

**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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 636

INTRODUCER: Regulated Industries Committee and Senator Latvala

SUBJECT: Public Accountancy

DATE: March 31, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
2.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 636 limits the licensure requirement for certified public accountant (CPA) firms that use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs audits, reviews, and compilations services that involve the rendering of an attestation or opinion. The Board of Accountancy in the Department of Business and Professional Regulation applies current law to require a CPA firm license for all firms who practice public accountancy without distinguishing between the firms that perform the three types of accountancy services, i.e., firms that perform audits, reviews, and compilations that involve the rendering of an opinion or attestation, firms that perform tax preparation, management advisory, or consulting services, and firms that perform one or more services involving the preparation of financial statements that do not involve the rendering of an attestation or opinion.

The bill also provides that the term “quality review” includes the term “peer review” as defined in s. 473.3125, F.S.

**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.<sup>1</sup> The Division of Certified Public Accounting performs all services for the board concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping

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<sup>1</sup> Section 473.303, F.S.

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.<sup>2</sup>

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.

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<sup>2</sup> See s. 20.165(2)(c)2., F.S.

## **Firm License Requirement**

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

Section 473.302(7), F.S., defines the terms “licensed audit firm” or “public accounting firm” to mean a firm licensed under s. 473.3101, F.S.

Section 473.3101(1)(a), F.S., requires that each sole proprietor, partnership, corporation, limited liability company, or any other firm to be licensed if it seeks to engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S. An application for a firm license must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a certified public accountant.

Section 473.3101(1)(a), F.S., further 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.,<sup>3</sup> for a client having its home office in this state, as defined by rule of the board.

According to the department, the board requires a license for all firms who practice public accountancy as defined in s. 473.302(8), F.S., without distinguishing between the firms that perform the services defined by s. 473.302(8)(a), F.S., which includes audits, reviews, and compilations the involve the rendering of an opinion or attestation; firms that perform the services defined by s. 473.302(8)(b), F.S., which includes tax preparation, management advisory, or consulting services; and firms that perform the services defined by s. 473.302(8)(c), F.S., which includes one or more services involving the preparation of financial statements not included within 473.302(8)(a), F.S.<sup>4</sup>

The initial fee for a firm license fee for partnerships, corporations, and limited liability companies is \$145.00. The initial licensure fee for sole proprietor firms is \$45.00. Firms must also pay a special fee of \$5 per license to fund efforts to combat unlicensed activity.<sup>5</sup> The same fees apply for each biennial renewal.<sup>6</sup>

Section 473.309, F.S., establishes requirements for partnerships, corporations, and limited liability companies engaged in the practice of public accounting, as defined in s. 473.302(8)(a), F.S. The requirements include:

- That the partnership, corporation, and limited liability company is recognized by Florida law;
- Partners, shareholders, and members owning at least 51 percent of the financial interests hold an active CPA license in Florida;
- At least one partner, shareholder, or member must have active CPA license in Florida;

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

<sup>4</sup> 2015 *Legislative Analysis for SB 636*, Department of Business and Professional Regulation, February 9, 2015.

<sup>5</sup> Section 473.305, F.S., and rule 61H1-31.010, F.A.C.

<sup>6</sup> Section 473.305, F.S., and rule 61H1-31.009, F.A.C.

- If the firm does not have an office in this state and is therefore required to have a firm license under s. 473.3101, F.S., at least one partner, shareholder, or member must have active CPA license in Florida;
- All partners, shareholder, or members that are not licensed in Florida are engaged in the business of the company as their principal occupation;
- The partnership, corporation, and limited liability company is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance; and
- The partnership, corporation, and limited liability company is licensed as required by s. 473.3101, F.S.

### **Peer and Quality Review**

A quality review is defined by s. 473.316, F.S., as a:

[S]tudy, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a professional organization for the purpose of evaluating quality assurance required by professional standards, including a quality assurance or peer review.

Section 473.3125, F.S., defines a “peer review” as the study, appraisal, or review by one or more independent certified public accountants of one or more aspects of the professional work of a licensee. Effective January 1, 2015, all licensed accountancy firms must be enrolled in a peer review program.<sup>7</sup>

### **III. Effect of Proposed Changes:**

#### **Firm License Requirement**

The bill amends s. 473.302(7), F.S., to define a licensed audit or public accounting firm as a sole proprietorship, partnership, corporation, limited liability company, firm, or any other legal entity licensed under s. 473.3101, F.S.

The bill amends s. 473.309, F.S., require that partnerships, corporations, and limited liability companies engaged in the practice of public accounting must be licensed as a firm under s. 47.3101(1)(b), F.S., which requires a firm license if it uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs audits, reviews, and compilations services that involve the rendering of an attestation or opinion under s. 473.302(8)a), F.S.

The bill also amends s. 473.309, F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.

The bill amends s. 473.3101(1), F.S., to limit the requirements for a firm license only to firms:

- With an office in this state which performs the services defined in s. 473.302(8)a), F.S.;

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<sup>7</sup> Section 473.3125(4), F.S.

- That use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs the services defined in s. 473.302(8)a), F.S.; and
- Firms that do not have a license in Florida but perform the services described in s. 473.3141(4), F.S., for a client having its home office in Florida.

The bill authorizes the board to define by rule what constitutes a CPA firm in the context of firms that use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm performs the services defined in s. 473.302(8)a), F.S.

The bill amends s. 473.3101(2), F.S., to require that applicants for licensure as a firm must file an application with the department and supply the information that the board requires. It requires that the application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a CPA.

The bill amends ss. 473.3101, 473.316, 473.3125, F.S., to reference the term “firm or public accounting firm” in place of the term “partnership, corporation, or limited liability company;” The bill also amends s. 473.322, F.S., to replace the term “audit firm” with the term “firm.”

### **Quality and Peer Review**

The bill amends s.473.316(1)(d), F.S. to provide that the term “quality review” includes a peer review as defined in s. 473.3125, F.S.

### **Effective Date**

The bill provides an effective date of July 1, 2015.

## **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:**

Accounting firms that do not perform audits, reviews, and compilations services that involve the rendering of an attestation or opinion under s. 473.302(8)a), F.S., would not incur the costs of a firm license.

**C. Government Sector Impact:**

The effect of the bill on the collection of fees for accounting firm licenses is indeterminate because, according to the department, it does not track which firms practicing public accounting as defined by s. 473.302(8)(a), F.S., versus those firms that practice public accounting as defined in s. 473.302(8)(b) and (c), F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 473.302, 473.309, 473.3101, 473.3125, 473.316, and 473.322.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Regulated Industries Committee on March 31, 2015:**

The committee substitute:

- Amends s. 473.302(7), F.S., to define a licensed audit or public accounting firm as a sole proprietorship, partnership, corporation, limited liability company, firm, or any other legal entity licensed under s. 473.3101, F.S. It does not amend the term to mean a firm licensed under s. 473.3101, F.S., that performs the services described in s. 473.302(8)(a), F.S.
- Amends s. 473.309, F.S., to require that partnerships, corporations, and limited liability companies engaged in the practice of public accounting must be licensed as a firm under s. 47.3101(1)(b), F.S.
- Amends ss. 473.309, F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.;
- Amends s. 473.3101(2), F.S., to require that applicants for licensure as a firm must file an application with the department and supply the information that the board requires, and to require that the application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a CPA.

- Amends ss. 473.3101, 473.316, 473.3125, F.S., to reference the term “firm or public accounting firm” in place of the term “partnership, corporation, or limited liability company;”
- Amends s. 473.3101(3), F.S., to correct the cross-reference to s. 473.3101(1)(c), F.S.;
- Amends s. 473.3125, F.S., to cross-reference s. 473.302(7), F.S.; and
- Amends s. 473.322, F.S., to replace the term “audit firm” with the term “firm.”

B. Amendments:

None.

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

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