

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 Commerce and Tourism

BILL: CS/SB 1348

INTRODUCER: Regulated Industries Committee and Senator Young

SUBJECT: Public Accountancy

DATE: March 31, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|------------------|
| 1. | <u>Oxamendi</u> | <u>McSwain</u> | <u>RI</u> | <u>Fav/CS</u> |
| 2. | <u>Little</u> | <u>McKay</u> | <u>CM</u> | <u>Favorable</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1348 extends the privilege of “practice mobility” to a public accountancy firm or certified public accountancy firm (CPA firm) that does not have an office in Florida or a Florida license to allow the firm to practice public accountancy in the state without a license, notice, or payment of any fee. Current law provides the privilege of practice mobility to out-of-state certified public accountants (CPAs), but not to CPA *firms*. To qualify for practice mobility, a firm must comply with the practice mobility requirements in current law, be enrolled in a peer review program, perform services through a Florida-licensed CPA, and lawfully perform services in a state where a CPA with practice mobility privileges has his or her principal place of business.

The bill:

- Updates the professional standards for CPAs to reference the current edition of the Uniform Accountancy Act, which is a model act designed to advance the goal of uniformity in accountancy practice.
- Revises the definition of “client” to provide that the term means a person who agrees with an accountant or accountant’s employer to receive professional service; and
- Authorizes the Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) to discipline a licensed CPA who has been disciplined by the Public Company Accounting Oversight Board, which is a private-sector nonprofit corporation established by Congress in the Sarbanes-Oxley Act of 2002 to oversee the audits of public companies.

The bill has no fiscal impact on state government.

The effective date of the bill is July 1, 2017.

II. Present Situation:

The board is responsible for regulating and licensing more than 34,000 active and inactive CPAs and more than 5,400 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

The terms “practice of,” “practicing public accountancy,” or “public accounting” 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, 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

¹ Florida Department of Business and Professional Regulation, Fiscal Year 2013-2014 Annual Report, page 14, available at http://www.myfloridalicense.com/dbpr/os/documents/ProfessionsAnnualReportFY2015-2016_Final.pdf (last visited March 30, 2017).

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.

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 employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

A “client” is defined in s. 473.316, F.S., as any person, public officer, corporation, association, or other organization or entity, either public or private (person), who consults an accountant with the purpose of obtaining accounting services.

Uniform Accountancy Act

The Uniform Accountancy Act (UAA) is defined in s. 473.302(9), F.S., as “the Uniform Accountancy Act, Fourth Edition, dated December of 2007 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.” The UAA is a model act designed to advance the goal of uniformity in accountancy laws, protect the public interest, facilitate consumer choice, and support the efficient operation of the capital markets.⁵ The current edition of the UAA is the Seventh Edition.⁶

Practice Mobility

Section 473.3141, F.S., provides the privilege of practice mobility to permit a CPA who is licensed in another state, but not licensed in Florida, 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, 49 states, the District of Columbia, and the U.S. Virgin Islands have adopted practice mobility statutes.

An out-of-state CPA who practices in Florida under practice mobility, as a condition for the privilege, consents to personal and subject matter jurisdiction and the disciplinary authority of the board. The CPA must comply with ch. 473, F.S., and the applicable board rules, and

⁵ See American Institute of CPAs, *What is the Uniform Accountancy Act?*, at: <http://www.aicpa.org/ADVOCACY/STATE/STATECONTACTINFO/UAA/Pages/default.aspx> (last visited March 30, 2017).

⁶ *Id.*

have a current, valid CPA license in another state that has adopted standards substantially equivalent to s. 5 of the Uniform Accountancy Act.⁷

The types of accounting services that an out-of-state CPA may provide are limited to the services described in s. 473.302(8)(b) and (c), F.S. If the CPA provides the opinion and attestation services described in s. 473.302(8)(a), F.S., the CPA must obtain a Florida license. An individual who provides accountancy services described in s. 473.302(8)(a), F.S., also must obtain a firm license as required by s. 473.3101, F.S.⁸

Practice mobility is limited to individuals; the privilege does not extend to firms.

Firm License Requirement

A CPA firm is a legal entity that is engaged in the practice of public accounting.⁹ A firm must hold a Florida license if it:

- Has an office in this state which performs the accounting services in s. 473.302(8)(a), F.S. (i.e., opinion and attestation services);
- 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 it is a CPA firm; or
- Does not have an office in this state but performs the services described in s. 473.3141(4), F.S.,¹⁰ for a client having its home office in this state.¹¹

Each sole proprietor, partnership, corporation, or limited liability company¹² must apply for licensure with the board. An application for a firm license must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member of the firm who is a CPA.

Peer and Quality Review

A CPA firm engages in peer reviews to protect the quality and effectiveness of the accounting, auditing, and attestation services provided by public accounting firms.¹³ Licensed public accounting firms that provide accounting services in s. 473.302(8)(a), F.S., must enroll in a peer review program.¹⁴ A peer review is the study, appraisal, or review by one or more independent certified public accountants of one or more aspects of a licensee’s professional work.¹⁵

⁷ Section 473.3141(3), F.S.

⁸ Section 473.3141(4), F.S.

⁹ Section 473.302(5), F.S.

¹⁰ Section 473.3141(4), F.S., permits a person who does not have a Florida license or an office in this state to practice as a CPA in Florida and perform the services identified in s. 473.302(8)(a), F.S., through a Florida-licensed firm.

¹¹ Section 473.3101(1)(a), F.S.

¹² Section 473.309, F.S., sets forth practice requirements for such business entities engaged in the practice of public accounting under s. 473.302(8)(a).

¹³ PRP Section 1000 AICPA Standards for Performance and Reporting on Peer Reviews (March 2013) page 5, available at: <http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf> (last visited March 30, 2017).

¹⁴ Section 473.3125(4), F.S.

¹⁵ Section 473.3125(1)(b), F.S.

The board has adopted the American Institute of Certified Public Accountants minimum standards for administering, performing, and reporting on peer reviews,¹⁶ and has established a peer review oversight committee to oversee and monitor implementation of the peer review requirement.¹⁷

A quality review is a study, 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 review.¹⁸ The quality review is conducted by a “review committee” composed of any person or persons who are not owners or employees of the accountant or firm that is the subject of a quality review and who carry out, administer, or oversee a quality review.¹⁹

Public Company Accounting Oversight Board

The Public Company Accounting Oversight Board (PCAOB) is a private-sector nonprofit corporation established by Congress in the Sarbanes-Oxley Act of 2002 to oversee the audits of public companies in order to protect investors and the public interest.²⁰ The PCAOB has the authority to investigate and discipline registered public accounting firms and persons associated with those firms for noncompliance with the Sarbanes-Oxley Act of 2002, the rules of the PCAOB and the Securities and Exchange Commission, and other laws, rules, and professional standards governing the audits of public companies, brokers, and dealers.²¹

The board does not have the authority to discipline a CPA based solely on any disciplinary action taken by the PCAOB.

III. Effect of Proposed Changes:

Uniform Accountancy Act

The bill updates the definition of the Uniform Accountancy Act in s. 473.302(9), F.S., to reference the current Seventh Edition, dated May 2014.

Practice Mobility

The bill amends s. 473.3101(1)(c), F.S., to allow a firm or public accountancy firm to qualify for practice mobility and practice in this state without a license if it does not have an office in this state, but complies with the practice mobility requirements in s. 473.3141, F.S. To qualify for practice mobility, the firm must also:

- Comply with the practice requirements for business entities pursuant to s. 473.309, F.S.;
- Be enrolled in a peer review program pursuant to s. 473.3125(4), F.S.;

¹⁶ Section 473.3125(2), F.S., and Fla. Admin. Code Rule 61H1-39.002 (2016).

¹⁷ Section 473.3125(3), F.S., and Fla. Admin. Code Rule 61H1-39.004 (2016).

¹⁸ Section 473.316(1)(d), F.S.

¹⁹ *Id.*

²⁰ 15 U.S.C. s. 7211 (2010).

²¹ 15 U.S.C. 7202 and 15 U.S.C. s. 7211(c) (2010).

- Perform services through a CPA licensed under s. 473.308, F.S.; and
- Lawfully perform services in a state where an individual with practice privileges under s. 473.3141, F.S., has his or her principal place of business.

Definition of “Client”

The bill amends s. 473.316(1)(b), F.S., to revise the definition of “client” to provide that the term means a person who agrees with an accountant or accountant’s employer to receive professional services, rather than a person “who consults an accountant with the purpose of obtaining accounting services.”

Disciplinary Proceedings

The bill amends s. 473.323(1)(j), F.S., to authorize the board to discipline a licensee who has been disciplined by the PCAOB.

Effective Date

The bill provides an effective date of July 1, 2017.

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:

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: 473.302, 473.3101, 473.316, and 473.323.

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 on March 21, 2017:

The committee substitute amends s. 473.3101(1)(c), F.S., to replace the requirement that a firm must comply with s. 473.308, F.S., with a requirement that a firm must comply with s. 473.3141, F.S., in order to exercise the practice mobility privilege.

- B. **Amendments:**

None.