

By Representative Safley

1                                   A bill to be entitled  
 2           An act relating to public accountancy; amending  
 3           s. 473.309, F.S.; revising practice  
 4           requirements for partnerships, corporations,  
 5           and limited liability companies; providing that  
 6           business entities are practicing public  
 7           accounting if their employees are practicing  
 8           public accounting; amending s. 473.319, F.S.;  
 9           restricting the prohibition on contingency fees  
 10          to certain public accounting services; amending  
 11          s. 473.3205, F.S.; prohibiting licensees from  
 12          accepting or paying commissions or referral  
 13          fees in connection with the sale or referral of  
 14          certain public accounting services; requiring  
 15          written disclosure to clients relating to the  
 16          acceptance of certain commissions; amending s.  
 17          473.323, F.S.; providing that failing to  
 18          provide any required written disclosure to a  
 19          client or the public is a ground for  
 20          disciplinary action; providing penalties;  
 21          providing an effective date.

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

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 25           Section 1. Section 473.309, Florida Statutes, is  
 26 amended to read:

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

30           (1) A partnership may ~~shall~~ not engage in the practice  
 31 of public accounting in this state unless:

- 1           (a) It is a form of partnership recognized by Florida  
2 law.
- 3           (b) Partners owning two-thirds of the financial  
4 interest and voting rights of the partnership are certified  
5 public accountants ~~Each partner is a certified public~~  
6 ~~accountant~~ in some state. ~~†~~ and
- 7           ~~(c)(a)~~ At least one general partner ~~and each partner~~  
8 ~~domiciled in this state~~ is a certified public accountant of  
9 this state and holds an active license. ~~†~~
- 10           (d) All noncertified public accountant partners are  
11 engaged in the business of the partnership as their principal  
12 occupation.
- 13           (e) It is in compliance with rules adopted by the  
14 board pertaining to minimum capitalization and adequate public  
15 liability insurance.
- 16           ~~(f)(c)~~ It ~~The partnership~~ is currently licensed as  
17 required by s. 473.3101.
- 18           (2) A corporation may ~~shall~~ not engage in the practice  
19 of public accounting in this state unless:
- 20           (a) It is a ~~professional service~~ corporation duly  
21 organized in this or some ~~any~~ other state. ~~†~~
- 22           (b) Shareholders ~~Each shareholder~~ of the corporation  
23 owning two-thirds of the financial interest and voting rights  
24 of the corporation are certified public accountants ~~is~~  
25 ~~licensed as a certified public accountant~~ in some state and  
26 are ~~is~~ principally engaged in the business of the  
27 corporation. ~~†~~
- 28           (c) The principal officer of the corporation ~~and any~~  
29 ~~officer or director having authority over the practice of~~  
30 ~~public accounting by the corporation~~ is a certified public  
31 accountant in some state. ~~†~~

1           (d) At least one shareholder of the corporation, ~~and~~  
2 ~~each shareholder, director, and officer domiciled in this~~  
3 ~~state having authority over the practice of public accounting~~  
4 ~~by the corporation,~~ is a certified public accountant and holds  
5 an active license in this state. ~~†~~

6           (e) All noncertified public accountant partners are  
7 engaged in the business of the corporation as their principal  
8 occupation.

9           (f)~~(e)~~ It is in compliance with rules adopted by the  
10 board pertaining to minimum capitalization and adequate public  
11 liability insurance. ~~†~~ ~~and~~

12           (g)~~(f)~~ It is currently licensed as required by s.  
13 473.3101.

14           (3) A limited liability company may not engage in the  
15 practice of public accounting in this state unless:

16           (a) It is a limited liability company duly ~~that is~~  
17 organized in this or some ~~any~~ other state.

18           (b) Members ~~Each member~~ of the limited liability  
19 company owning two-thirds of the financial interest and voting  
20 rights of the company are certified public accountants ~~is a~~  
21 ~~certified public accountant~~ in some state.

22           (c) At least one member of the limited liability  
23 company, ~~and each member or manager domiciled in this state~~  
24 ~~having authority over the practice of public accounting by the~~  
25 ~~limited liability company,~~ is a certified public accountant  
26 and holds an active license in this state.

27           (d) All noncertified accountant partners are engaged  
28 in the business of the company as their principal occupation.

29           (e)~~(e)~~ It is in compliance with rules adopted by the  
30 board pertaining to minimum capitalization and adequate public  
31 liability insurance.

1            ~~(f)(d)~~ It is currently licensed as required by s.  
2 473.3101.

3            (4) A partnership, corporation, limited liability  
4 company, or any other business entity is engaged in the  
5 practice of public accounting if its employees are engaged in  
6 the practice of public accounting.

7            Section 2. Section 473.319, Florida Statutes, is  
8 amended to read:

9            473.319 Contingent fees.--Public accounting services  
10 as defined in s. 473.302(5)(a), and those that include tax  
11 filings with federal, state, or local government, shall not be  
12 offered or rendered for a fee contingent upon the findings or  
13 results of such service. This section does not apply to  
14 services involving federal, state, or other taxes in which the  
15 findings are those of the tax authorities and not those of the  
16 licensee. Fees to be fixed by courts or other public  
17 authorities, which are of an indeterminate amount at the time  
18 a public accounting service is undertaken, shall not be  
19 regarded as contingent fees for purposes of this section.

20            Section 3. Section 473.3205, Florida Statutes, is  
21 amended to read:

22            473.3205 Commissions or referral fees.--A licensee may  
23 not accept or pay a commission or referral fee in connection  
24 with the sale or referral of public accounting services as  
25 defined in s. 473.302(5)(a). Any certified public accountant  
26 or business entity that is engaged in the practice of public  
27 accounting and that accepts a commission for the sale of a  
28 product or service to a client must disclose that fact to the  
29 client in writing in accordance with rules adopted by the  
30 board. ~~A licensee who is engaged in the practice of public~~  
31 ~~accounting shall not pay a commission to obtain a client, nor~~

1 ~~shall he accept compensation for the sale of products, other~~  
2 ~~than the work product of the licensee, or for referral of~~  
3 ~~products or services of others.~~ However, this section shall  
4 not prohibit:

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

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

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

13 Section 4. Paragraph (m) is added to subsection (1) of  
14 section 473.323, Florida Statutes, 1996 Supplement, to read:

15 473.323 Disciplinary proceedings.--

16 (1) The following acts constitute grounds for which  
17 the disciplinary actions in subsection (3) may be taken:

18 (m) Failing to provide any written disclosure to a  
19 client or the public which is required by this chapter or rule  
20 of the board.

21 Section 5. This act shall take effect October 1, 1997.  
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HOUSE SUMMARY

Revises various provisions relating to public accountancy. Revises practice requirements for partnerships, corporations, and limited liability companies. Provides that business entities are practicing public accounting if their employees are practicing public accounting. Restricts the prohibition on contingency fees to certain public accounting services. Prohibits a licensee from accepting or paying a commission or referral fee in connection with the sale or referral of certain public accounting services. Requires written disclosure to clients relating to acceptance of commissions for the sale of products or services to clients. Provides that failing to provide any required written disclosure to a client or the public is a ground for disciplinary action. See bill for details.