

20091640er

1
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

20091640er

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,

20091640er

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

20091640er

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

20091640er

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.—

20091640er

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.

20091640er

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.

20091640er

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

20091640er

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(8)(a) ~~s. 473.302(7)(a)~~,
242 unless:

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

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

250 (c) At least one general partner is a certified public
251 accountant of this state and holds an active license or, in the
252 case of a firm that must have a license pursuant to s.
253 473.3101(1)(a)2., at least one general partner is a certified
254 public accountant in some state and meets the requirements of s.
255 473.3141(1)(a) or (b).

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

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

20091640er

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

263 (2) A corporation may not engage in the practice of public
264 accounting, as defined in s. 473.302(8)(a) ~~s. 473.302(7)(a)~~,
265 unless:

266 (a) It is a corporation duly organized in this or some
267 other state.

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

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

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

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

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

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

20091640er

291 (3) A limited liability company may not engage in the
292 practice of public accounting, as defined in s. 473.302(8)(a) ~~s.~~
293 ~~473.302(7)(a)~~, unless:

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

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

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

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

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

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

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

20091640er

320 licensed audit firm.

321 Section 9. Section 473.3101, Florida Statutes, is amended
322 to read:

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

326 (1) Each sole proprietor, partnership, corporation, limited
327 liability company, or any other firm ~~legal entity~~ seeking to
328 engage in the practice of public accounting, as defined in s.
329 473.302(8)(a) ~~473.302(7)(a)~~, in this state must file an
330 application for licensure with the department and supply the
331 information the board requires. An application must be made upon
332 the affidavit of a sole proprietor, general partner,
333 shareholder, or member who is a certified public accountant.

334 (a) The following must hold a license issued under this
335 section:

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

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

344 (b) A firm that is not subject to the requirements of
345 subparagraph (a)2. may perform other professional services while
346 using the title "CPA," "CPA firm," or any other title,
347 designation, words, letters, abbreviations, or device tending to
348 indicate that the firm practices public accounting in this state

20091640er

349 without a license issued under this section only if:

350 1. It performs such services through an individual with
351 practice privileges granted under s. 473.3141; and

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

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

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

367 Section 10. Section 473.311, Florida Statutes, is amended
368 to read:

369 473.311 Renewal of license.—

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

20091640er

378 ~~examination.~~

379 (2) The department shall adopt rules establishing a
380 procedure for the biennial renewal of licenses.

381 Section 11. Section 473.312, Florida Statutes, is amended
382 to read:

383 473.312 Continuing education.—

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

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

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

405 (2) Programs of continuing professional education approved
406 by the board shall be formal programs of learning which

20091640er

407 contribute directly to the professional competency of an
408 individual following licensure to practice public accounting and
409 may be any of the following:

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

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

416 (c) University and college courses.

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

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

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

430 Section 12. Section 473.313, Florida Statutes, is amended
431 to read:

432 473.313 Inactive status.—

433 (1) A Florida certified public accountant ~~licensee~~ may
434 request that her or his license be placed in an inactive status
435 by making application to the department. The board may prescribe

20091640er

436 by rule fees for placing a license on inactive status, renewal
437 of inactive status, and reactivation of an inactive license.

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

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

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

463 (4) Notwithstanding the provisions of s. 455.271, the board
464 may, at its discretion, reinstate the license of an individual

20091640er

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

475 Section 13. Section 473.314, Florida Statutes, is amended
476 to read:

477 473.314 Temporary license.—

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

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

491 (3) A temporary license shall not be required of certified
492 public accountants or firms ~~a person~~ entering this state solely
493 for the purpose of preparing federal tax returns or advising as

20091640er

494 to federal tax matters if they do not use the title "CPA," "CPA
495 firm," or any other title, designation, words, letters,
496 abbreviations, or device tending to indicate that the certified
497 public accountants or firms are authorized to practice public
498 accounting. To use such terms in this state, certified public
499 accountants or firms from other states must comply with the
500 provisions of this section or section 473.3141.

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

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

509 Section 14. Section 473.3141, Florida Statutes, is created
510 to read:

511 473.3141 Certified public accountants licensed in other
512 states.-

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

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

20091640er

523 Accountancy Act in the issuance of licenses; or

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

532
533 The board shall define by rule what constitutes an office.

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

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

543 (a) To the personal and subject matter jurisdiction and
544 disciplinary authority of the board;

545 (b) To comply with this chapter and the applicable board
546 rules;

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

20091640er

552 (d) To the appointment of the state board that issued the
553 individual's license as the agent upon whom process may be
554 served in any action or proceeding by the board or department
555 against the individual or firm.

556 (4) An individual who qualifies to practice under this
557 section may perform the services identified in s. 473.302 (8) (a)
558 only through a firm that has obtained a license issued under s.
559 473.3101 or is authorized by s. 473.3101 to provide such
560 services.

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

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

578 473.316 Communications between the accountant and client
579 privileged.—

580 (1) For purposes of this section:

20091640er

581 (a) An "accountant" is a certified public accountant.
582 (b) A "client" is any person, public officer, corporation,
583 association, or other organization or entity, either public or
584 private, who consults an accountant with the purpose of
585 obtaining accounting services.
586 (c) A communication between an accountant and her or his
587 client is "confidential" if it is not intended to be disclosed
588 to third persons other than:
589 1. Those to whom disclosure is in furtherance of the
590 rendition of accounting services to the client.
591 2. Those reasonably necessary for the transmission of the
592 communication.
593 (d) A "quality review" is a study, appraisal, or review of
594 one or more aspects of the professional work of an accountant ~~a~~
595 ~~licensee~~ in the practice of public accountancy which is
596 conducted by a professional organization for the purpose of
597 evaluating quality assurance required by professional standards,
598 including a quality assurance or peer review.
599 (e) A "review committee" is any person or persons who are
600 not owners or employees of an accountant or firm ~~a licensee~~ that
601 is the subject of a quality review and who carry out,
602 administer, or oversee a quality review.
603 Section 16. Section 473.318, Florida Statutes, is amended
604 to read:
605 473.318 Ownership of working papers.—All statements,
606 records, schedules, working papers, and memoranda made by a
607 certified public accountant or firm ~~licensee~~ or her or his
608 employee incident to, or in the course of, professional services
609 to a client, except the reports submitted by the certified

20091640er

610 public accountant or firm licensee to the client and except for
611 records which are part of the client's records, shall be and
612 remain the property of the certified public accountant or firm
613 licensee in the absence of an express agreement between the
614 certified public accountant or firm licensee and the client to
615 the contrary.

616 Section 17. Section 473.319, Florida Statutes, is amended
617 to read:

618 473.319 Contingent fees.—Public accounting services as
619 defined in s. 473.302(8)(a) ~~s. 473.302(7)(a)~~ and (c), and those
620 that include tax filings with federal, state, or local
621 government, shall not be offered or rendered for a fee
622 contingent upon the findings or results of such service. This
623 section does not apply to services involving federal, state, or
624 other taxes in which the findings are those of the tax
625 authorities and not those of the certified public accountant or
626 firm licensee. Fees to be fixed by courts or other public
627 authorities, which are of an indeterminate amount at the time a
628 public accounting service is undertaken, shall not be regarded
629 as contingent fees for purposes of this section.

630 Section 18. Section 473.319, Florida Statutes, is amended
631 to read:

632 473.319 Contingent fees.—Public accounting services as
633 defined in s. 473.302(8)(a) ~~s. 473.302(7)(a)~~ and (c), and those
634 that include tax filings with federal, state, or local
635 government, shall not be offered or rendered for a fee
636 contingent upon the findings or results of such service. This
637 section does not apply to services involving federal, state, or
638 other taxes in which the findings are those of the tax

20091640er

639 authorities and not those of the certified public accountant or
640 firm licensee. Fees to be fixed by courts or other public
641 authorities, which are of an indeterminate amount at the time a
642 public accounting service is undertaken, shall not be regarded
643 as contingent fees for purposes of this section.

644 Section 19. Section 473.3205, Florida Statutes, is amended
645 to read:

646 473.3205 Commissions or referral fees.—A certified public
647 accountant or firm licensee may not accept or pay a commission
648 or referral fee in connection with the sale or referral of
649 public accounting services as defined in s. 473.302(8)(a) ~~s.~~
650 ~~473.302(7)(a)~~ and (c). Any certified public accountant or firm
651 ~~business entity~~ that is engaged in the practice of public
652 accounting and that accepts a commission for the sale of a
653 product or service to a client must disclose that fact to the
654 client in writing in accordance with rules adopted by the board.
655 However, this section shall not prohibit:

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

664 Section 20. Section 473.321, Florida Statutes, is amended
665 to read:

666 473.321 Fictitious names.—

- 667 (1) A certified public accountant, partnership,

20091640er

668 corporation, or limited liability company may not practice
669 public accountancy in this state under any name that is
670 misleading or deceptive as to the legal form; as to persons who
671 are partners, officers, shareholders, or members of the firm; or
672 as to any other matter. However, a firm name may include the
673 names of retired or deceased persons who were active partners,
674 shareholders, or members of the firm.

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

680 (3) The board shall adopt rules for interpretation of this
681 section.

682 Section 21. Section 473.322, Florida Statutes, is amended
683 to read:

684 473.322 Prohibitions; penalties.—

685 (1) A person may not knowingly:

686 (a) Practice public accounting unless the person is a
687 certified public accountant or a public accountant;

688 (b) Assume or use the titles or designations "certified
689 public accountant" or "public accountant" or the abbreviation
690 "C.P.A." or any other title, designation, words, letters,
691 abbreviations, sign, card, or device tending to indicate that
692 the person holds a license to practice public accounting under
693 this chapter or the laws of any other state, territory, or
694 foreign jurisdiction, unless the person holds an active license
695 under this chapter or has the practice privileges pursuant to s.
696 473.3141;

20091640er

697 (c) Perform or offer to perform any services described in
698 s. 473.302(8)(a) ~~s. 473.302(7)(a)~~ unless such person holds an
699 active license under this chapter and is a licensed audit firm,
700 ~~or~~ provides such services through a licensed audit firm, or
701 complies with ss. 473.3141 and 473.3101. This paragraph does not
702 prohibit the performance by persons other than certified public
703 accountants of other services involving the use of accounting
704 skills, including the preparation of tax returns and the
705 preparation of financial statements without expression of
706 opinion thereon;

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

708 (e) Give false or forged evidence to the board or a member
709 thereof;

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

713 (g) Employ unlicensed persons to practice public
714 accounting; or

715 (h) Conceal information relative to violations of this
716 chapter.

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

720 Section 22. Section 473.323, Florida Statutes, is amended
721 to read:

722 473.323 Disciplinary proceedings.—

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

725 (a) Violation of any provision of s. 455.227(1) or any

20091640er

726 other provision of this chapter.

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

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

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

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

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

746 (g) Committing an act of fraud or deceit, or of negligence,
747 incompetency, or misconduct, in the practice of public
748 accounting.

749 (h) Violation of any rule adopted pursuant to this chapter
750 or chapter 455.

751 (i) Practicing on a revoked, suspended, inactive, or
752 delinquent license.

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

20091640er

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

758 (l) Failing to maintain a good moral character as provided
759 in s. 473.308 while applying for licensure, or while licensed in
760 this state or using practice privileges pursuant to s. 473.3141.

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

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

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

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

776 (a) Denial of an application for licensure.

777 (b) Revocation or suspension of the certified public
778 accountant or firm's a license or practice privileges in this
779 state.

780 (c) Imposition of an administrative fine not to exceed
781 \$5,000 for each count or separate offense.

782 (d) Issuance of a reprimand.

783 (e) Placement of the certified public accountant licensee

20091640er

784 on probation for a period of time and subject to such conditions
785 as the board may specify, including requiring the certified
786 public accountant ~~licensee~~ to attend continuing education
787 courses or to work under the supervision of another licensee.

788 (f) Restriction of the authorized scope of practice by the
789 certified public accountant.

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

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