

By Senator Carlton

41-1721-02

1 A bill to be entitled
2 An act relating to public accountancy; creating
3 s. 473.3125, F.S.; requiring the Board of
4 Accountancy to require, by rule, licensees to
5 undergo periodic peer review as a condition of
6 license renewal; providing requirements for the
7 rules governing peer review; providing that the
8 proceedings, records, and work papers of a
9 review committee are privileged and
10 confidential and are not subject to discovery,
11 subpoena, or other means of legal process in a
12 civil action or arbitration; providing that
13 information or records that are publicly
14 available remain so following the use of such
15 information or records with respect to a peer
16 review; providing immunity from liability for
17 any action taken in good faith by a certified
18 public accountant as a member of a review
19 committee; providing immunity from liability
20 for a certified public accountant or other
21 individual who performs administrative services
22 for a review committee in good faith, without
23 malice, and on the basis of facts reasonably
24 known to exist; amending s. 473.323, F.S.;
25 authorizing the board to take disciplinary
26 action against a licensee who fails to provide
27 documentation of a satisfactory peer review;
28 providing an effective date.

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

31

1 Section 1. Section 473.3125, Florida Statutes, is
2 created to read:

3 473.3125 Peer review.--

4 (1) The board shall require, by rule, each licensee to
5 undergo a peer review at least once every 3 years as a
6 condition of license renewal. The peer review must be
7 conducted in a manner prescribed by the board. A satisfactory
8 result for a peer review means that the firm has undergone the
9 entire peer-review process and the report on the peer review
10 indicates that the firm maintains acceptable standards of
11 competence, as prescribed by the board. The review must
12 include a verification that individuals in the firm who are
13 responsible for supervising the attest and compilation
14 services and who sign, or authorize another to sign, an
15 accountant's report of a financial statement on behalf of the
16 firm meet the competency requirements set forth in the
17 professional standards for such services. Rules governing
18 professional standards must:

19 (a) Include reasonable provision for compliance by a
20 firm showing that the firm has, within the preceding 3 years,
21 undergone a peer review that is a satisfactory equivalent to
22 the peer review required under this section and provide
23 documentation that a satisfactory result was received.

24 (b) Require that the peer review be subject to
25 oversight by an oversight body that is established or
26 sanctioned by board rule, which body shall periodically report
27 to the board on the effectiveness of the review program under
28 its charge and provide to the board a listing of firms that
29 have participated in a peer-review program that is
30 satisfactory to the board.

31

1 (c) Require that the peer-review process be operated
2 and documents maintained in a manner designed to preserve
3 confidentiality and ensure that the board or a third party,
4 other than the oversight body, does not have access to
5 documents furnished or generated during the course of the peer
6 review.

7 (2) The proceedings, records, and work papers of a
8 review committee are privileged and confidential and are not
9 subject to discovery, subpoena, or other means of legal
10 process or introduction into evidence in any civil action or
11 arbitration, and a member of the review committee or person
12 who was involved in the peer-review process may not be
13 permitted or required to testify in any civil action or
14 arbitration proceeding as to any matters produced, presented,
15 disclosed, or discussed during or in connection with the
16 peer-review process or as to any findings, recommendations,
17 evaluations, opinions, or other actions of such committee or
18 any member thereof. However, information, documents, or
19 records that are publicly available are not immune from
20 discovery or use in any civil action or arbitration proceeding
21 merely because the information, documents, or records were
22 presented or considered in connection with the peer-review
23 process. The privilege created by this subsection does not
24 apply to materials prepared in connection with a particular
25 engagement merely because the materials are subsequently
26 presented or considered as part of the peer-review process and
27 the privilege does not apply to any dispute between a review
28 committee and a person or firm subject to a review arising
29 from the performance of the peer review.

30 (3)(a) A certified public accountant who serves on a
31 review committee is immune from liability with respect to any

1 action taken by the accountant in good faith as a member of
2 the review committee.

3 (b) A certified public accountant or any other
4 individual appointed or authorized to perform administrative
5 services for a review committee is immune from liability for
6 furnishing information, data, reports, or records to any
7 review committee or for damages resulting from any decision,
8 opinion, action, or proceeding rendered, entered, or acted
9 upon by the review committee which is undertaken or performed
10 within the scope or function of the duties of the review
11 committee, if made or taken in good faith, without malice, and
12 on the basis of facts reasonably known or reasonably believed
13 to exist.

14 Section 2. Paragraph (n) is added to subsection (1) of
15 section 473.323, Florida Statutes, to read:

16 473.323 Disciplinary proceedings.--

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

19 (n) Failing to provide to the board documentation of a
20 satisfactory peer review.

21 Section 3. This act shall take effect July 1, 2002.

22
23 *****

24 SENATE SUMMARY

25 Requires that the Board of Accountancy require, by rule,
26 licensees to undergo peer review at least once every 3
27 years as a condition of license renewal. Provides that
28 records and work papers of a review committee are
29 privileged and confidential and not subject to discovery
30 or subpoena. Provides immunity from liability for actions
31 taken in good faith by a certified public accountant or
other individual with respect to a peer review.
Authorizes the board to take disciplinary action against
a licensee who fails to provide documentation of a
satisfactory peer review. (See bill for details.)