

**ACT 66**

S.B. NO. 2501

A Bill for an Act Relating to Public Accountancy.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to:

- (1) Provide a mechanism for firms engaged in the practice of public accounting to undergo peer review on a regular basis; and

- (2) Grant the state board of public accountancy appropriate power to regulate the peer review process.

SECTION 2. Section 466-3, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

“Attest” means providing the following financial statement services:

- (1) Any audit or other engagement to be performed in accordance with the statements on auditing standards of the American Institute of Certified Public Accountants;
- (2) Any compilation or review of a financial statement to be performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants;
- (3) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements of the American Institute of Certified Public Accountants;
- (4) Any engagement to be performed in accordance with the government auditing standards, also known as the Yellow Book, issued by the United States Government Accountability Office; and
- (5) Any engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board.

“Peer review” means a study, appraisal, or review of one or more aspects of the professional work of a firm that issues attest reports by a person or persons who hold permits to practice public accountancy under section 466-7 and who are not affiliated with the firm being reviewed.”

2. By amending the definition of “firm” to read:

“Firm” means a sole proprietorship, a corporation, [or] a partnership[-], a limited liability company, or a limited liability partnership.”

3. By deleting the definition of “quality review.”

~~[“Quality review” means a study, appraisal, or review of one or more aspects of the professional work of a firm in the practice of public accountancy by a person or persons who hold certificates and who are not affiliated with the firm being reviewed.”]~~

SECTION 3. Section 466-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An applicant for the initial issuance or renewal of a permit shall have:

- (1) A valid license;
- (2) Completed continuing professional education hours, the content of which shall be specified by the board which may provide for special consideration by the board to applicants for permit renewal when, in the judgment of the board, full compliance with all requirements of continuing education cannot reasonably be met;
- (3) Completed an application; ~~[and]~~
- (4) Paid appropriate fees and assessments[-]; and
- (5) Undergone any applicable peer review process approved by the board of accountancy pursuant to section 466-13.”

SECTION 4. Section 466-9, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) In addition to any other actions authorized by law, in accordance with chapter 91, the board may take the following action:

- (1) Cancel or revoke any license or permit issued under section 466-5, 466-6, or 466-7, or corresponding provisions of prior law;
- (2) Suspend a license or permit for a period of not more than two years;
- (3) Refuse to renew a license or permit for a period of not more than two years;
- (4) Reprimand, censure or limit the scope of practice of any licensee or firm;
- (5) Impose an administrative fine not exceeding \$1,000;
- (6) Place a licensee or firm on probation;
- (7) Require a firm to have a [quality] peer review conducted in the manner specified by the board; or
- (8) Require a licensee to attain satisfactory completion of additional continuing professional education hours as specified by the board.”

2. By amending subsection (c) to read:

“(c) Upon application of any person against whom disciplinary action has been taken under subsection (a), the board, in accordance with chapter 91, may reinstate the person’s license or permit to practice which was affected by the disciplinary action.

- (1) The board shall specify the manner in which an application shall be made, the time within which it shall be made, and the circumstances under which the license may be reinstated; and
- (2) Before reinstating, the board may:
  - (A) Require the applicant to show successful completion of specified continuing professional education; and
  - (B) Make the reinstatement of a license or permit conditional and subject to satisfactory completion of a [quality] peer review conducted in a manner as the board may specify.”

SECTION 5. Section 466-13, Hawaii Revised Statutes, is amended to read as follows:

“§466-13 [Quality] Peer review [committee]. (a) Every firm, including the Hawaii offices and Hawaii engagements of foreign or multistate firms, required to obtain a firm permit to practice pursuant to section 466-7 shall undergo a peer review every three years on the firm’s Hawaii attest work and submit evidence of such peer review at the time of the renewal of the firm’s permit to practice under section 466-7.

(b) The board [may appoint a quality review committee] shall establish a peer review process to review [the publicly available professional] attest work of firms [on a random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular firm]. The identity of the person or firm for whom the professional work is done shall be preserved in confidence. [In the event] If the review discloses information that a firm has not met the appropriate professional standards, the board may require further investigation of the firm. The peer review process required by this section shall be for educational or remedial and not punitive purposes.

(c) The board may authorize a third party entity to administer the peer review required under subsection (a); provided that the entity shall not require firms or the firms’ owners or employees to become members of the entity to participate in peer review and shall charge the same rate for peer review services

to both members and nonmembers. If the board chooses to authorize a third party entity to administer peer reviews, the third party shall be held to the highest standards of professionalism, quality, and ethics.

(d) The board shall adopt rules pursuant to chapter 91 to establish requirements and procedures for the qualification of entities to conduct peer reviews and for the performance of peer reviews by these entities. The rules shall include:

- (1) A process for the conduct of peer review to be followed by the board and by an authorized third party entity;
- (2) Definitions, standards, and requirements for an acceptable peer review;
- (3) Standards for certification and qualification of peer reviewers;
- (4) A process for a firm to appeal the findings or conclusions of any peer review process that results in the denial, termination, or non-renewal of a firm permit pursuant to section 466-9; provided that the appeal process shall include the postponement of any adverse action during the pendency of the appeal; and
- (5) Provisions for the grant of an extension of time to a firm for compliance with the peer review requirement based on a showing of hardship including for reasons of health, military service, or other good cause as determined by the board.

(e) Neither the proceedings nor the records of the [quality] peer review [committees] process shall be subject to discovery. Except as hereinafter provided, no person [in attendance at a meeting of the committee] involved in the peer review process shall be required to testify [as to what transpired at the meeting;] on that process; provided that [the] statements made by any person [in attendance at the meeting] in connection with the peer review process who is a party to an action or proceeding the subject matter of which was reviewed [at the meeting;] in that process, shall be subject to discovery."

SECTION 6. This Act does not affect rights and duties that have matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. The board of public accountancy shall:

- (1) Adopt rules pursuant to section 466-13(d), Hawaii Revised Statutes, in section 5 of this Act; and
- (2) Report the adoption of the rules under paragraph (1) to the legislature immediately upon adoption of those rules by means of written notice to the speaker of the house of representatives and the president of the senate.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval; provided that sections 2, 3, 4, and 5 shall take effect one year after the board of public accountancy reports the adoption of rules pursuant to section 7 of this Act.

(Vetoed by Governor and veto overridden by Legislature on April 29, 2010.)