

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 Innovation, Industry, and Technology

BILL: SB 1140
 INTRODUCER: Senator Gruters
 SUBJECT: Public Accountancy
 DATE: January 17, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	Pre-meeting
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1140 permits a nonresident Florida-licensed certified public accountant (CPA) to renew his or her license, if the CPA has complied with the continuing education requirements in the state in which his or her office is located. However, a nonresident CPA must satisfy Florida’s ethics-related continuing education requirements. If the state in which the nonresident CPA’s office is located does not have continuing education requirements as a condition for license renewal, the nonresident CPA must comply with the continuing education requirements in Florida.

The bill requires that the majority of the hours for continuing education in ethics must review the applicable Florida statutes and rules.

The bill permits a CPA to place his or her license in a retired status if the person is at least 55 years of age, holds a current active or inactive license that is in good standing, and is not the subject of any sanction or disciplinary action. If a licensee on retired status reenters the workforce in a position that has an association with accounting or any of the CPA services, the licensee automatically loses her or his retired status. A retired CPA:

- May continue to provide services utilizing accounting skills, and tax, management advisory, or consulting services, as defined in s. 473.302(8)(b), F.S., but may not provide certain accounting services defined ss. 473.302(8)(a), (c), and (d), F.S., such as services that involve an opinion on financial statements or the preparation of financial statements.
- May engage in specified activities, including serving without compensation on a board of directors or board of trustees, providing volunteer tax preparation services, and participating in an advisory role for a similar charitable, civic, or other nonprofit organizations.
- May accept routine reimbursement for certain expenses, such as actual costs of travel and meals associated with volunteer services.
- May use the title of “retired CPA,” but may not offer or render professional services that require her or his signature and use of the CPA title, regardless of whether the word “retired” is attached to such title.

- Is not required to fulfill the continuing education requirements.
- May reactivate her or his license in a conditional manner determined by the board, which must require the payment of fees and the completion of any required continuing education.

The effective date of the bill is July 1, 2020.

II. Present Situation:

The Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) is the agency responsible for regulating and licensing more than 38,000 active and 2,700 inactive CPAs and more than 5,700 accounting firms in Florida.¹ The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.²

A certified public accountant is a person who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.³

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.⁴ To engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S., an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

Definitions

Section 473.302(8), F.S., define the terms “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;

¹ Florida Department of Business and Professional Regulation, Fiscal Year 2018-2019 Annual Report, page 12, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf (last visited Jan. 14, 2020).

² Section 473.303, F.S.

³ See s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

⁴ Section 473.302(8), F.S.

(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, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141, [F.S.,] 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, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141[, F.S.]; by a firm of certified public accountants; or by 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 Florida certified public accountants employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

Qualifications

To be licensed as a certified public accountant, a person must:⁵

- Be of good moral character;
- Pass the licensure exam; and
- Have at least 150 semester hours of education, with a focus on accounting and business.

License by Endorsement

Section 473.308, F.S., provides for the licensure of individuals desiring to be licensed as a certified public accountant. Section 473.308(7), F.S., provides for licensure of certified public accountants by endorsement. To qualify, an applicant for licensure by endorsement the applicant must satisfy education, work experience, good moral character requirements. Applicants for endorsement must also have completed education courses that are equivalent to the continuing education requirements in this state during the two years immediately preceding the application for licensure by endorsement.

If the applicant is not licensed in another state or territory, the applicant must:⁶

- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed continuing professional education courses that are at least equivalent to the continuing professional education requirements for a Florida certified public accountant.

⁵ Sections 473.308(2)-(5), F.S.

⁶ Section 473.308(7)(a), F.S.

If the applicant is licensed in another state or territory, the applicant has:⁷

- Satisfied licensing criteria that were substantially equivalent to the licensure criteria in this state at the time the license was issued; or
- If the licensing criteria are not substantially equivalent to Florida, passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state; or
- A valid license in another state or territory for at least 10 years before applying for a license in Florida, and has passed a national, regional, state or territorial licensing examination with examination criteria that were substantially equivalent to the examination criteria required in this state.

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.⁸ 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.⁹

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.¹⁰

Not less than 10 percent of the total continuing education hours must be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.¹¹

Not less than five percent of the continuing education must be in ethics applicable to the practice of public accounting, including a review of the provisions of ch. 455, F.S.,¹² and ch. 473, F.S., and the related administrative rules. This requirement must be administered by providers approved by the board.

Inactive Licenses

Section 473.313(1), F.S., permits Florida-licensed CPAs to request that their license be placed on inactive status. Section 473.313(2), F.S., authorizes the board to adopt rules establishing the

⁷ Section 473.308(7)(b), F.S.

⁸ Section 473.312(1)(a), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 473.312(1)(b), F.S.

¹² Chapter 455, relates to the regulation of professions by the department.

minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.¹³

A person may reactivate a license by applying to the department and paying a \$250 application fee.¹⁴ If the license is delinquent on January 1 because of failure to report completed continuing education requirements, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.¹⁵

Current law does not provide CPAs the option of placing licenses into a retired status as an alternative to inactive status.

III. Effect of Proposed Changes:

Licensure by Endorsement

The bill amends s. 476.308(1)(a)1., F.S., to change the term “another state” to “any state”. The bill does not make the same change throughout s. 476.308, F.S., where the term “another state” is used. Section 476.308(1)(a)1., F.S., as amended by the bill, appears to include persons who have not been licensed in Florida within the licensure by endorsement requirements in paragraph (a). The amendment to this section appears to not have a substantive effect because such a person, i.e., a person from Florida who has not been license in any state or territory, must satisfy the licensing requirements of this state whether they do so through the regular licensure qualification process or the licensure by endorsement process.

Continuing Education

The bill amends s. 473.311(1), F.S., to permit a nonresident licensee to renew his or her Florida license if the licensee has complied with the continuing education requirements in the state in which his or her office is located. However, under the bill, the nonresident licensee is required to complete not less than 5 percent of the continuing education in ethics applicable to the practice of public accounting, including a review of the provisions of ch. 455, F.S., and ch. 473, F.S., and the related administrative rules.

The nonresident licensee must comply with the continuing education requirements in Florida if the state in which the nonresident licensee’s office is located does not have continuing education requirements as a condition for license renewal.

The bill amends s. 473.312(1)(c), F.S., require that the majority of the hours for the continuing education in ethics must be in a review of the provisions of ch. 455, F.S.,¹⁶ and ch. 473, F.S., and the related administrative rules.

¹³ See Fla. Admin R. 61H1-33.006 (2019).

¹⁴ Fla Admin. R. 61H1-31.006 (2019).

¹⁵ Section 473.313(3), F.S.

¹⁶ Chapter 455, relates to the regulation of professions by the department.

Retired Status

The bill amends s. 473.313, F.S., to permit a Florida CPA to place his or her license in a retired status if the person is:

- At least 55 years of age;
- Holds a current active or inactive license; and
- In good standing and not the subject of any sanction or disciplinary action.

If a licensee on retired status reenters the workforce in a position that has an association with accounting or any of the services, the licensee automatically loses her or his retired status. However, a CPA on retired status may continue to provide services utilizing accounting skills, and tax, management advisory, or consulting services, as defined in s. 473.302(8)(b), F.S., but may not provide certain accounting services defined ss. 473.302(8)(a), (c), and (d), F.S., such as services that involve an opinion on financial statements or the preparation of financial statements.

The bill authorizes a retired licensee to engage in specified activities, including serving without compensation on a board of directors or board of trustees, providing volunteer tax preparation services, and participating in an advisory role for a similar charitable, civic, or other nonprofit organizations.

A licensee on retired status must affirm in writing her or his understanding of the limited types of activities in which she or he may engage while in retired status and that she or he has a professional duty to ensure that she or he holds the professional competencies necessary to participate in such activities.

A retired licensee:

- May accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the licensee to cover such expenses as allowed by law.
- May use the title of “retired CPA,” but may not offer or render professional services that require her or his signature and use of the CPA title, regardless of whether the word “retired” is attached to such title.
- Is not required to maintain the continuing education requirements.
- May reactivate her or his license in a conditional manner determined by the board, which must require the payment of fees and the completion of any required continuing education.

Effective Date

The effective date of the bill is July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 473.308, 473.311, 473.312, and 473.313.

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.
