutes, is  
15 amended to read:

16 473.322 Prohibitions; penalties.--

17 (1) A person may not knowingly:

18 (a) Practice public accounting unless the person is a  
19 certified public accountant or a public accountant;

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

27 (c) Perform or offer to perform any services described  
28 in s. 473.302(7)(a)~~Attest as an expert in accountancy to the~~  
29 ~~reliability or fairness of presentation of financial~~  
30 ~~information or utilize any form of disclaimer of opinion that~~  
31 ~~is intended or conventionally understood to convey an~~

1 ~~assurance of reliability as to matters not specifically~~  
2 ~~disclaimed~~ unless such person holds an active license under  
3 this chapter and is a licensed audit firm or provides such  
4 services through a licensed audit firm. This paragraph does  
5 not prohibit the performance by persons other than certified  
6 public accountants of other services involving the use of  
7 accounting skills, including the preparation of tax returns  
8 and the preparation of financial statements without expression  
9 of opinion thereon;

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

11 (e) Give false or forged evidence to the board or a  
12 member thereof;

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

16 (g) Employ unlicensed persons to practice public  
17 accounting; or

18 (h) Conceal information relative to violations of this  
19 chapter.

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

23 Section 13. This act shall take effect October 1 of  
24 the year in which enacted.

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