

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 796

INTRODUCER: Senator Latvala

SUBJECT: Public Accountancy

DATE: March 25, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Oxamendi</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 796 increases the number of quarter hours required to sit for the examination for licensure as a certified public accountant from 160 quarter hours to 180 quarter hours, which is equivalent to the alternative 120 semester hours required to sit for the examination.

The bill requires that persons who apply to sit for the license examination must show that he or she has good moral character, and the Board of Accountancy within the Department of Business and Professional Regulation must deny an applicant that fails to show good moral character. Good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

The bill provides a process for reactivation of CPA licenses that have become inactive due to failure to complete the continuing education requirements. It extends the deadlines in the process for reactivation of licenses that have become inactive due to failure to complete the continuing education requirements. The bill extends, from June 30, 2012 to June 30, 2014, the date by which a person must have been inactive or delinquent for failure to complete the continuing education requirement. The bill extends, from June 30, 2014 to June 30, 2016, the deadline to complete the reactivation of the license. To reactivate the license, the person must complete 120 hours of continuing education.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

The Board of Accountancy (board) within the Department of Business and Professional Regulation (department) is the agency charged with regulating the practice of public accountancy.¹ The Division of Certified Public Accounting performs for the board all services

¹ Section 473.303, F.S.

concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in ch. 455, F.S., necessary to perform the board's duties under the chapter. The office of the division is located in Gainesville.²

Section 473.302(4), F.S., defines a "certified public accountant" (CPA) to mean a person who holds a license to practice public accounting in this state under the authority of ch. 473, F.S.

Section 473.302(8), F.S., defines the "practice of," "practicing public accountancy," or "public accounting" to mean:

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

(b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of tax, management advisory, or consulting services, by any person who is a certified public accountant who holds an active license, including the performance of such services by a certified public accountant in the employ of a person or firm; or

(c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, a firm of certified public accountants, or a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

However, these terms [of practice] shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

² See s. 20.165(2)(c)2., F.S.

Section 473.302(5), F.S., defines the term “firm” to mean “any entity that is engaged in the practice of public accounting.”

Section 473.3101(1)(a), F.S., requires that firms must hold a license if the firm:

- Uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting; or
- Does not have an office in this state but performs the services described in s. 473.3141(4), F.S.,³ for a client having its home office in this state, as defined by rule of the board.

License Examination

Section 473.306(2), F.S., requires an applicant to sit for the CPA examination must have completed of 120 semester hours or 160 quarter hours from an accredited college or university with a concentration in accounting and business courses as specified by the board by rule. According to a representative for the Florida Institute of Certified Public Accountants, 160 quarter hours is not equivalent to 120 semester hours. The equivalent number of quarter hours is 180 hours.

Section 473.308(5)(b), F.S., authorizes the board to deny an application for licensure on the basis of lack of good moral character.

Section 473.308(6)(a), F.S., defines the term “good moral character” to means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

However, good moral character is not a basis for the board to deny an application to sit for the license examination.

Continuing Education

Certified public accountants, as part of the license renewal procedure, are required to submit proof satisfactory to the board that, during the two years prior to their application for renewal, they have successfully completed not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board.⁴ The board has the authority to prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period. At least 25 percent of the total hours required by the board must be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.⁵ Five percent of the total hours required by the board must be in ethics applicable to the practice of public accounting.⁶

³ Section 473.3141, F.S., provides the practice requirements for CPA’s from out-of-state.

⁴ Section 473.312(1)(a), F.S.

⁵ Section 473.312(1)(b), F.S.

⁶ Section 473.312(1)(c), F.S.

Inactive Licenses

Section 473.313(1), F.S., permits Florida-licensed CPA's to request that their license be placed on inactive status. Section 473.313(2), F.S., authorizes the board to provide that the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.

Section 473.313(2), F.S., provides that a CPA who holds an inactive license due to failure to complete the continuing education requirements in s. 473.312, F.S., may be reactivated under s. 473.311, F.S.,⁷ upon application to the department. The minimum continuing education requirements are those required by board rule, the most recent biennium reporting period, and one-half of the requirements under s. 473.312, F.S.⁸

Section 473.313(3), F.S., permits a license that has become inactive due to failure to meet the continuing education requirements to be renewed upon the licensee applying to the department with payment of a fee as determined by the department.⁹ The applicant must submit proof of satisfactorily completing the continuing education requirement. The applicant must also submit the completed application to the board by March 15 immediately following the inactive period.

Section 473.303(2), F.S., provides the number of hours of continuing education required for applicants to reactivate an inactive license if the license was inactive or delinquent on June 30, 2012. To reactivate, the person must have completed 120 hours of continuing education, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board. To reactivate, the CPA must also have notified the board by December 31, 2012, of his or her intention to reactivate such a license and have completed such reactivation by June 30, 2014.

The department noted that the last time amnesty was offered in 2012, the division notified approximately 3,437 inactive licensees of the amnesty provision. Four hundred and twelve licensees submitted letters of intent to reactivate under the amnesty program and only 143 actually completed the reactivation process under that provision.

Rule 61H1-33.006, F.A.C., provides that licenses that have been inactive for no more than two reporting periods may be reactivated upon the completion of the most recent 2-year continuing education requirement plus a minimum of 120 hours of continuing education. The required additional continuing education hours increase to 200 hours if the CPA has been inactive for three or more reporting periods, and 280 hours if the CPA has been inactive for three or more reporting periods.

⁷ Section 473.311, F.S., provides for the renewal of licenses upon the satisfaction of continuing education requirements.

⁸ Section 473.312(1), F.S., requires that at least 48, but not more than 80 hours, of continuing education must be completed within 2 years prior to the application for renewal.

⁹ Section 473.305, F.S., authorizes the board to establish, by rule, a reactivation fee, and a delinquency fee not to exceed \$50 for continuing professional education reporting forms. This section also provides that the board must "establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of public accountants." The fees established by the board must be based on department estimates of the revenue required to implement ch. 473, F.S., and the provisions of law with respect to the regulation of certified public accountants.

III. Effect of Proposed Changes:

License Examination

The bill creates s. 473.306(2)(a), F.S., to increase the number of quarter hours required to sit for the CPA license examination from 160 quarter hours to 180 quarter hours, which is equivalent to the alternative 120 semester hours required to sit for the examination.

The bill creates s. 473.306(2)(b), F.S., to require that persons who apply to sit for the CPA license examination show that he or she has good moral character.

The bill defines good moral character as having the same meaning as in s. 473.308(6)(a), F.S.

The bill requires that the board refuse to allow an applicant to take the CPA license examination, if the board finds a reasonable relationship between the applicant's lack of good moral character and the professional responsibilities of a CPA. The board's finding of a lack of good moral character must be supported by competent substantial evidence.¹⁰

If the board finds that the applicant is unqualified to take the license examination because of a lack of good moral character, the board is required to furnish the applicant with a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a hearing and appeal.¹¹

Inactive Licenses

The bill amends s. 473.313(2), F.S., to extend the deadlines in the process for reactivation of licenses that have become inactive due to failure to complete the continuing education requirements. The bill extends, from June 30, 2012 to June 30, 2014, the date by which a person must have been inactive or delinquent for failure to complete the continuing education requirement. The bill extends, from June 30, 2014 to June 30, 2016, the deadline to complete the reactivation of the license.

Reactivation of an inactive or delinquent licenses requires payment of a \$250.00 application fee.¹²

Effective Date

The bill provides an effective date of July 1, 2014.

¹⁰ Agency action must be based on findings of fact that are supported by competent, substantial evidence in the record of a hearing conducted pursuant to ss. 120.569 and 120.57, F.S. See s. 120.68(7)(b), F.S. Competent substantial evidence is evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. It is relevant evidence as a reasonable mind would accept as adequate to support a conclusion. See *Verizon Florida, Inc., v. Jabor*, 889 So.2d 712, 714 (Fla. 2004), citing *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957).

¹¹ Sections 120.569 and 120.57, F.S., provide the administrative procedures for persons whose substantial interests have been determined by an agency. The administrative rights include a hearing before the agency or before an administrative law judge of the Division of Administrative Hearing. Section 120.60, F.S., provides that a party who is adversely affected by final agency action is entitled to judicial review.

¹² Rule 61H1-31.006, F.A.C.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who apply to reactivate an inactive or delinquent license would be required payment of a \$250.00 application fee.

C. Government Sector Impact:

According to the department, it anticipates revenues from the reactivation of delinquent or inactive license to range from \$60,000 to \$81,000. It also anticipates a corresponding increase in General Revenue of 8% of the additional license and application fees (\$4,800 to \$6,480).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 473.306 and 473.313 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
