

**ASSEMBLY BILL**

**No. 1995**

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**Introduced by Assembly Member Correa**

February 15, 2002

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An act to amend Sections 5037 and 5100 of the Business and Professions Code, relating to accountancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1995, as introduced, Correa. Accountancy: destruction of records.

Existing law provides for the licensing and regulation of the practice of accountancy by the State Board of Accountancy in the Department of Consumer Affairs. Existing law requires a licensee to furnish to his or her client or former client, upon request, any accounting or other records belonging to, or obtained from or on behalf of, the client. Existing law authorizes a licensee furnishing these documents to make and retain copies of the documents when they form the basis for work done by him or her.

This bill would require a licensee furnishing documents to a client or former client pursuant to the above provisions to make and retain copies of documents of the client for a period of 5 years when they form the basis for his or her work.

Existing law provides that the board may revoke, suspend, or refuse to renew any permit or certificate, or may censure the holder of that permit or certificate, for unprofessional conduct.

The bill would make willful destruction of records, as defined, unprofessional conduct subject to disciplinary action by the board.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that it is  
2 necessary to enact legislation to provide consumer protection and  
3 audit integrity in the field of accountancy.

4 SEC. 2. Section 5037 of the Business and Professions Code  
5 is amended to read:

6 5037. (a) All statements, records, schedules, working  
7 papers, and memoranda made by a licensee or a partner,  
8 shareholder, officer, director, or employee of a licensee, incident  
9 to, or in the course of, rendering services to a client in the practice  
10 of public accountancy, except the reports submitted by the licensee  
11 to the client and except for records which are part of the client's  
12 records, shall be and remain the property of the licensee in the  
13 absence of an express agreement between the licensee and the  
14 client to the contrary. No such statement, record, schedule,  
15 working paper, or memoranda shall be sold, transferred, or  
16 bequeathed, without the consent of the client or his or her personal  
17 representative or assignee, to anyone other than one or more  
18 surviving partners or stockholders or new partners or stockholders  
19 of the licensee, or any combined or merged firm or successor in  
20 interest to the licensee.

21 (b) A licensee shall furnish to his or her client or former client,  
22 upon request and reasonable notice:

23 (1) A copy of the licensee's working papers, to the extent that  
24 those working papers include records that would ordinarily  
25 constitute part of the client's records and are not otherwise  
26 available to the client.

27 (2) Any accounting or other records belonging to, or obtained  
28 from or on behalf of, the client ~~which~~ *that* the licensee removed  
29 from the client's premises or received for the client's account. The  
30 licensee ~~may~~ *shall* make and retain copies of documents of the  
31 client *for a period of five years* when they form the basis for work  
32 done by him or her.

33 (c) *Willful destruction of records, electronic, and written, as*  
34 *described in subdivisions (a) and (b), shall be grounds for*  
35 *disciplinary procedures pursuant to Article 6 (commencing with*  
36 *Section 5100).*

37 SEC. 3. Section 5100 of the Business and Professions Code  
38 is amended to read:



1 5100. After notice and hearing the board may revoke,  
2 suspend, or refuse to renew any permit or certificate granted under  
3 Article 4 (commencing with Section 5070) and Article 5  
4 (commencing with Section 5080), or may censure the holder of  
5 that permit or certificate for unprofessional conduct which  
6 includes, but is not limited to, one or any combination of the  
7 following causes:

8 (a) Conviction of any crime substantially related to the  
9 qualifications, functions and duties of a certified public accountant  
10 or a public accountant.

11 (b) A violation of Section 478, 498, or 499 dealing with false  
12 statements or omissions in the application for a license, ~~or~~ in  
13 obtaining a certificate as a certified public accountant ~~or~~, in  
14 obtaining registration under this chapter, or in obtaining a permit  
15 to practice public accountancy under this chapter.

16 (c) Dishonesty, fraud, or gross negligence in the practice of  
17 public accountancy or in the performance of the bookkeeping  
18 operations described in Section 5052.

19 (d) Cancellation, revocation, or suspension of a certificate, *or*  
20 other authority to practice ~~or~~ *as a certified public accountant or*  
21 *a public accountant*, refusal to renew the certificate or other  
22 authority to practice as a certified public accountant or a public  
23 accountant, or any other discipline by any other state or foreign  
24 country.

25 (e) *Violation of subdivision (c) of Section 5037.*

26 (f) Violation of Section 5120.

27 ~~(f)~~

28 (g) Willful violation of this chapter or any rule or regulation  
29 promulgated by the board under the authority granted under this  
30 chapter.

31 ~~(g)~~

32 (h) Suspension or revocation of the right to practice before any  
33 governmental body or agency.

34 ~~(h)~~

35 (i) Fiscal dishonesty or breach of fiduciary responsibility of  
36 any kind.

37 ~~(i)~~

38 (j) Knowing preparation, publication or dissemination of false,  
39 fraudulent, or materially misleading financial statements, reports,  
40 or information.



- 1     ~~(j)~~
- 2     (k) Embezzlement, theft, misappropriation of funds or
- 3     property, or obtaining money, property, or other valuable
- 4     consideration by fraudulent means or false pretenses.

