

Committee Substitute for
Committee Substitute for Senate Bill No. 1640

An act relating to public accountancy; amending s. 455.217, F.S.; providing that persons regulated as public accountants by the Department of Business and Professional Regulation under ch. 473, F.S., are exempt from certain requirements; amending s. 455.271, F.S.; providing that certain licensees are not subject to specified continuing education requirements for reactivation of a license; amending s. 473.302, F.S.; revising definitions; amending s. 473.303, F.S.; specifying that members of the Board of Accountancy and probable cause panels who hold licenses must be licensed in this state; providing that past board members of probable cause panels may be reappointed for additional terms; amending s. 473.304, F.S.; conforming provisions; amending s. 473.305, F.S.; deleting provisions requiring a late filing fee; amending s. 473.308, F.S.; revising educational requirements for applicants for licensure; providing an exception to a work experience requirement for certain persons; amending s. 473.309, F.S.; conforming provisions related to licensure requirements for firms licensed in other states; amending s. 473.3101, F.S.; requiring that certain firms hold a license; providing licensure exemptions for certain firms licensed in other states; amending s. 473.311, F.S.; deleting an examination requirement for licensure renewal; amending s. 473.312, F.S.; conforming provisions; amending s. 473.313, F.S.; deleting a minimum continuing education requirement for reactivating an inactive license; requiring certain continuing education hours in ethics in order to reactivate certain licenses; conforming provisions; amending s. 473.314, F.S.; providing temporary licensure exemptions for certain persons licensed in other states; creating s. 473.3141, F.S.; providing licensure exemptions for certain persons licensed in other states; providing that disciplinary action against certain individual or firm that practices public accounting is valid only under specified conditions; amending ss. 473.316, 473.318, 473.319, 473.3205, 473.321, and 473.322, F.S.; conforming provisions; amending s. 473.323, F.S.; conforming provisions relating to disciplinary actions; providing grounds for disciplinary actions against certain persons licensed in other states; providing an effective date.

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

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

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

(7) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or by

the department, if there is no board, to pass an examination pertaining to state laws and rules applicable to the practice of the profession regulated by that board or by the department. This subsection does not apply to persons regulated under chapter 473.

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

455.271 Inactive and delinquent status.—

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

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

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

- (1) “Board” means the Board of Accountancy.
- (2) “Department” means the Department of Business and Professional Regulation.
- (3) “Division” means the Division of Certified Public Accounting.
- (4) “Certified public accountant” means an individual a person who holds a license to practice public accounting in this state or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141. The term “Florida certified public accountant” means an individual holding a license under the authority of this chapter.
- (5) “Firm” means any legal entity that is engaged in the practice of public accounting.
- (6) “Home office” means the principal headquarters of an entity. An entity may have only one principal headquarters.
- (7)(6) “Licensed audit firm” or “public accounting firm” means a firm licensed under s. 473.3101.
- (8)(7) “Practice of,” “practicing public accountancy,” or “public accounting” means:
 - (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, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141, 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; 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 licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

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

However, these terms 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.

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

473.303 Board of Accountancy.—

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

(2) The probable cause panel of the board may be composed of at least one current board member who shall serve as chair and additional current board members or past board members of the board who are certified public accountants licensed in this state and ~~licensees~~ in good standing. The past

board members shall be appointed to the panel for a term maximum of 2 years by the chair of the board with the approval of the secretary of the department, and may be reappointed for additional terms.

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

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

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

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

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

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

473.305 Fees.—The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The fee for the examination shall be established at an amount that covers the costs for the procurement or development, administration, grading, and review of the examination. The fee for the examination is refundable if the applicant is found to be ineligible to sit for the examination. The fee for initial application is nonrefundable, and the combined fees for application and examination may not exceed \$250 plus the actual per applicant cost to the department for purchase of the examination from the American Institute of Certified Public Accountants or a similar national organization. The biennial renewal fee may not exceed \$250. The board may also establish, by rule, a reactivation fee, ~~a late filing fee for the law and rules examination,~~ and a delinquency fee not to exceed \$50 for continuing professional education reporting forms. The board shall 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. Fees shall be based on department estimates of the revenue required to implement this chapter and the provisions of law with respect to the regulation of certified public accountants.

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

473.308 Licensure.—

(3) An applicant for licensure must have at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university ~~received a baccalaureate degree with a major in accounting or its equivalent plus at least 30 semester hours or 45~~

quarter hours in excess of those required for a 4-year baccalaureate degree, with a concentration in accounting and business in the total educational program to the extent specified by the board.

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

(b) However, an applicant who completed the requirements of subsection (3) on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, is exempt from the requirements of this subsection.

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

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

(1) A partnership may not engage in the practice of public accounting, as defined in s. 473.302(8)(a) ~~s. 473.302(7)(a)~~, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Any firm with an office in this state which 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.

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

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

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

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

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

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

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

473.311 Renewal of license.—

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

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

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

473.312 Continuing education.—

(1)(a) As part of the license renewal procedure, the board shall by rule require Florida certified public accountants licensees to submit proof satisfactory to the board that during the 2 years prior to 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. The board may 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.

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

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

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

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

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

(c) University and college courses.

(d) Formal organized in-firm education programs.

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

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

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

473.313 Inactive status.—

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

(2) A license that has become inactive may be reactivated under s. 473.311 upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The minimum continuing education requirements for reactivating a license shall be those prescribed by board rule and those of the most recent biennium plus one-half of the requirements in s. 473.312 for each year or part thereof during which the license was inactive. Notwithstanding any other provision of this section, the continuing education requirements are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, and not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive on June 30, 2009 1998, if the Florida certified public accountant licensee notifies the Board of Accountancy by December 31, 2009 1998, of an intention to reactivate such a license and completes such reactivation by June 30, 2011 2000.

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

(4) Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an

amount determined by rule of the board. The board shall require that ~~the such an~~ individual meet all continuing education requirements as provided in subsection (2) s. 473.312, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

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

473.314 Temporary license.—

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

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

(3) A temporary license shall not be required of certified public accountants or firms ~~a person~~ entering this state solely for the purpose of preparing federal tax returns or advising as to federal tax matters if they do not use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the certified public accountants or firms are authorized to practice public accounting. To use such terms in this state, certified public accountants or firms from other states must comply with the provisions of this section or section 473.3141.

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

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

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

473.3141 Certified public accountants licensed in other states.—

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

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

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

The board shall define by rule what constitutes an office.

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

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

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

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

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

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

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

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

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

473.316 Communications between the accountant and client privileged.—

(1) For purposes of this section:

(a) An “accountant” is a certified public accountant.

(b) A “client” is any person, public officer, corporation, association, or other organization or entity, either public or private, who consults an accountant with the purpose of obtaining accounting services.

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

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

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

(d) A “quality review” is a study, appraisal, or review of one or more aspects of the professional work of an accountant a licensee 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.

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

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

473.318 Ownership of working papers.—All statements, records, schedules, working papers, and memoranda made by a certified public accountant or firm licensee or her or his employee incident to, or in the course of, professional services to a client, except the reports submitted by the certified public accountant or firm licensee to the client and except for records which are part of the client’s records, shall be and remain the property of the certified public accountant or firm licensee in the absence of an express agreement between the certified public accountant or firm licensee and the client to the contrary.

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

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

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

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

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

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

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

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

473.321 Fictitious names.—

(1) A certified public accountant, partnership, corporation, or limited liability company may not practice public accountancy in this state under any name that is misleading or deceptive as to the legal form; as to persons who are partners, officers, shareholders, or members of the firm; or as to any other matter. However, a firm name may include the names of retired or deceased persons who were active partners, shareholders, or members of the firm.

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

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

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

473.322 Prohibitions; penalties.—

(1) A person may not knowingly:

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

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

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

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

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

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

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

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

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

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

473.323 Disciplinary proceedings.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Denial of an application for licensure.

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

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

(d) Issuance of a reprimand.

(e) Placement of the certified public accountant licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the certified public accountant licensee to attend continuing education courses or to work under the supervision of another licensee.

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

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

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

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.