

Honolulu, Hawaii

MAR 17 2014

RE: H.B. No. 716
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 716 entitled:

"A BILL FOR AN ACT RELATING TO THE DISCIPLINARY AUTHORITY OF THE BOARD OF PUBLIC ACCOUNTANCY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that the Board of Public Accountancy may take one or more disciplinary actions against any person for violations of public accountancy regulatory law;
- (2) Repeal the maximum amount of time for which the Board of Public Accountancy may suspend or refuse to renew a license or permit; and
- (3) Increase the amount of the administrative fine that may be imposed for any violation of public accountancy regulatory law.

Your Committee received testimony in support of this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs, Board of Public Accountancy, and Hawaii Society of Certified Public Accountants.

Your Committee finds that a state court has determined that the Board of Public Accountancy (Board) is allowed to impose only one disciplinary sanction against a public accountant licensee in



a disciplinary action. The Board can therefore suspend a license but cannot also order a fine, restitution, or continuing professional education. The court's interpretation does not reflect the intent of the Board and is inconsistent with the disciplinary authority of other boards and regulatory programs. Accordingly, this measure explicitly authorizes the Board to impose one or more disciplinary actions, when appropriate, for violations of the public accountancy licensing statutes and administrative rules.

Your Committee further finds that this measure increases the maximum administrative fine that the Board may impose for a licensing violation. The current amount has not been increased since the fines were established in the 1980s and is inconsistent with fines currently imposed for violations in other professions and trades. The increased fines, as proposed by this measure, will serve as a more meaningful deterrent or sanction for egregious violations of public accountancy laws. This measure therefore benefits consumers by encouraging increased compliance by certified public accountants, public accountants, and public accounting firms with the public accountancy licensing statute and by aiding the enforcement efforts of the Regulated Industries Complaints Office.

Your Committee has amended this measure by making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 716, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 716, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,

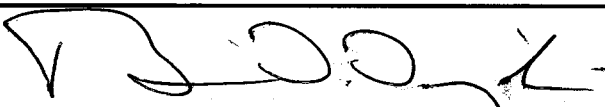


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 716	CPN, JDL	3/13/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn				✓
SLOM, Sam	✓			
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

A BILL FOR AN ACT

RELATING TO THE DISCIPLINARY AUTHORITY OF THE BOARD OF PUBLIC
ACCOUNTANCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 466-9, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) In addition to any other actions or conditions
4 authorized by law, in accordance with chapter 91, the board may
5 take any one or more of the following [~~action+~~] actions:

6 (1) [~~Cancel or revoke any~~] Revoke a license or permit
7 [~~issued under section 466-5, 466-6, or 466-7, or~~
8 ~~corresponding provisions of prior law~~];

9 (2) Suspend a license or permit [~~for a period of not more~~
10 ~~than two years~~];

11 (3) Refuse to renew a license or permit [~~for a period of~~
12 ~~not more than two years~~];

13 (4) Reprimand, censure, or limit the scope of practice of
14 any licensee or firm;

15 (5) Impose an administrative fine not exceeding [~~\$1,000,~~
16 \$5,000 per violation];

17 (6) Place a licensee or firm on probation;



1 (7) Require a firm to have a peer review conducted in the
2 manner specified by the board; or

3 (8) Require a licensee to attain satisfactory completion
4 of additional continuing professional education hours
5 as specified by the board.

6 (b) In addition to any other grounds for disciplinary
7 action authorized by law, any one or more of the following shall
8 constitute grounds for disciplinary action:

9 (1) Fraud or deceit in obtaining a license or permit;

10 (2) Disciplinary action taken by another state where the
11 license is canceled, revoked, suspended, denied, or
12 refused renewal;

13 (3) Failure, on the part of a holder of a license or a
14 permit [~~under section 466-5, 466-6, or 466-7,~~] to
15 maintain compliance with the requirements for issuance
16 of a license or a permit, or renewal of a license or
17 permit, or to report changes to the board;

18 (4) Revocation or suspension of the right to practice
19 before any state or federal agency;

20 (5) Dishonesty, deceit, fraud, or gross negligence in the
21 practice of public accountancy or in the filing or



1 failure to file a licensee's or firm's own income tax
2 returns;

3 (6) Violation of any provision of this chapter or of any
4 rule adopted by the board;

5 (7) Violation of any provision of professional conduct
6 established by the board under this chapter;

7 (8) Conviction of any crime an element of which is
8 dishonesty or fraud, under the laws of the United
9 States, of this State, or of any other state if the
10 act involved would have constituted a crime under the
11 laws of this State;

12 (9) Performance of any fraudulent act while holding a
13 license or permit issued under this chapter; or

14 (10) Any conduct reflecting adversely upon the licensee's
15 or permit holder's fitness to engage in the practice
16 of public accountancy."

17 SECTION 2. Section 466-11, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Any person or firm who violates this chapter may be
20 fined not more than [~~\$1,000~~] \$5,000 for each violation."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7



Report Title:

Public Accountancy; Board of Public Accountancy; Disciplinary Actions; Administrative Fine

Description:

Clarifies that the board of public accountancy may take one or more disciplinary actions against any person for violations of public accountancy regulatory law, repeals the maximum amount of time for which the board may suspend or refuse to renew a license or permit, and increases the amount of the administrative fine that may be imposed for any violation.

(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

