

By the Committees on General Government Appropriations; and
Regulated Industries; and Senator Jones

601-05040-09

20091640c2

1 A bill to be entitled
2 An act relating to public accountancy; amending s.
3 455.217, F.S.; providing that persons regulated as
4 public accountants by the Department of Business and
5 Professional Regulation under ch. 473, F.S., are
6 exempt from certain requirement; amending s. 455.271,
7 F.S.; providing that certain licensees are not subject
8 to specified continuing education requirements for
9 reactivation of a license; amending s. 473.302, F.S.;
10 revising definitions; amending s. 473.303, F.S.;
11 specifying that members of the Board of Accountancy
12 and probable cause panels who hold licenses must be
13 licensed in this state; providing that past board
14 members of probable cause panels may be reappointed
15 for additional terms; amending s. 473.304, F.S.;
16 conforming provisions; amending s. 473.305, F.S.;
17 deleting provisions requiring a late filing fee;
18 amending s. 473.308, F.S.; revising educational
19 requirements for applicants for licensure; providing
20 an exception to a work experience requirement for
21 certain persons; amending s. 473.309, F.S.; conforming
22 provisions related to licensure requirements for firms
23 licensed in other states; amending s. 473.3101, F.S.;
24 requiring that certain firms hold a license; providing
25 licensure exemptions for certain firms licensed in
26 other states; amending s. 473.311, F.S.; deleting an
27 examination requirement for licensure renewal;
28 amending s. 473.312, F.S.; conforming provisions;
29 amending s. 473.313, F.S.; deleting a minimum

601-05040-09

20091640c2

30 continuing education requirement for reactivating an
31 inactive license; requiring certain continuing
32 education hours in ethics in order to reactivate
33 certain licenses; conforming provisions; amending s.
34 473.314, F.S.; providing temporary licensure
35 exemptions for certain persons licensed in other
36 states; creating s. 473.3141, F.S.; providing
37 licensure exemptions for certain persons licensed in
38 other states; providing that disciplinary action
39 against certain individual or firm that practices
40 public accounting is valid only under specified
41 conditions; amending ss. 473.316, 473.318, 473.319,
42 473.3205, 473.321, and 473.322, F.S.; conforming
43 provisions; amending s. 473.323, F.S.; conforming
44 provisions relating to disciplinary actions; providing
45 grounds for disciplinary actions against certain
46 persons licensed in other states; providing an
47 effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Subsection (7) of section 455.217, Florida
52 Statutes, is amended to read:

53 455.217 Examinations.—This section shall be read in
54 conjunction with the appropriate practice act associated with
55 each regulated profession under this chapter.

56 (7) In addition to meeting any other requirements for
57 licensure by examination or by endorsement, an applicant may be
58 required by a board, or by the department, if there is no board,

601-05040-09

20091640c2

59 to pass an examination pertaining to state laws and rules
60 applicable to the practice of the profession regulated by that
61 board or by the department. This subsection does not apply to
62 persons regulated under chapter 473.

63 Section 2. Subsection (10) of section 455.271, Florida
64 Statutes, is amended to read:

65 455.271 Inactive and delinquent status.—

66 (10) Before reactivation, an inactive or delinquent
67 licensee shall meet the same continuing education requirements,
68 if any, imposed on an active status licensee for all biennial
69 licensure periods in which the licensee was inactive or
70 delinquent. This subsection does not apply to persons regulated
71 under chapter 473.

72 Section 3. Section 473.302, Florida Statutes, is amended to
73 read:

74 473.302 Definitions.—As used in this chapter, the term:

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

76 (2) "Department" means the Department of Business and
77 Professional Regulation.

78 (3) "Division" means the Division of Certified Public
79 Accounting.

80 (4) "Certified public accountant" means an individual a
81 ~~person~~ who holds a license to practice public accounting in this
82 state or an individual who is practicing public accounting in
83 this state pursuant to the practice privilege granted in s.
84 473.3141. The term "Florida certified public accountant" means
85 an individual holding a license under the authority of this
86 chapter.

87 (5) "Firm" means any legal entity that is engaged in the

601-05040-09

20091640c2

88 practice of public accounting.

89 (6) "Home office" means the principal headquarters of an
90 entity. An entity may have only one principal headquarters.

91 (7)~~(6)~~ "Licensed audit firm" or "public accounting firm"
92 means a firm licensed under s. 473.3101.

93 (8)~~(7)~~ "Practice of," "practicing public accountancy," or
94 "public accounting" means:

95 (a) Offering to perform or performing for the public one or
96 more types of services involving the expression of an opinion on
97 financial statements, the attestation as an expert in
98 accountancy to the reliability or fairness of presentation of
99 financial information, the utilization of any form of opinion or
100 financial statements that provide a level of assurance, the
101 utilization of any form of disclaimer of opinion which conveys
102 an assurance of reliability as to matters not specifically
103 disclaimed, or the expression of an opinion on the reliability
104 of an assertion by one party for the use by a third party;

105 (b) Offering to perform or performing for the public one or
106 more types of services involving the use of accounting skills,
107 or one or more types of tax, management advisory, or consulting
108 services, by any person who is a certified public accountant who
109 holds an active license, issued pursuant to this chapter, or who
110 is authorized to practice public accounting pursuant to the
111 practice privileges granted in s. 473.3141, including the
112 performance of such services by a certified public accountant in
113 the employ of a person or firm; or

114 (c) Offering to perform or performing for the public one or
115 more types of service involving the preparation of financial
116 statements not included within paragraph (a), by a certified

601-05040-09

20091640c2

117 public accountant who holds an active license, issued pursuant
118 to this chapter, or who is authorized to practice public
119 accounting pursuant to the practice privileges granted in s.
120 473.3141; by a firm of certified public accountants;~~7~~ or by a
121 firm in which a certified public accountant has an ownership
122 interest, including the performance of such services in the
123 employ of another person. The board shall adopt rules
124 establishing standards of practice for such reports and
125 financial statements; provided, however, that nothing in this
126 paragraph shall be construed to permit the board to adopt rules
127 that have the result of prohibiting Florida certified public
128 accountants ~~licensees~~ employed by unlicensed firms from
129 preparing financial statements as authorized by this paragraph.

130 (9) "Uniform Accountancy Act" means the Uniform Accountancy
131 Act, Fourth Edition, dated December 2007 and published by the
132 American Institute of Certified Public Accountants and the
133 National Association of State Boards of Accountancy.

134
135 However, these terms shall not include services provided by the
136 American Institute of Certified Public Accountants or the
137 Florida Institute of Certified Public Accountants, or any full
138 service association of certified public accounting firms whose
139 plans of administration have been approved by the board, to
140 their members or services performed by these entities in
141 reviewing the services provided to the public by members of
142 these entities.

143 Section 4. Section 473.303, Florida Statutes, is amended to
144 read:

145 473.303 Board of Accountancy.—

601-05040-09

20091640c2

146 (1) There is created in the department the Board of
147 Accountancy. The board shall consist of nine members, seven of
148 whom must be certified public accountants licensed in this state
149 and two of whom must be laypersons who are not and have never
150 been certified public accountants or members of any closely
151 related profession or occupation. The members who are certified
152 public accountants must have practiced public accounting on a
153 substantially full-time basis in this state for at least 5
154 years. At least one member of the board must be 60 years of age
155 or older. Each member shall be appointed by the Governor,
156 subject to confirmation by the Senate.

157 (2) The probable cause panel of the board may be composed
158 of at least one current board member who shall serve as chair
159 and additional current board members or past board members ~~of~~
160 ~~the board~~ who are certified public accountants licensed in this
161 state and licensees in good standing. The past board members
162 shall be appointed to the panel for a term maximum of 2 years by
163 the chair of the board with the approval of the secretary of the
164 department, and may be reappointed for additional terms.

165 Section 5. Section 473.304, Florida Statutes, is amended to
166 read:

167 473.304 Rules of board; powers and duties; legal services.—

168 (1) The board shall adopt rules pursuant to ss. 120.536(1)
169 and 120.54 to implement the provisions of this act. Every
170 certified public accountant and firm licensee shall be governed
171 and controlled by this act and the rules adopted by the board.

172 (2) Subject to the prior approval of the Attorney General,
173 the board may retain independent legal counsel to provide legal
174 advice to the board on a specific matter.

601-05040-09

20091640c2

175 (3) An attorney employed or used by the board may not both
176 prosecute a matter and provide legal services to the board with
177 respect to the same matter.

178 Section 6. Section 473.305, Florida Statutes, is amended to
179 read:

180 473.305 Fees.—The board, by rule, may establish fees to be
181 paid for applications, examination, reexamination, licensing and
182 renewal, reinstatement, and recordmaking and recordkeeping. The
183 fee for the examination shall be established at an amount that
184 covers the costs for the procurement or development,
185 administration, grading, and review of the examination. The fee
186 for the examination is refundable if the applicant is found to
187 be ineligible to sit for the examination. The fee for initial
188 application is nonrefundable, and the combined fees for
189 application and examination may not exceed \$250 plus the actual
190 per applicant cost to the department for purchase of the
191 examination from the American Institute of Certified Public
192 Accountants or a similar national organization. The biennial
193 renewal fee may not exceed \$250. The board may also establish,
194 by rule, a reactivation fee, ~~a late filing fee for the law and~~
195 ~~rules examination,~~ and a delinquency fee not to exceed \$50 for
196 continuing professional education reporting forms. The board
197 shall establish fees which are adequate to ensure the continued
198 operation of the board and to fund the proportionate expenses
199 incurred by the department which are allocated to the regulation
200 of public accountants. Fees shall be based on department
201 estimates of the revenue required to implement this chapter and
202 the provisions of law with respect to the regulation of
203 certified public accountants.

601-05040-09

20091640c2

204 Section 7. Subsections (3) and (4) of section 473.308,
205 Florida Statutes, are amended to read:

206 473.308 Licensure.—

207 (3) An applicant for licensure must have at least 150
208 semester hours of college education, including a baccalaureate
209 or higher degree conferred by an accredited college or
210 university ~~received a baccalaureate degree with a major in~~
211 ~~accounting or its equivalent plus at least 30 semester hours or~~
212 ~~45 quarter hours in excess of those required for a 4-year~~
213 ~~baccalaureate degree,~~ with a concentration in accounting and
214 business in the total educational program to the extent
215 specified by the board.

216 (4) (a) An applicant for licensure after December 31, 2008,
217 must show that he or she has had 1 year of work experience. This
218 experience shall include providing any type of service or advice
219 involving the use of accounting, attest, compilation, management
220 advisory, financial advisory, tax, or consulting skills, all of
221 which must be verified by a certified public accountant who is
222 licensed by a state or territory of the United States and who
223 has supervised the applicant. This experience is acceptable if
224 it was gained through employment in government, industry,
225 academia, or public practice; constituted a substantial part of
226 the applicant's duties; and was under the supervision of a
227 certified public accountant licensed by a state or territory of
228 the United States. The board shall adopt rules specifying
229 standards and providing for the review and approval of the work
230 experience required by this section.

231 (b) However, an applicant who completed the requirements of
232 subsection (3) on or before December 31, 2008, and who passes

601-05040-09

20091640c2

233 the licensure examination on or before June 30, 2010, is exempt
234 from the requirements of this subsection.

235 Section 8. Section 473.309, Florida Statutes, is amended to
236 read:

237 473.309 Practice requirements for partnerships,
238 corporations, and limited liability companies; business entities
239 practicing public accounting.—

240 (1) A partnership may not engage in the practice of public
241 accounting, as defined in s. 473.302(7) (a), unless:

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

243 (b) Partners owning at least 51 percent of the financial
244 interest and voting rights of the partnership are certified
245 public accountants in some state. However, each partner who is a
246 certified public accountant in another state and is domiciled in
247 this state must be a certified public accountant of this state
248 and hold an active license.

249 (c) At least one general partner is a certified public
250 accountant of this state and holds an active license or, in the
251 case of a firm that must have a license pursuant to s.
252 473.3101(1)(a)2., at least one general partner is a certified
253 public accountant in some state and meets the requirements of s.
254 473.3141(1)(a) or (b).

255 (d) All partners who are not certified public accountants
256 in any state are engaged in the business of the partnership as
257 their principal occupation.

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

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

601-05040-09

20091640c2

262 (2) A corporation may not engage in the practice of public
263 accounting, as defined in s. 473.302(7) (a), unless:

264 (a) It is a corporation duly organized in this or some
265 other state.

266 (b) Shareholders of the corporation owning at least 51
267 percent of the financial interest and voting rights of the
268 corporation are certified public accountants in some state and
269 are principally engaged in the business of the corporation.
270 However, each shareholder who is a certified public accountant
271 in another state and is domiciled in this state must be a
272 certified public accountant of this state and hold an active
273 license.

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

276 (d) At least one shareholder of the corporation is a
277 certified public accountant and holds an active license in this
278 state or, in the case of a firm that must have a license
279 pursuant to s. 473.3101(1)(a)2., at least one shareholder is a
280 certified public accountant in some state and meets the
281 requirements of s. 473.3141(1)(a) or (b).

282 (e) All shareholders who are not certified public
283 accountants in any state are engaged in the business of the
284 corporation as their principal occupation.

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

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

289 (3) A limited liability company may not engage in the
290 practice of public accounting, as defined in s. 473.302(7) (a),

601-05040-09

20091640c2

291 unless:

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

294 (b) Members of the limited liability company owning at
295 least 51 percent of the financial interest and voting rights of
296 the company are certified public accountants in some state.
297 However, each member who is a certified public accountant in
298 some state and is domiciled in this state must be a certified
299 public accountant of this state and hold an active license.

300 (c) At least one member of the limited liability company is
301 a certified public accountant and holds an active license in
302 this state or, in the case of a firm that must have a license
303 pursuant to s. 473.3101(1)(a)2., at least one member is a
304 certified public accountant in some state and meets the
305 requirements of s. 473.3141(1)(a) or (b).

306 (d) All members who are not certified public accountants in
307 any state are engaged in the business of the company as their
308 principal occupation.

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

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

313 (4) A partnership, corporation, limited liability company,
314 or any other firm ~~business entity~~ is engaged in the practice of
315 public accounting if its employees are engaged in the practice
316 of public accounting. Notwithstanding any other provision of
317 law, a licensed audit firm may own all or part of another
318 licensed audit firm.

319 Section 9. Section 473.3101, Florida Statutes, is amended

601-05040-09

20091640c2

320 to read:

321 473.3101 Licensure of sole proprietors, partnerships,
322 corporations, limited liability companies, and other legal
323 entities.—

324 (1) Each sole proprietor, partnership, corporation, limited
325 liability company, or any other firm ~~legal entity~~ seeking to
326 engage in the practice of public accounting, as defined in s.
327 473.302(7)(a), in this state must file an application for
328 licensure with the department and supply the information the
329 board requires. An application must be made upon the affidavit
330 of a sole proprietor, general partner, shareholder, or member
331 who is a certified public accountant.

332 (a) The following must hold a license issued under this
333 section:

334 1. Any firm with an office in this state which uses the
335 title "CPA," "CPA firm," or any other title, designation, words,
336 letters, abbreviations, or device tending to indicate that the
337 firm practices public accounting.

338 2. Any firm that does not have an office in this state but
339 performs the services described in s. 473.3141(4) for a client
340 having its home office in this state. The board shall define by
341 rule what constitutes an office.

342 (b) A firm that is not subject to the requirements of
343 subparagraph (a)2. may perform other professional services while
344 using the title "CPA," "CPA firm," or any other title,
345 designation, words, letters, abbreviations, or device tending to
346 indicate that the firm practices public accounting in this state
347 without a license issued under this section only if:

348 1. It performs such services through an individual with

601-05040-09

20091640c2

349 practice privileges granted under s. 473.3141; and

350 2. It can lawfully do so in the state where the individual
351 with practice privileges has his or her principal place of
352 business.

353 (2) The board shall determine whether the sole proprietor,
354 partnership, corporation, limited liability company, or any
355 other firm ~~legal entity~~ meets the requirements for practice and,
356 pending that determination, may certify to the department the
357 partnership, corporation, or limited liability company for
358 provisional licensure.

359 (3) Each license must be renewed every 2 years. Each sole
360 proprietor, partnership, corporation, limited liability company,
361 or any other firm ~~legal entity~~ licensed under this section must
362 notify the department within 1 month after any change in the
363 information contained in the application on which its license is
364 based.

365 Section 10. Section 473.311, Florida Statutes, is amended
366 to read:

367 473.311 Renewal of license.—

368 (1) The department shall renew a license upon receipt of
369 the renewal application and fee and upon certification by the
370 board that the Florida certified public accountant licensee has
371 satisfactorily completed the continuing education requirements
372 of s. 473.312 ~~and has passed an examination approved by the~~
373 ~~board on chapter 455 and this chapter and the related~~
374 ~~administrative rules. However, each licensee must complete the~~
375 ~~requirements of s. 473.312(1)(c) prior to taking the~~
376 ~~examination.~~

377 (2) The department shall adopt rules establishing a

601-05040-09

20091640c2

378 procedure for the biennial renewal of licenses.

379 Section 11. Section 473.312, Florida Statutes, is amended
380 to read:

381 473.312 Continuing education.—

382 (1) (a) As part of the license renewal procedure, the board
383 shall by rule require Florida certified public accountants
384 ~~licensees~~ to submit proof satisfactory to the board that during
385 the 2 years prior to application for renewal, they have
386 successfully completed not less than 48 or more than 80 hours of
387 continuing professional education programs in public accounting
388 subjects approved by the board. The board may prescribe by rule
389 additional continuing professional education hours, not to
390 exceed 25 percent of the total hours required, for failure to
391 complete the hours required for renewal by the end of the
392 reestablishment period.

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

397 (c) Not less than 5 percent of the total hours required by
398 the board shall be in ethics applicable to the practice of
399 public accounting. This requirement shall be administered by
400 providers approved by the board and shall include a review of
401 the provisions of chapter 455 and this chapter and the related
402 administrative rules.

403 (2) Programs of continuing professional education approved
404 by the board shall be formal programs of learning which
405 contribute directly to the professional competency of an
406 individual following licensure to practice public accounting and

601-05040-09

20091640c2

407 may be any of the following:

408 (a) Professional development programs of the American
409 Institute of Certified Public Accountants, state societies of
410 certified public accountants, or other organizations.

411 (b) Technical sessions at meetings of the American
412 Institute of Certified Public Accountants, state societies,
413 chapters, or other organizations.

414 (c) University and college courses.

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

416 (3) The board shall adopt rules establishing the continuing
417 education requirements for Florida certified public accountants
418 ~~licensees~~ who are engaged in the audit of a governmental entity.
419 The board shall approve subjects directly related to the
420 governmental environment and to governmental auditing for
421 purposes of satisfying the requirement of this subsection.

422 (4) For the purposes of maintaining proper continuing
423 education requirements for renewal of licensure under this
424 chapter, the board may appoint a Continuing Professional
425 Education Advisory Committee, which shall be composed of one
426 member of the board, one academician on the faculty of a
427 university in this state, and six certified public accountants.

428 Section 12. Section 473.313, Florida Statutes, is amended
429 to read:

430 473.313 Inactive status.—

431 (1) A Florida certified public accountant ~~licensee~~ may
432 request that her or his license be placed in an inactive status
433 by making application to the department. The board may prescribe
434 by rule fees for placing a license on inactive status, renewal
435 of inactive status, and reactivation of an inactive license.

601-05040-09

20091640c2

436 (2) A license that has become inactive may be reactivated
437 under s. 473.311 upon application to the department. The board
438 may prescribe by rule continuing education requirements as a
439 condition of reactivating a license. The minimum continuing
440 education requirements for reactivating a license shall be those
441 prescribed by board rule and those of the most recent biennium
442 ~~plus one-half of the requirements in s. 473.312 for each year or~~
443 ~~part thereof during which the license was inactive.~~

444 Notwithstanding any other provision of this section, the
445 continuing education requirements are 120 hours, including at
446 least 30 hours in accounting-related and auditing-related
447 subjects, ~~and~~ not more than 30 hours in behavioral subjects, and
448 a minimum of 8 hours in ethics subjects approved by the board,
449 for the reactivation of a license that is inactive on June 30,
450 2009 ~~1998~~, if the Florida certified public accountant licensee
451 notifies the Board of Accountancy by December 31, 2009 ~~1998~~, of
452 an intention to reactivate such a license and completes such
453 reactivation by June 30, 2011 ~~2000~~.

454 (3) Any Florida certified public accountant licensee
455 holding an inactive license may be permitted to reactivate such
456 license in a conditional manner. The conditions of reactivation
457 shall require, in addition to the payment of fees, ~~the passing~~
458 ~~of the examination approved by the board concerning chapter 455~~
459 ~~and this chapter, and the related administrative rules, and the~~
460 completion of required continuing education.

461 (4) Notwithstanding the provisions of s. 455.271, the board
462 may, at its discretion, reinstate the license of an individual
463 whose license has become null and void if the individual has
464 made a good faith effort to comply with this section but has

601-05040-09

20091640c2

465 failed to comply because of illness or unusual hardship. The
466 individual shall apply to the board for reinstatement in a
467 manner prescribed by rules of the board and shall pay an
468 application fee in an amount determined by rule of the board.
469 The board shall require that the ~~such an~~ individual meet all
470 continuing education requirements as provided in subsection (2)
471 ~~s. 473.312~~, pay appropriate licensing fees, and otherwise be
472 eligible for renewal of licensure under this chapter.

473 Section 13. Section 473.314, Florida Statutes, is amended
474 to read:

475 473.314 Temporary license.—

476 (1) The board shall adopt rules providing for the issuance
477 of temporary licenses to certified public accountants or firms
478 of other states who do not meet the requirements of s. 473.3141,
479 for the purpose of enabling them or their employees to perform
480 specific engagements involving the practice of public
481 accountancy in this state. No temporary license shall be valid
482 for more than 90 days after its issuance, and no license shall
483 cover more than one engagement. After the expiration of 90 days,
484 a new license shall be required.

485 (2) Each application for a temporary license shall state
486 the names of all persons who are to enter this state and shall
487 be accompanied by a fee in an amount established by the board
488 not to exceed \$400.

489 (3) A temporary license shall not be required of certified
490 public accountants or firms ~~a person~~ entering this state solely
491 for the purpose of preparing federal tax returns or advising as
492 to federal tax matters if they do not use the title "CPA," "CPA
493 firm," or any other title, designation, words, letters,

601-05040-09

20091640c2

494 abbreviations, or device tending to indicate that the certified
495 public accountants or firms are authorized to practice public
496 accounting. To use such terms in this state, certified public
497 accountants or firms from other states must comply with the
498 provisions of this section or section 473.3141.

499 (4) Upon certification of the applicant by the board, the
500 department shall issue a temporary license to the applicant.

501 (5) The application for a temporary license shall
502 constitute the appointment of the Department of State as an
503 agent of the applicant for service of process in any action or
504 proceeding against the applicant arising out of any transaction
505 or operation connected with, or incidental to, the practice of
506 public accounting for which the temporary license was issued.

507 Section 14. Section 473.3141, Florida Statutes, is created
508 to read:

509 473.3141 Certified public accountants licensed in other
510 states.-

511 (1) Except as otherwise provided in this chapter, an
512 individual who does not have an office in this state has the
513 privileges of Florida certified public accountants and may
514 provide public accounting services in this state without
515 obtaining a license under this chapter or notifying or
516 registering with the board or paying a fee if the individual:

517 (a) Holds a valid license as a certified public accountant
518 from a state that the board or its designee has determined by
519 rule to have adopted standards that are substantially equivalent
520 to the certificate requirements in s. 5 of the Uniform
521 Accountancy Act in the issuance of licenses; or

522 (b) Holds a valid license as a certified public accountant

601-05040-09

20091640c2

523 from a state that has not been approved by the board as having
524 adopted standards in substantial equivalence with s. 5 of the
525 Uniform Accountancy Act, but obtains verification from the
526 board, or its designee, as determined by rule, that the
527 individual's certified public accountant qualifications are
528 substantially equivalent to the certificate requirements in s. 5
529 of the Uniform Accountancy Act.

530

531 The board shall define by rule what constitutes an office.

532 (2) Except as otherwise provided in this chapter, an
533 individual who qualifies to practice under this section may
534 offer or provide services in this state in person, by mail, by
535 telephone, or by electronic means, and a notice, fee, or other
536 submission is not required.

537 (3) An individual certified public accountant from another
538 state who practices pursuant to this section, and the firm that
539 employs that individual, shall both consent, as a condition of
540 the privilege of practicing in this state:

541 (a) To the personal and subject matter jurisdiction and
542 disciplinary authority of the board;

543 (b) To comply with this chapter and the applicable board
544 rules;

545 (c) That if the license as a certified public accountant
546 from the state of the individual's principal place of business
547 is no longer valid, the individual will cease offering or
548 rendering public accounting services in this state, individually
549 and on behalf of a firm; and

550 (d) To the appointment of the state board that issued the
551 individual's license as the agent upon whom process may be

601-05040-09

20091640c2

552 served in any action or proceeding by the board or department
553 against the individual or firm.

554 (4) An individual who qualifies to practice under this
555 section may perform the services identified in s. 473.302(7)(a)
556 only through a firm that has obtained a license issued under s.
557 473.3101 or is authorized by s. 473.3101 to provide such
558 services.

559 (5) Disciplinary action against an individual or firm that
560 practices pursuant to this section is not valid unless, prior to
561 the entry of a final order, the agency has served, by personal
562 service pursuant to this chapter or chapter 48 or by certified
563 mail, an administrative complaint that provides reasonable
564 notice to the individual or firm of facts or conduct that
565 warrants the intended action and unless the individual or firm
566 has been given an adequate opportunity to request a proceeding
567 pursuant to ss. 120.569 and 120.57. When personal service cannot
568 be made and the certified mail notice is returned undelivered,
569 the agency shall have a short, plain notice to the individual or
570 firm with practice privileges published once a week for 4
571 consecutive weeks in a newspaper published in Leon County,
572 Florida. The newspaper shall meet the requirements prescribed by
573 law for such purposes.

574 Section 15. Subsection (1) of section 473.316, Florida
575 Statutes, is amended to read:

576 473.316 Communications between the accountant and client
577 privileged.-

578 (1) For purposes of this section:

579 (a) An "accountant" is a certified public accountant.

580 (b) A "client" is any person, public officer, corporation,

601-05040-09

20091640c2

581 association, or other organization or entity, either public or
582 private, who consults an accountant with the purpose of
583 obtaining accounting services.

584 (c) A communication between an accountant and her or his
585 client is "confidential" if it is not intended to be disclosed
586 to third persons other than:

587 1. Those to whom disclosure is in furtherance of the
588 rendition of accounting services to the client.

589 2. Those reasonably necessary for the transmission of the
590 communication.

591 (d) A "quality review" is a study, appraisal, or review of
592 one or more aspects of the professional work of an accountant a
593 licensee in the practice of public accountancy which is
594 conducted by a professional organization for the purpose of
595 evaluating quality assurance required by professional standards,
596 including a quality assurance or peer review.

597 (e) A "review committee" is any person or persons who are
598 not owners or employees of an accountant or firm a
599 licensee that is the subject of a quality review and who carry out,
600 administer, or oversee a quality review.

601 Section 16. Section 473.318, Florida Statutes, is amended
602 to read:

603 473.318 Ownership of working papers.—All statements,
604 records, schedules, working papers, and memoranda made by a
605 certified public accountant or firm licensee or her or his
606 employee incident to, or in the course of, professional services
607 to a client, except the reports submitted by the certified
608 public accountant or firm licensee to the client and except for
609 records which are part of the client's records, shall be and

601-05040-09

20091640c2

610 remain the property of the certified public accountant or firm
611 ~~licensee~~ in the absence of an express agreement between the
612 certified public accountant or firm ~~licensee~~ and the client to
613 the contrary.

614 Section 17. Section 473.319, Florida Statutes, is amended
615 to read:

616 473.319 Contingent fees.—Public accounting services as
617 defined in s. 473.302(7)(a) and (c), and those that include tax
618 filings with federal, state, or local government, shall not be
619 offered or rendered for a fee contingent upon the findings or
620 results of such service. This section does not apply to services
621 involving federal, state, or other taxes in which the findings
622 are those of the tax authorities and not those of the certified
623 public accountant or firm ~~licensee~~. Fees to be fixed by courts
624 or other public authorities, which are of an indeterminate
625 amount at the time a public accounting service is undertaken,
626 shall not be regarded as contingent fees for purposes of this
627 section.

628 Section 18. Section 473.319, Florida Statutes, is amended
629 to read:

630 473.319 Contingent fees.—Public accounting services as
631 defined in s. 473.302(7)(a) and (c), and those that include tax
632 filings with federal, state, or local government, shall not be
633 offered or rendered for a fee contingent upon the findings or
634 results of such service. This section does not apply to services
635 involving federal, state, or other taxes in which the findings
636 are those of the tax authorities and not those of the certified
637 public accountant or firm ~~licensee~~. Fees to be fixed by courts
638 or other public authorities, which are of an indeterminate

601-05040-09

20091640c2

639 amount at the time a public accounting service is undertaken,
640 shall not be regarded as contingent fees for purposes of this
641 section.

642 Section 19. Section 473.3205, Florida Statutes, is amended
643 to read:

644 473.3205 Commissions or referral fees.—A certified public
645 accountant or firm licensee may not accept or pay a commission
646 or referral fee in connection with the sale or referral of
647 public accounting services as defined in s. 473.302(7)(a) and
648 (c). Any certified public accountant or firm ~~business entity~~
649 that is engaged in the practice of public accounting and that
650 accepts a commission for the sale of a product or service to a
651 client must disclose that fact to the client in writing in
652 accordance with rules adopted by the board. However, this
653 section shall not prohibit:

- 654 (1) Payments for the purchase of an accounting practice;
655 (2) Retirement payments to individuals formerly engaged in
656 the practice of public accounting or payments to their heirs or
657 estates; or
658 (3) Payment of fees to a referring certified public
659 accountant or firm licensee for public accounting services to
660 ~~either~~ the successor certified public accountant or firm
661 ~~licensee~~ or the client in connection with an engagement.

662 Section 20. Section 473.321, Florida Statutes, is amended
663 to read:

664 473.321 Fictitious names.—

- 665 (1) A certified public accountant, partnership,
666 corporation, or limited liability company may not practice
667 public accountancy in this state under any name that is

601-05040-09

20091640c2

668 misleading or deceptive as to the legal form; as to persons who
669 are partners, officers, shareholders, or members of the firm; or
670 as to any other matter. However, a firm name may include the
671 names of retired or deceased persons who were active partners,
672 shareholders, or members of the firm.

673 (2) This section does not prohibit any certified public
674 accountant or firm ~~licensee~~ from practicing public accounting
675 under a fictitious name that is not misleading or deceptive as
676 to the persons who are partners, officers, shareholders, or
677 members.

678 (3) The board shall adopt rules for interpretation of this
679 section.

680 Section 21. Section 473.322, Florida Statutes, is amended
681 to read:

682 473.322 Prohibitions; penalties.-

683 (1) A person may not knowingly:

684 (a) Practice public accounting unless the person is a
685 certified public accountant or a public accountant;

686 (b) Assume or use the titles or designations "certified
687 public accountant" or "public accountant" or the abbreviation
688 "C.P.A." or any other title, designation, words, letters,
689 abbreviations, sign, card, or device tending to indicate that
690 the person holds a license to practice public accounting under
691 this chapter or the laws of any other state, territory, or
692 foreign jurisdiction, unless the person holds an active license
693 under this chapter or has the practice privileges pursuant to s.
694 473.3141;

695 (c) Perform or offer to perform any services described in
696 s. 473.302(7) (a) unless such person holds an active license

601-05040-09

20091640c2

697 under this chapter and is a licensed audit firm, ~~or~~ provides
698 such services through a licensed audit firm, or complies with
699 ss. 473.3141 and 473.3101. This paragraph does not prohibit the
700 performance by persons other than certified public accountants
701 of other services involving the use of accounting skills,
702 including the preparation of tax returns and the preparation of
703 financial statements without expression of opinion thereon;

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

705 (e) Give false or forged evidence to the board or a member
706 thereof;

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

710 (g) Employ unlicensed persons to practice public
711 accounting; or

712 (h) Conceal information relative to violations of this
713 chapter.

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

717 Section 22. Section 473.323, Florida Statutes, is amended
718 to read:

719 473.323 Disciplinary proceedings.—

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

722 (a) Violation of any provision of s. 455.227(1) or any
723 other provision of this chapter.

724 (b) Attempting to procure a license to practice public
725 accounting by bribery or fraudulent misrepresentations.

601-05040-09

20091640c2

726 (c) Having a license to practice public accounting revoked,
727 suspended, or otherwise acted against, including the denial of
728 licensure, by the licensing authority of another state,
729 territory, or country.

730 (d) Being convicted or found guilty of, or entering a plea
731 of nolo contendere to, regardless of adjudication, a crime in
732 any jurisdiction which directly relates to the practice of
733 public accounting or the ability to practice public accounting.

734 (e) Making or filing a report or record that the certified
735 public accountant or firm licensee knows to be false, willfully
736 failing to file a report or record required by state or federal
737 law, willfully impeding or obstructing such filing, or inducing
738 another person to impede or obstruct such filing. Such reports
739 or records include only those that are signed in the capacity of
740 a certified public accountant.

741 (f) Advertising goods or services in a manner that is
742 fraudulent, false, deceptive, or misleading in form or content.

743 (g) Committing an act of fraud or deceit, or of negligence,
744 incompetency, or misconduct, in the practice of public
745 accounting.

746 (h) Violation of any rule adopted pursuant to this chapter
747 or chapter 455.

748 (i) Practicing on a revoked, suspended, inactive, or
749 delinquent license.

750 (j) Suspension or revocation of the right to practice
751 before any state or federal agency.

752 (k) Performance of any fraudulent act in any jurisdiction
753 while holding a license to practice public accounting in this
754 state or using practice privileges in this state.

601-05040-09

20091640c2

755 (1) Failing to maintain a good moral character as provided
756 in s. 473.308 while applying for licensure, or while licensed in
757 this state or using practice privileges pursuant to s. 473.3141.

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

761 (n) Having the same or equivalent practice privileges of a
762 Florida certified public accountant or firm revoked, suspended,
763 or otherwise acted against by the licensing authority of another
764 state, territory, or country as a result of activity in that
765 jurisdiction which would have subjected the Florida certified
766 public accountant or firm to discipline in this state.

767 (2) The board shall specify, by rule, what acts or
768 omissions constitute a violation of subsection (1).

769 (3) When the board finds any certified public accountant or
770 firm licensee guilty of any of the grounds set forth in
771 subsection (1), it may enter an order imposing one or more of
772 the following penalties:

773 (a) Denial of an application for licensure.

774 (b) Revocation or suspension of the certified public
775 accountant or firm's a license or practice privileges in this
776 state.

777 (c) Imposition of an administrative fine not to exceed
778 \$5,000 for each count or separate offense.

779 (d) Issuance of a reprimand.

780 (e) Placement of the certified public accountant licensee
781 on probation for a period of time and subject to such conditions
782 as the board may specify, including requiring the certified
783 public accountant licensee to attend continuing education

601-05040-09

20091640c2

784 courses or to work under the supervision of another licensee.

785 (f) Restriction of the authorized scope of practice by the
786 certified public accountant.

787 (4) The department shall reissue the license of a
788 disciplined licensee upon certification by the board that the
789 disciplined licensee has complied with all of the terms and
790 conditions set forth in the final order.

791 Section 23. This act shall take effect July 1, 2009.