

**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 General Government Appropriations Committee

**BILL:** CS/CS/SB 1640

**INTRODUCER:** General Government Appropriations Committee, Regulated Industries Committee, and Senator Jones

**SUBJECT:** Public Accountancy

**DATE:** April 15, 2009      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Rhea</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Harkey</u>	<u>Matthews</u>	<u>HE</u>	<u>Favorable</u>
3.	<u>Frederick</u>	<u>DeLoach</u>	<u>GA</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill provides for practice mobility for certified public accountants (CPAs). Practice mobility permits a CPA in another state who is not licensed in Florida, but is licensed in another state, to perform limited accounting services in Florida without obtaining a Florida license, notifying or registering with the board, or paying a fee.

The bill exempts certified public accountants from the requirement of a laws and rules examination as a condition of license renewal. The bill requires CPAs to have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college or university. The 150 semester hours of college education required by the bill equal the same number of total educational hours that are required under current law. The bill provides an exception to the work experience requirement for any person who has completed the required 150 semester hours of college education on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

The bill permits CPAs whose license is inactive or delinquent to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods

during which the licensee was inactive or delinquent. The continuing education required for reactivation is that required for the most recent two-year license period plus one-half of the required continuing education, which is a minimum of 48 hours. A minimum of eight hours of continuing education must be in ethics subjects approved by the board. This bill provides a six-month amnesty for an inactive licensee that limits the required continuing education to 120 hours.

The bill provides that seven members of the Board of Accountancy (board) must be certified public accountants licensed in Florida and have practiced full-time in Florida for at least five years. The bill would permit past board members to serve a term of two years, and provides that they may be reappointed for additional terms. Current law limits past board members to serving a maximum of two years.

The Department of Business and Professional Regulation (department) estimates that a minimum of \$133,000 in annual costs will be avoided by eliminating the laws and rules examination. These funds represent the annual costs paid to a vendor by the board to administer the examination.

The bill provides an effective date of July 1, 2009.

This bill substantially amends the following sections of the Florida Statutes: 455.217, 455.271, 473.302, 473.303, 473.304, 473.305, 473.308, 473.309, 473.3101, 473.311, 473.312, 473.313, 473.314, 473.316, 473.318, 473.319, 473.3205, 473.321, 473.322, and 473.323.

The bill creates 473.3141, Florida Statutes.

## **II. Present Situation:**

### **Department of Business and Professional Regulation**

In addition to administering professional boards, the Department of Business and Professional Regulation processes applications for licensure and license renewal. The department also receives and investigates complaints made against licensees and, if necessary, brings administrative charges.

Chapter 455, F.S., provides the general powers of the department and sets forth the procedural and administrative framework for all of the professional boards housed under the department, specifically the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

### **Laws and Rules Examination**

Section 455.217(7), F.S., requires that, “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 examination is known as the “laws and rules examination.”

### **Active and Delinquent License Status**

Section 455.271, F.S., provides the process for placing a professional license in an inactive or delinquent status. This section does not apply to businesses or persons registered, permitted, or licensed pursuant to ch. 310, F.S., related to harbor pilots, and ch. 475, F.S., related to real estate brokers, sales persons, and schools, and real estate appraisers.

Licensees are permitted to choose, at the time of licensure renewal, whether to be in an active or inactive status. A licensee who is in an inactive status may change to active status at any time if the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board (or the department when there is no board) and meets all continuing education requirements as specified in s. 455.271, F.S.

Section 455.271(6), F.S., provides that a licensee in delinquent status must affirmatively apply with a complete application for active or inactive status during the licensure cycle in which a licensee becomes delinquent. A license is rendered automatically void if a licensee in a delinquent status fails to become active or inactive before the expiration of the current licensure cycle. However, a board (or the department if there is no board) may reinstate the license of an individual whose license has become void if the board determines that the individual has made a good faith effort to comply but failed to comply due to illness or unusual hardship. The individual must apply for reinstatement in a manner prescribed by rules of the board or the department, as applicable, and shall pay an application fee in an amount determined by rule. The licensee must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter. This subsection does not apply to certified public accountants under ch. 473, F.S.

Section 455.271(10), F.S., requires, before reactivation, that an inactive or delinquent licensee 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.

### **Certified Public Accountants**

Section 473.303, F.S., creates the Board of Accountancy within the department to regulate the practice of public accountancy. The Division of Certified Public Accounting performs for the board all services 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.

### **Certified Public Accountant - Definitions**

Section 473.302(4), F.S., defines a "certified public accountant" 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(7), 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 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 473.302(5), F.S., defines the term “firm” to mean “any entity that is engaged in the practice of public accounting.”

### **Examination and Licensure**

Section 473.308, F.S., sets forth the requirements for obtaining a certified public accountant license, including examination, education, and experience requirements. A person must apply to the department and pass an examination to be licensed as a CPA.<sup>1</sup> Applicants for CPA licensure

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<sup>1</sup> See s. 473.308, F.S.

must of good moral character<sup>2</sup> and have satisfied the following educational requirements from an accredited college or university:

- A baccalaureate degree with a major in accounting or its equivalent.
- At least an additional 30 semester hours or 45 quarter hours in excess of those required for a four-year baccalaureate degree, with a concentration in accounting and business in the total educational program to the extent specified by the board.<sup>3</sup>

The four-year baccalaureate degree with a major in accounting equates to 120 semester hours or 160 quarter hours. The additional 30 semester or 45 quarter hour requirement is known as the “fifth year” requirement.

Section 473.306, F.S., permits a person to apply to the department to sit for the CPA examination before he or she has completed the fifth year requirement if they have completed 120 semester hours or 160 quarter hours of education from an accredited college or university with a concentration in accounting and business courses, as specified by the board by rule.

Section 473.308(4), F.S., provides that an applicant for licensure after December 31, 2008, must show that he or she has had one year of work experience. The required work experience includes 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 may be gained through employment in government, industry, academia, or public practice; must have constituted a substantial part of the applicant's duties; and must have been under the supervision of a certified public accountant licensed by a state or territory of the United States.

### **Continuing Education**

Section 473.312, F.S., requires a minimum of 48 hours and not more than 80 hours of continuing education in public accounting subjects during the biennial period.

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.

Not less than 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. Not less than five percent of the total hours required by the board shall be in the practice of public accounting.

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<sup>2</sup> See s. 473.308(6)(a), F.S., for the definition of the term “good moral character.”

<sup>3</sup> Section 473.308(3), F.S.

## **License Renewal**

Section 473.311(1), F.S., requires a CPA licensee, as a condition of license renewal, to complete continuing education requirements, and pass an examination on chs. 455 and 473, F.S. The biennial renewal fee for individual active and inactive status licenses is \$105.<sup>4</sup>

Section 473.313(2), F.S., also requires that a CPA must reactivate an inactive license by completing the continuing education requirement for the most recent biennium plus one-half of the requirements for each year or part thereof during which the licensee was inactive. The required continuing education requirements for reactivation of an inactive license are:

120 hours, including at least 30 hours in accounting-related and auditing-related subjects and not more than 30 hours in behavioral subjects, for the reactivation of a license that is inactive on June 30, 1998, if the licensee notifies the Board of Accountancy by December 31, 1998, of an intention to reactivate such a license and completes such reactivation by June 30, 2000.

If a CPA license was inactive after June 30, 1998, and the individual did not notify the board of their intention to reactivate their license before December 31, 1998, and did not complete the reactivation of the license before June 30, 2000, the 120-hour continuing education requirement in s. 473.311(2), F.S., would not apply. Consequently, the continuing education requirement for each biennial period would be based on the minimum 48 hours requirement in s. 473.312, F.S.

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

#### **Practice Mobility**

The bill creates s. 473.3141, F.S., to provide what is known as practice mobility for CPA's. Practice mobility permits a CPA in another state who is not licensed in Florida, but is licensed in another state, to perform limited accounting services in Florida without obtaining a Florida license, notifying or registering with the board, or paying a fee. According to the Florida Institute of Certified Public Accountants, 38 states have adopted practice mobility statutes.

Under the bill, an out-of-state CPA is not required to be licensed in Florida to provide accounting services from outside the state. The types of accounting services that may be provided are limited to the services in s. 473.302(8)(b) and (c), F.S. If the CPA provides the types of services described in s. 473.302(8)(a), F.S., the CPA would need to obtain a Florida license. For example, under practice mobility, the out-of-state CPA could provide tax advisory services or consulting services in Florida from out-of-state, but he or she could not provide the types of services that require the expression of an opinion or an attestation. Section 473.3141, F.S., requires that an individual who provides accountancy services that require the expression of an opinion must obtain a firm license from the board as required by s. 473.3101, F.S.

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<sup>4</sup> See Rule 61H1-31.001, F.A.C., for the board's fee schedule. Section 473.305, F.S., authorizes a maximum biennial renewal fee of \$250.

Certified Public Accountants in another state who practice in Florida under practice mobility consent, as a condition for the privilege, to the personal and subject matter jurisdiction and disciplinary authority of the board. They also must comply with ch. 473, F.S., and the applicable board rules.

The bill creates s. 473.3141(1), F.S., to provide the following minimum requirements for CPA's in other states who may practice accountancy in Florida through practice mobility, without obtaining a Florida CPA license, notifying or registering with the board, or paying a fee.

- Under s. 473.3141(1)(a), F.S., the individual must hold a valid CPA license in another state that the board has determined has adopted standards that are substantially equivalent to the certificate requirements in the Uniform Accountancy Act.
- Under s. 473.3141(1)(b), F.S., the individual's CPA qualification are substantially equivalent to the qualifications in the Uniform Accountancy Act if the individual holds a valid CPA license from a state that the board has not determined has adopted standards that are substantially equivalent to the certificate requirements in the Uniform Accountancy Act.

In regards to discipline, the bill amends s. 473.322(1), F.S., to authorize the board to discipline individuals in other jurisdictions who perform fraudulent acts in this state using practice privileges in the state. Section 473.3141(5), F.S., specifies the notice requirements for disciplinary actions against individuals practicing accountancy in Florida under the practice mobility privilege.

The bill creates s. 473.3101(1)(a), F.S., to specify the types of firms that must be licensed by the board. A board-issued license is required if the firm:

- Has 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.
- Does not have an office in this state but performs the services that require the expression of an opinion for a client having its home office in this state.

A firm that is not providing accountancy services that require the expression of an opinion may use the title "CPA," "CPA firm," or any other similar title only if:

- It performs such services through an individual with practice mobility privileges granted.
- It can lawfully do so in the state where the individual with practice privileges has his or her principal place of business.

The bill amends s. 473.309, F.S., to revise the practice requirements for partnerships, corporations, and limited liability companies. If the partnership, corporations, or limited liability company is engaged in the practice of accountancy and is required to hold a license as a firm under s. 473.3101, F.S., it must have at least one member who meets the qualification requirements in s. 473.3141(1)(a) or (b), F.S.

The bill amends s. 473.302, F.S., to revise definitions and provide new definitions for the purpose of practice mobility. The bill amends the definition of "certified public accountant" in

s. 473.302(4), F.S., to include individuals practicing public accountancy under the practice mobility privilege in s. 473.3141, F.S. It also revises the definition of the terms “practice of,” “practicing public accountancy,” and “public accounting” in s. 473.302(8), F.S., to include individuals practicing public accountancy under the practice mobility privilege in s. 473.3141, F.S.

The bill amends s. 473.302, F.S., to define the term “home office” to mean the principal headquarters of an entity and to limit an entity to only one principal headquarters.

The bill clarifies the definition of the term “firm” in s. 473.302(5), F.S., to mean any legal entity that is engaged in the practice of public accounting.

The bill also defines the term “Uniform Accountancy Act.”

The bill amends ss. 473.311, 473.312, 473.313, 473.316, 473.319, 473.319, 473.3205, and 473.321, F.S., to reference certified public accountants or firm in place of the term “licensees.” This incorporates CPAs who are providing accountancy services under practice mobility within these provisions.

### **Laws and Rules Examination**

The bill amends s. 455.217(7), F.S., to exempt a CPA from the requirement of a laws and rules examination as a condition of license renewal. The bill also amends s. 473.305, F.S., to delete the authority of the board to assess a late filing fee to the laws and rules examination.

### **Licensure Requirements**

The bill amends s. 473.308, F.S., to provide that an applicant for licensure must have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college or university. The bill also deletes the reference to the additional 30 semester hours or 45 quarter hours (the fifth year requirement). Although the bill deletes the reference to the fifth year requirement, the 150 semester hours required by the bill equal the same number of total educational hours required under current law.

The bill amends s. 473.308(4), F.S., to provide an exception to the work experience requirement for any person who has completed the 150 hours education requirement on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

### **Inactive or Delinquent Status**

The bill amends s. 455.271, F.S., to exempt a CPA from the provisions of s. 455.271(10), F.S. The bill would permit a CPA who is on inactive or delinquent status to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods during which the licensee was inactive or delinquent.

The bill also amends s. 473.311(1), F.S., to delete the reference to the requirement in

s. 455.271, F.S. It also deletes the requirement in this subsection that at least five percent of a CPA's continuing education hours must be in ethics applicable to the practice of public accounting.

The bill amends s. 473.313(2), F.S., to provide that the continuing education requirements for reactivation of an inactive CPA license would be those prescribed for the most recent biennium plus one-half of the requirements in s. 473.312, F.S. The bill deletes the requirement for reactivation of an inactive license that the CPA also complete one-half of the requirements for each year or part thereof during which the licensee was inactive.

The bill amends s. 473.313(2), F.S., to provide that a minimum of eight hours of the continuing education for renewal of an inactive license must be in ethics subjects approved by the board.

The bill also extends the applicable dates for the 120 continuing education hours requirement for reactivating an inactive license. Under the bill, the 120 hours requirement would apply if the CPA license was inactive on June 30, 2009, the licensee notified the board of his or her intention to reactivate the inactive license before December 31, 2009, and the licensee completes the reactivation of the license before June 30, 2011. This provides a six-month amnesty for inactive or delinquent licenses by limiting the required continuing education for reactivation to 120 hours.

The bill amends s. 473.313(3), F.S., to delete the requirement for an examination concerning chs. 455 and 473, F.S., and the related administrative rules as a condition of reactivating an inactive license.

The bill also amends s. 473.313(4), F.S., which relates to the reactivation of a license of an individual whose license has become null and void if the individual made a good faith effort to comply with the reactivation requirements in s. 473.313, F.S., but failed to comply because of illness or unusual hardship. The bill requires the individual to complete all of the continuing education requirements for reactivation in s. 473.313(2), F.S. The individual is not required to complete all of the continuing education requirements in s. 473.312, F.S.

### **Board of Accountancy**

The bill amends s. 473.303(1), F.S., to provide that seven members of the Board of Accountancy must be certified public accountants licensed in Florida and must have practiced full-time in Florida for at least five years. Current law does not provide the members must be licensed in this state or have practiced in this state.

The bill amends s. 473.303(2), F.S., relating to the probable cause panel, to include the term "current" in reference to board members, and to clarify that the reference to "past members" refers to "past board members." The bill also deletes the provision that limits past board members to serving a maximum of two years. The bill permits past board members to serve a term of two years and provides that they may be reappointed for additional terms.

**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:

The bill exempts a CPA from the laws and rules examination required under s. 455.217, F.S. The biennial renewal fee for individual active and inactive status licenses is \$105. It is not clear whether individuals holding a CPA license issued by the Board of Accountancy would be able to save the costs related to the laws and rules examination. This is because the cost of the laws and rules examination is included in the current renewal fees for the profession.

A certified public accountant with an inactive or delinquent license could reactivate his or her license by obtaining fewer continuing education hours than currently required. This could result in lower education costs for individuals who wish to reactivate their license. To reactivate a delinquent or inactive license, an individual would be able to complete the continuing education requirement prescribed for the most recent biennium plus one-half of the requirements in s. 473.312, F.S., instead of having to complete one-half of the requirements for each year or part thereof during which the licensee has been inactive.

## C. Government Sector Impact:

According to the department, approximately \$133,000 in annual costs will be avoided by the Board of Accountancy by eliminating the law and rules examination.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by General Government Appropriations on April 15, 2009:**

The committee substitute:

- Amends s. 473.302, F.S., to revise the definitions for the terms “certified public accountant,” “firm,” and the terms “practice of,” “practicing public accountancy,” or “public accounting.” It also defines the terms “home office” and “Uniform Accountancy Act.”
- Amends s. 473.304, F.S., to reference certified public accountants and firm.
- Amends 473.309, F.S., to revise the practice requirements for partnerships, corporations, and limited liability companies.
- Amends s. 473.3101, F.S., to provide requirements for firms.
- Amends ss. 473.311, 473.312, 473.313, 473.316, 473.319, 473.319, 473.3205, and 473.321, F.S., to reference certified public accountants or firm in place of the term “licensees.”
- Amends s. 473.314, F.S., relating to titles that may be used by CPA’s or firm under a temporary license.
- Creates s. 473.3141, F.S., to provide requirements for CPA’s in other states to practice accountancy in Florida without obtaining a Florida CPA license, notifying or registering with the board, or paying a fee.
- Amends s. 473.322, F.S., to include CPA’s in other states who are providing accountancy services in Florida through practice mobility within the disciplinary provisions of ch. 473, F.S.

**CS by Regulated Industries on March 17, 2009:**

The committee substitute does not repeal s. 455.207(7), F.S., to delete the requirement for a laws and rules examination as a condition of license renewal for all of the professions licensed by the Department of Business and Professional Regulation. Instead, the committee substitute amends s. 455.207(7), F.S., to exempt a CPA from the requirement of a laws and rules examination as a condition of license renewal.

- B. **Amendments:**

None.