



## FLORIDA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

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### *2012 LEGISLATIVE AND REGULATORY POLICIES*

The Florida Institute of CPAs is committed to the advancement of Florida's CPA profession. As such, the Institute believes a vital part of its service role to the membership is to both propose and comment on policies and procedures that affect the profession.

With this in mind, the Committee on State Legislative Policy developed the 2012 FICPA Legislative and Regulatory Policies. Through the promulgation and support of these policies, the FICPA's intent is for the profession to maintain the highest possible standards of professionalism while protecting the needs and exceeding the expectations of the general public.

Annually, existing policies are distributed to applicable subject matter experts within the FICPA for their review and comment. Their comments regarding existing policies and their identification of issues requiring new policies are used to assist the State Legislative Policy Committee in developing legislative policy for the current fiscal year. The legislative policies of the FICPA for the current fiscal year are listed on the following pages and segregated into 8 broad categories as follows:

1. Tax/State Tax
2. Licensure
3. Peer Review
4. Constitutional/Legislative
5. Auditing & Accounting
6. Common Interest Realty Associations (CIRA)
7. State & Local Government
8. Department of Business & Professional Regulation (DBPR)/Florida Board of Accountancy (BOA)

**The FICPA Board of Governors approved the 2012 FICPA Legislative and Regulatory Policies at its December 8, 2011 meeting in Tallahassee.**

**The FICPA is committed to monitoring the implementation of legislation and the rule-making process that is responding to the changing marketplace for CPA services, while maintaining protection of the public and the integrity of the CPA credential, including, but not limited to, the following:**

## Tax/State Tax

### ***Florida Corporate/Personal Income Tax:***

1. Oppose any statutory or regulatory change that would be placed on the preparer requirements to file unemployment compensation tax returns and/or penalties for same.
2. Support legislation that would continue to conform the Florida Corporate Income Tax to the latest version of the Federal Internal Revenue Code (piggy-backing) and oppose any new tax including any value added, gross receipts on Subchapter S corporations, limited partnerships, general partnerships, limited liability partnerships, limited liability companies, or any other flow-through entities.
3. Oppose any effort to re-institute the Intangibles Tax.
4. Maintain the current Florida Taxpayer's Bill of Rights. Support the addition of the following rights to the taxpayer's bill of rights:
  - a. The right to freedom from imposition of penalties barring a determination that the taxpayer's failure to comply with the revenue law is due to reasonable cause.
  - b. The right to appeal tax assessments or penalties to an independent administrative law judge without paying the contested amount, with a final order issued in 90 days.

### ***Sales Tax:***

5. Support the FICPA's continual review of the Certified Audit Program with the Department of Revenue, and pursue enhancements to the program.
6. Support legislation that would require the Department of Revenue to send notices of liens or final assessments by certified mail to the last known address of the taxpayer.
7. Support requiring the Department of Revenue (DOR) to standardize audit procedures for both assessment and refund purposes to utilize identical standardized review techniques and encourage the DOR to trace all rules biannually to respective Statutes.
8. Support the current three-year statute of limitations on voluntary disclosure of tax liability to the Department of Revenue.

9. Support the Alliance for Collection of Existing Sales and Use Tax in an effort to review the Streamlined Sales Tax Project and support a plan of action to seek fair and workable solutions with regard to this issue.
10. Support legislation to expand the Certified Audit Program to allow recipients of Notices of Intent to Audit to use a special Department of Revenue (DOR) certified private auditor in lieu of an audit by the DOR.

***Property Tax:***

11. Support the personal property tax return filing statute to keep the filing date at April 1, but provide for a mandatory 30-day extension if the request is filed by the due date. In addition, an additional 15-day extension may be granted at the discretion of the property appraiser.
12. Coordinate with the property appraisers in creating a mechanism for taxpayers to obtain detailed tangible personal property tax assessment data and/or support legislation that would require property appraiser's offices to make available to taxpayers or authorized preparers the details of tangible personal property annual valuations.

**Licensure**

1. Support state societies, legislative bodies and others who seek a "reasoned approach" to considering changes that fit within a uniform regulatory format for the CPA profession that fosters, rather than inhibits, interstate professional practice. Actively participate in proposed legislative changes on the state level in response to federal legislation regarding accounting regulation.
2. Aggressively seek enforcement of the provisions allowing the Department of Business and Professional Regulation (DBPR) to impose administrative (civil) fines on unlicensed individuals using the term "public accountant" or otherwise practicing public accounting. Encourage DBPR to actively seek injunctive relief against non-licensees violating Chapters 455 or 473, F.S.
3. Continue to support actions necessary to ensure the vigorous enforcement of s. 473.314, F.S., concerning temporary licensure, including a cap on temporary licenses and a requirement that temporary licensees have the same qualifications as Florida licensees.
4. Retain the 150-hour education requirement for licensure. Examine curriculum requirements to determine if adjustments are warranted to provide uniformity between states.

***Exemptions:***

5. Support the statutory exemption of licensed CPAs from certain insurance licensing requirements, provided they are acting within the scope of the practice of public accounting as defined in Chapter 473, F.S. The exemption is limited to advising clients of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed. The exemption is applicable only if the CPA does not receive or share in a commission, referral or solicitor's fee in which case the CPA would need to have the appropriate insurance license. Continue communication with the insurance industry and the Office of Insurance Regulation under the Department of Financial Services on various insurance licensing issues.
6. Support the statutory exemption for licensed CPAs from private investigative licensing requirements when recovering unclaimed property on behalf of clients during the normal course of practice pursuant to Chapter 473, F.S.
7. Support the statutory exemption of licensed CPAs from investment adviser requirements when such services are solely incidental to their practice pursuant to Chapter 473, F.S.
8. Support the statutory exemption for licensed CPAs from real estate licensing requirements when acting within the scope of the practice of public accounting as defined in Chapter 473, F.S.
9. Support the continuation of CPAs qualification to serve as certified circuit, county, insurance and family mediators, and actively pursue changes in other laws and regulations to expand the roles of CPAs in mediation and arbitration.

***Other Licensure Issues:***

10. Continue to oppose the licensure of a second tier of accountant and monitor "safe harbor" language regarding financial statements prepared by others to guide non-licensed accountants and bookkeepers and to help prevent the unauthorized practice of public accounting.
11. Support 473.309, F.S. allowing a simple majority (51 percent) of the ownership of a Florida CPA firm (in terms of financial interests and voting rights) to belong to CPAs. Any non-CPA owner would have to be actively engaged as a firm member in providing services to the firm's clients as his or her principal occupation. Ownership by investors or commercial enterprises would be prohibited.

12. Continue to oppose the licensure of other individuals or entities not presently licensed to provide financial or tax-related services.
13. Continue to support the administration of the Uniform CPA Examination. Any translations for foreign-trained professionals should be to overcome language barriers only, and should be the exact questions found in the Uniform CPA Examination.
14. Support the continuation of a uniform CPA exam offered in an electronic manner.
15. Support the following current policies regarding continuing professional education (CPE):
  - a. Support the existing requirement of at least 80 hours of CPE during each two-year re-establishment period. However, no more than 25 percent of the total hours will be required to be in A&A courses and a minimum of five percent of the total hours will be required in ethics. Maintain the current CPE requirements as provided in s. 473.317, F.S., and the related rules. Maintain the current classification of courses, as well as the requirements for inactive and delinquent status, as provided in s. 473.313, F.S.
  - b. Continue to favor an emphasis on technical CPE courses and a de-emphasis on courses dealing with behavioral topics. Support the existing limit on the number of behavioral course hours that can be taken for credit.
  - c. Monitor and evaluate any form of mandatory pre-or post-exam for CPE courses.

### **Peer Review**

1. Support legislation and work with the Board of Accountancy to establish Peer Review as a requirement for firm re-licensure with the following critical safeguards:
  - a. The focus of the program is educational and remedial to assist firms to improve the quality of their accounting and auditing practices.
  - b. The Peer Review requirements follow the “Standards for Performing & Reporting on Peer Reviews” as issued by the AICPA.
  - c. A firm’s peer review results remain confidential and will not be made part of any public record. The only exceptions to the confidentiality

requirement would be if a firm receives two consecutive “fail” peer review reports or for a firm’s material non-cooperation with the Peer Review Program.

- d. Maintain the current statutory requirement that exempts from discovery in state court all information collected through a Peer (quality) Review.
- e. Continue to oppose any other forms of regulatory practice monitoring programs including, “open and random inspections” or mandatory submission of client information to the Board of Accountancy or any other government agencies.

### **Constitutional/Legislative**

1. Oppose revenue-based taxes on services provided by CPAs and CPA firms, including, but not limited to, a sales tax on those services.
2. Oppose or challenge any action (involving the practice of public accounting or the delivery of public accounting services to the public) by state agencies that lack adequate statutory authority.
3. Support legislation and regulatory initiatives that promote efficient and appropriate delivery of government services through privatization and which do not conflict with professional standards or create an “expectation gap” that ultimately reflects poorly on the profession.
4. Support efforts to preserve the Florida Constitution as the principal framework defining the lawmaking abilities of the legislature, the basic rights of Florida citizens, and the structure of state government.
5. Actively participate in the efforts of the Florida Justice Reform Institute and encourage the Florida Legislature to enact legal liability reform, including, but not limited to, the following:
  - a. Support the current statutes related to proportionate liability and oppose any effort to re-institute the Doctrine of Joint and Several Liability.
  - b. Reasonably limit punitive damage awards.
  - c. Establish a maximum or reduced level for contingent fees, such as attorney’s fees.
  - d. Support a uniform statute of limitations for actions against CPAs based on one year from the date the alleged act, omission or neglect is discovered, or should have been discovered by the

exercise of reasonable diligence. However, in no event shall the action be commenced later than three years after the service for which the suit is brought has been performed, or the date of the initial issuance of the accountant's report on the financial statements or other information, whichever comes first.

6. Continue to favor the present statutory requirement in s.11.42, F.S., that the Auditor General of the State of Florida be a Florida CPA for at least 10 years.
7. Monitor and participate in the technical corrections of legislation on the Florida Uniform Principal & Income Act. Coordinate meetings between the FICPA, The Florida Bar's Real Property, Probate and Trust Law Section, and the Florida Bankers Association. Disseminate information on the Florida Uniform Principal & Income Act to other state CPA societies as needed.
8. Support active participation of CPAs in legislative and executive branches of Florida Government initiatives to promote financial literacy.
9. Support legislation that provides that the court shall determine fair compensation to be paid to Florida CPAs when they are subpoenaed to testify in their capacity as a CPA in any action or proceeding. The fee would be paid by any party issuing the subpoena other than the state.
10. Continue to support CPA privileged communications – s. 473.316, F.S.
11. Support the establishment of a privity statute (1) denying parties not in privity with the CPA standing to seek recovery from a CPA, and (2) requiring financial institutions desiring privity to obtain written privity acknowledgment from the CPA before the CPA has rendered the report or furnished other information upon which the financial institution intends to rely.
12. Continue to support the statutory requirement for a 1 year work experience, under the supervision of a CPA licensed by a state or territory, prior to licensure. The work experience would include employment in:
  - public practice
  - private business
  - government
  - educational institution
  - any type of service or advice involving the use of accounting, attest, compilation, management advisory, tax or consulting skills.

### **Auditing and Accounting**

1. Oppose any requirement of mandatory rotation of auditors and/or engagement partners on any entity regulated by statute.

### **Common Interest Realty Associations (CIRA)**

1. Support legislative and regulatory activity to provide for consistency between Chapters 718, F.S (Condominium Associations); 719, F.S. (Co-Operatives); 720, F.S. (Home Owners Associations); and 721, F.S. (Timeshares) and related administrative rules.
2. Monitor any proposed legislative or regulatory changes in the area of Common Interest Realty Association accounting and auditing issues.

### **State and Local Government**

1. Support efforts to enforce compliance with auditor selection procedures set forth in section 218.391, F.S.
2. Support actions necessary to ensure that a firm's "work papers," as set forth in section 473.318, Florida Statutes, would not be considered "public records" for the purposes of Florida's Public Records Act (Chapter 119, F.S.) when an independent CPA firm provides professional services for a State of Florida governmental agency or entity.

### **DBPR/BOA**

1. Support the Board of Accountancy in its decision to move to another agency or stay within the current structure at the Department of Business and Professional Regulation.
2. Support the statutory requirement for the Board of Accountancy to be located in Gainesville.
3. Oppose the use of trust fund dollars collected by the Board of Accountancy for any other issues other than those stated in s. 473.3035, F.S.
4. Support legislation that would require the Department of Business and Professional Regulation to send notices of license suspension or revocation by certified mail, return receipt requested, to the last known address of the licensee.

5. Support the Board of Accountancy in their ability to automatically adopt Generally Accepted Accounting Principles and Generally Accepted Auditing Standards.
6. Support the Board of Accountancy to seek “emergency suspension” power for the Department of Business and Professional Regulation in cases of intentional violations of an agency final order by a licensee.
7. Support the Board of Accountancy to allow community service as an alternative to certain administrative fines.
8. Oppose the use of the Department of Business and Professional Regulation resources to resolve civil disputes between non-licensed professionals and consumers performing non-licensed activities.
9. Support a reasonable statute of limitations (preferably not to exceed three years) for violations of Florida laws and rules regarding the practice of public accounting. However, such statute would not be applicable to cases involving fraud [see statute of limitations for civil matters, s. 95.11(4)(a), F.S.].
10. Coordinate with the Board of Accountancy (BOA), and seek appropriations for the Minority Scholarship Program as defined in statute, as well as cross marketing with the FICPA Educational Foundation to provide scholarship funds to accounting students. Support the BOA legislation to allow the balance of any unused scholarship funds in any year to be carried forward and awarded in a future year.
11. Support the Board of Accountancy’s ability to adjust CPA examination fees to accommodate the anticipated increased cost related to computerized testing, if needed. Support any revisions to s. 473.305, F.S., to be consistent with the implementation of the Uniform CPA Exam.
12. Support the use of unlicensed-activity funds to inform the public that some services may be unregulated if performed by a non-CPA.
13. Support a regulatory framework for the Board of Accountancy that is efficient, effective and fair in safeguarding the public and fulfilling public policy and regulatory functions and requirements.
14. Establish the Board of Accountancy as the agency responsible to:
  - a. Approve the content and form of the auditor’s report on financial information requirements of state agencies, thereby eliminating conflicts in the standards of the practice of public accounting; and

- b. Establish the form and content of financial information as requested by other state agencies.
15. Continue to favor current statutory provisions regarding qualifications of Board of Accountancy members. Encourage the Governor to take into consideration geographic, demographic, public and private accounting experience when appointing Board of Accountancy members.
  16. Monitor the assessment of the Department of Business and Professional Regulation fines to be sure they are administered in a fair and uniform manner, and are rehabilitative and not punitive.
  17. Monitor s. 473.319, F.S. and s. 473.3205, F.S. relating to the acceptance of commissions and referral fees, except involving attest engagements, with written disclosure of the fact. Support rules related to disclosure of commissions that are no more stringent than current standards established by laws, rules or codes of conduct commonly used to regulate or voluntarily direct the disclosure of such activities.
  18. Permit the acceptance of contingent fees, except for audits, reviews, financial statement preparation engagements and expert witnesses.
  19. Continue to support a comprehensive review of Florida laws and rules pertaining to the practice of public accounting.
  20. Support the Board of Accountancy in their study to privatize the Florida BOA.
  21. Support legislation to remove antiquated barriers to the profession that are no longer viable or relevant without compromising the professions core principles of independence, objectivity, and professional standards.

### **FICPA Administrative Policies**

1. The Executive Committee is authorized to modify or establish the FICPA's Legislative and Regulatory Policies as circumstances warrant within 45 calendar days prior to any regular or special session of the Legislature, or when the Legislature is in session.
2. The Executive Director or her designee is instructed and authorized to represent the Institute before state governmental authorities and the public to support the policies, goals and objectives of the FICPA.
3. The FICPA should continue to be actively involved in broad public-policy areas that will have a direct or indirect effect on the profession, such as tax reform, governmental financial accountability and efficiency, human resource development and such.

As of: 12/8/2011