

AMENDED IN ASSEMBLY AUGUST 1, 2002

AMENDED IN ASSEMBLY JUNE 26, 2002

AMENDED IN ASSEMBLY JUNE 13, 2002

AMENDED IN SENATE APRIL 16, 2002

SENATE BILL

No. 2023

Introduced by Senator Figueroa

February 22, 2002

~~An act to amend and repeal Section 5076 of the Business and Professions Code, relating to accountancy, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 5000, 5003, 5015.6, 5020, 5063, 5072, and 5100 of, to add Sections 5000.5, 5061, 5063.1, 5063.2, 5103, 5108, 5109, and 5109.5 to, to repeal and amend Section 5076 of, to repeal and add Section 5061 of, and to repeal Section 5079 of, the Business and Professions Code, relating to accountancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 2023, as amended, Figueroa. Accountancy: attest services.

Existing law establishes the California Board of Accountancy in the Department of Consumer Affairs for the purpose of licensing and regulating public accountants. A firm, other than a sole proprietor or a small firm, is required to meet specified peer review requirements in order to provide attest services. In order to renew its registration, a firm of this kind is required to complete a peer review prior to the first expiration date after January 1, 2006, and no less frequently than every 3 years thereafter. The board is required to adopt regulations necessary

~~to implement, interpret, and make specific the peer review requirements.~~

~~This bill would instead require that, for renewal of registration, an initial peer review is required to be completed prior to the first expiration date after July 1, 2003. The bill would also require firms subject to peer review to meet professional standards for attest services. The bill would require that the board immediately adopt regulations necessary to implement, interpret, and make specific the peer review requirements.~~

Existing law provides for the licensing and regulation of accountants by the State Board of Accountancy in the Department of Consumer Affairs. The provisions creating the board, specifying the board's composition, and authorizing the board to appoint an executive officer will become inoperative on July 1, 2006, and will be repealed on January 1, 2007.

This bill would change these dates, making the provisions inoperative on July 1, 2005, and repealing them on January 1, 2006. The bill would revise the requirements for the composition of the board.

Existing law provides that each board or commission in the Department of Consumer Affairs facing a statutory repeal date has the burden of establishing a compelling need for its continuation to the Joint Legislative Sunset Review Committee. Existing law limits this review in the case of the Board of Accountancy.

This bill would expand that review regarding the Board of Accountancy to include consideration of reports and studies specified in the law regulating accountancy.

Existing law provides that no person engaged in the practice of public accountancy shall pay a commission to obtain a client, nor shall that person accept a commission for a referral to a client of products or services of a 3rd party, except as specified. Existing law provides that, when done in conjunction with providing accounting services, it is lawful for a person practicing public accountancy to accept a fully disclosed fee or commission for providing a client with the services of a 3rd party, absent specified circumstances. Existing law requires the board to adopt regulations to implement this limited referral authority.

This bill would provide that no person engaged in the practice of public accountancy shall pay a commission to obtain a client, nor shall that person accept a commission for a referral to a client of products or services of a 3rd party. The exceptions in existing law would be



eliminated, and the mandate to the board to adopt regulations in this regard would be repealed.

Existing law provides that unlicensed persons can be minority owners of public accountancy firms, notwithstanding other laws providing for the issuance of permits to practice accountancy only to licensees, under specified circumstances.

This bill would repeal the provisions authorizing nonlicensee ownership of accounting firms.

Existing law authorizes the board to conduct investigations or hearings relating to any matter involving the conduct of licensees. Existing law authorizes the board to appoint an administrative committee for the purpose of obtaining technical expertise. Existing law authorizes the board to vest this committee with the powers of the board for specified purposes.

This bill would delete the authority to vest the powers of the board in this committee.

Existing law authorizes the board, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct. Under existing law, unprofessional conduct includes a conviction for a crime substantially related to the qualifications, functions, and duties of a certified public accountant or public accountant, and dishonesty, fraud, or gross negligence in certain duties. Existing law requires, with respect to standards of professional conduct, a licensee to report to the board in writing, within 30 days of the time the licensee has knowledge of certain events concerning the licensee, including the conviction of a crime.

This bill would require a licensee to report other specified events concerning the licensee, including certain civil judgments and settlements. It would also require courts and specified insurers and surplus brokers to report certain events to the board. This bill would expand the definition of unprofessional conduct to include repeated negligence indicating a lack of competency and would provide the board with subpoena power and the authority to proceed in an investigation or action in specified circumstances.

Existing law requires an applicant for licensure as a certified public accountant to demonstrate experience in the attest function. A firm, other than a sole proprietor or a small firm, is required to meet specified peer review requirements in order to provide attest services and an individual applicant is required to meet specified criteria to sign reports



on attest engagements. The board is required to adopt regulations implementing, interpreting, and making specific the peer review requirements.

This bill would require the board to report to the Legislature and the department by September 1, 2003, concerning the peer review program.

This bill would also require the board to report to the Legislature by September 1, 2003, on problems with respect to the policing and disciplining of accountants employed by a large public accounting firm.

Existing law appropriates all money in the Accountancy Fund to the board to carry out provisions of the law relating to accountancy.

This bill would make an appropriation because it authorizes the board to expend money in the fund for additional purposes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: ~~no~~—yes. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

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

1 ~~SECTION 1. Section 5076 of the Business and Professions~~
2 SECTION 1. Section 5000 of the Business and Professions
3 Code is amended to read:
4 5000. There is in the Department of Consumer Affairs the
5 California Board of Accountancy, which consists of 11 members,
6 six of whom shall be licensees, and five of whom shall be public
7 members who shall not be licentiates of the board or registered by
8 the board. The board has the powers and duties conferred by this
9 chapter.
10 The Governor shall appoint three of the public members, and the
11 six licensee members as provided in this section. The Senate Rules
12 Committee and the Speaker of the Assembly shall each appoint a
13 public member. In appointing the six licensee members, the
14 Governor shall appoint members representing a cross section of
15 the accounting profession with at least two members representing
16 a small public accounting firm, *and with no more than one member*
17 *representing a large public accounting firm.* For the purposes of
18 this chapter, a small public accounting firm shall be defined as a
19 professional firm that employs a total of no more than four
20 licensees as partners, owners, or full-time employees in the
21 practice of public accountancy within the State of California. *For*



1 *purposes of this chapter, a large public accounting firm means one*
2 *of the four public accounting firms with the greatest number of*
3 *licensees who are partners, owners, or full-time employees in the*
4 *practice of public accountancy within the State of California.*

5 This section shall become inoperative on July 1, ~~2006~~ 2005, and
6 as of January 1, ~~2007~~ 2006, is repealed, unless a later enacted
7 statute, that becomes effective on or before January 1, ~~2007~~ 2006,
8 deletes or extends the dates on which this section becomes
9 inoperative and is repealed. The repeal of this section renders the
10 board subject to the review required by Division 1.2 (commencing
11 with Section 473). However, the review of the board shall be
12 limited to ~~only reports or studies specified in this chapter~~ and those
13 issues identified by the Joint Legislative Sunset Review
14 Committee and the board ~~pursuant to~~ regarding the
15 implementation of new licensing requirements.

16 *SEC. 2. Section 5000.5 is added to the Business and*
17 *Professions Code, to read:*

18 *5000.5. No public member shall be a current or former*
19 *licensee of the board or a close family member of a licensee, or be*
20 *currently or formerly connected with the accountancy profession,*
21 *or have any financial interest in the business of a licensee. Each*
22 *public member shall meet all of the requirements for public*
23 *membership on the board as set forth in Chapter 6 (commencing*
24 *with Section 450) of Division 1.*

25 *SEC. 3. Section 5003 of the Business and Professions Code is*
26 *amended to read:*

27 *5003. The officers of the board are a president, vice president*
28 *and a secretary-treasurer. Only a public member may serve as the*
29 *president of the board.*

30 *SEC. 4. Section 5015.6 of the Business and Professions Code*
31 *is amended to read:*

32 *5015.6. The board may appoint a person exempt from civil*
33 *service who shall be designated as an executive officer and who*
34 *shall exercise the powers and perform the duties delegated by the*
35 *board and vested in him or her by this chapter.*

36 This section shall become inoperative on July 1, ~~2006~~ 2005,
37 and, as of January 1, ~~2007~~ 2006, is repealed, unless a later enacted
38 statute, which becomes effective on or before January 1, ~~2007~~
39 2006, deletes or extends the dates on which it becomes inoperative
40 and is repealed.



1 SEC. 5. Section 5020 of the Business and Professions Code is
2 amended to read:

3 5020. The board may, for the purpose of obtaining technical
4 expertise, appoint an administrative committee of not more than
5 13 licensees to ~~perform any of the following duties, and the~~
6 ~~committee may be vested with the powers of the board for those~~
7 ~~purposes:~~

8 ~~(a) To receive and investigate complaints and to conduct~~
9 ~~investigations or hearings, with or without the filing of any~~
10 ~~complaint, and to obtain information and evidence relating to any~~
11 ~~matter involving the conduct of licensees, as directed by the board~~
12 ~~or as directed by the executive officer pursuant to a delegation of~~
13 ~~authority by the board.~~

14 ~~(b) To receive and investigate complaints and to conduct~~
15 ~~investigations or hearings, with or without the filing of any~~
16 ~~complaint, and to obtain information and evidence relating to any~~
17 ~~matter involving any violation or alleged violation of this chapter~~
18 ~~by licensees, as directed by the board or as directed by the~~
19 ~~executive officer pursuant to a delegation of authority by the~~
20 ~~board.~~

21 ~~(c) In exercising the duties prescribed in this section, the~~
22 ~~provide advice and assistance related to the functions specified in~~
23 ~~Section 5103. The committee shall act only in an advisory capacity,~~
24 ~~shall have no authority to initiate any disciplinary action against~~
25 ~~a licensee, and shall only be authorized to report its findings from~~
26 ~~any investigation or hearing conducted pursuant to this section to~~
27 ~~the board, or upon direction of the board, to the executive officer.~~

28 SEC. 6. Section 5061 of the Business and Professions Code is
29 repealed.

30 5061. ~~(a) Except as expressly permitted by this section, a~~
31 ~~person engaged in the practice of public accountancy shall not: (1)~~
32 ~~pay a fee or commission to obtain a client or (2) accept a fee or~~
33 ~~commission for referring a client to the products or services of a~~
34 ~~third party.~~

35 ~~(b) A person engaged in the practice of public accountancy who~~
36 ~~is not performing any of the services set forth in subdivision (c)~~
37 ~~and who complies with the disclosure requirements of subdivision~~
38 ~~(d) may accept a fee or commission for providing a client with the~~
39 ~~products or services of a third party where the products or services~~
40 ~~of a third party are provided in conjunction with professional~~



1 ~~services provided to the client by the person engaged in the~~
2 ~~practice of public accountancy. Nothing in this subdivision shall~~
3 ~~be construed to permit the solicitation or acceptance of any fee or~~
4 ~~commission solely for the referral of a client to a third party.~~

5 ~~(c) A person engaged in the practice of public accountancy is~~
6 ~~prohibited from performing services for a client for a commission~~
7 ~~or from receiving a commission from a client during the period in~~
8 ~~which the person also performs for that client any of the services~~
9 ~~listed below and during the period covered by any historical~~
10 ~~financial statements involved in those listed services:~~

11 ~~(1) An audit or review of a financial statement.~~
12 ~~(2) A compilation of a financial statement when that person~~
13 ~~expects, or reasonably might expect, that a third party will use the~~
14 ~~financial statement and the compilation report does not disclose a~~
15 ~~lack of independence.~~

16 ~~(3) An examination of prospective financial information.~~
17 ~~(d) A person engaged in the practice of public accountancy who~~
18 ~~is not prohibited from performing services for a commission, or~~
19 ~~from receiving a commission, and who is paid or expects to be paid~~
20 ~~a commission, shall disclose that fact to any client or entity to~~
21 ~~whom the person engaged in the practice of public accountancy~~
22 ~~recommends or refers a product or service to which the~~
23 ~~commission relates.~~

24 ~~(e) The board shall adopt regulations to implement, interpret,~~
25 ~~and make specific the provisions of this section including, but not~~
26 ~~limited to, regulations specifying the terms of any disclosure~~
27 ~~required by subdivision (d), the manner in which the disclosure~~
28 ~~shall be made, and other matters regarding the disclosure that the~~
29 ~~board deems appropriate. These regulations shall require, at a~~
30 ~~minimum, that a disclosure shall comply with all of the following:~~

31 ~~(1) Be in writing and be clear and conspicuous.~~
32 ~~(2) Be signed by the recipient of the product or service.~~
33 ~~(3) State the amount of the commission or the basis on which~~
34 ~~it will be computed.~~

35 ~~(4) Identify the source of the payment and the relationship~~
36 ~~between the source of the payment and the person receiving the~~
37 ~~payment.~~

38 ~~(5) Be presented to the client at or prior to the time the~~
39 ~~recommendation of the product or service is made.~~



1 ~~(f) For purposes of this section, “fee” includes, but is not~~
2 ~~limited to, a commission, rebate, preference, discount, or other~~
3 ~~consideration, whether in the form of money or otherwise.~~

4 ~~(g) This section shall not prohibit payments for the purchase of~~
5 ~~any accounting practice or retirement payments to individuals~~
6 ~~presently or formerly engaged in the practice of public~~
7 ~~accountancy or payments to their heirs or estates.~~

8 *SEC. 7. Section 5061 is added to the Business and Professions*
9 *Code, to read:*

10 *5061. No person engaged in the practice of public*
11 *accountancy shall pay a commission to obtain a client, nor shall*
12 *that person accept a commission for a referral to a client of*
13 *products or services of a third party. This section shall not prohibit*
14 *payments for the purchase of an accounting practice or retirement*
15 *payments to individuals presently or formerly engaged in the*
16 *practice of public accounting or payments to their heirs or estates.*

17 *SEC. 8. Section 5063 of the Business and Professions Code is*
18 *amended to read:*

19 *5063. (a) A licensee shall report to the board in writing of the*
20 *occurrence of any of the following events occurring on or after*
21 *January 1, 1997, within 30 days of the date the licensee has*
22 *knowledge of these events:*

23 *(1) The conviction of the licensee of any of the following:*

24 *(A) A felony.*

25 *(B) Any crime related to the qualifications, functions, or duties*
26 *of a public accountant or certified public accountant, or to acts or*
27 *activities in the course and scope of the practice of public*
28 *accountancy.*

29 *(C) Any crime involving theft, embezzlement,*
30 *misappropriation of funds or property, breach of a fiduciary*
31 *responsibility, or the preparation, publication, or dissemination of*
32 *false, fraudulent, or materially misleading financial statements,*
33 *reports, or information.*

34 *As used in this section, a conviction includes the initial plea,*
35 *verdict, or finding of guilt, pleas of no contest, or pronouncement*
36 *of sentence by a trial court even though that conviction may not be*
37 *final or sentence actually imposed until appeals are exhausted.*

38 *(2) The cancellation, revocation, or suspension of a certificate,*
39 *other authority to practice or refusal to renew a certificate or other*



1 authority to practice as a certified public accountant or a public
2 accountant, by any other state or foreign country.

3 (3) The cancellation, revocation, or suspension of the right to
4 practice as a certified public accountant or a public accountant
5 before any governmental body or agency.

6 (b) *A licensee shall report to the board in writing the*
7 *occurrence of any of the following events occurring on or after*
8 *January 1, 2003, within 30 days of the date the licensee has*
9 *knowledge of the events:*

10 (1) *Any restatement of earnings by a client audited by the*
11 *licensee.*

12 (2) *Any civil action settlement or arbitration award against the*
13 *licensee where the amount or value of the settlement or arbitration*
14 *award is thirty thousand dollars (\$30,000) or greater and where*
15 *the licensee is not insured for the full amount of the award.*

16 (3) *Any notice of the opening or initiation of an investigation*
17 *by the Securities and Exchange Commission's Division of*
18 *Enforcement or its functional equivalent.*

19 (c) *A licensee shall report to the board in writing, within 30*
20 *days of the entry of the judgment, any judgment entered on or after*
21 *January 1, 2003, against the licensee in any civil action alleging*
22 *any of the following:*

23 (1) *Dishonesty, fraud, gross negligence, or negligence.*

24 (2) *Breach of fiduciary responsibility.*

25 (3) *Preparation, publication, or dissemination of false,*
26 *fraudulent, or materially misleading financial statements, reports,*
27 *or information.*

28 (4) *Embezzlement, theft, misappropriation of funds or property,*
29 *or obtaining money, property, or other valuable consideration by*
30 *fraudulent means or false pretenses, or other errors or omissions.*

31 (5) *Any actionable conduct by the licensee in the practice of*
32 *public accountancy, the performance of bookkeeping operations,*
33 *or other professional practice.*

34 (d) The report required by ~~subdivision~~ *subdivisions (a), (b),*
35 *and (c) shall be signed by the licensee and set forth the facts which*
36 *constitute the reportable event. If the reportable event involves the*
37 *action of an administrative agency or court, then the report shall*
38 *set forth the title of the matter, court or agency name, docket*
39 *number, and dates of occurrence of the reportable event.*

40 (e)



1 (e) A licensee shall promptly respond to oral or written
2 inquiries from the board concerning the reportable events,
3 including inquiries made by the board in conjunction with license
4 renewal.

5 ~~(d)~~

6 (f) Nothing in this section shall impose a duty upon any licensee
7 to report to the board the occurrence of any of the events set forth
8 in subdivision (a), (b), or (c) either by or against any other
9 licensee.

10 SEC. 9. Section 5063.1 is added to the Business and
11 Professions Code, to read:

12 5063.1. Within 10 days of entry of a conviction described in
13 paragraph (1) of subdivision (a) of Section 5063 or a judgment
14 described in subdivision (c) of Section 5063 by a court of this state,
15 the court that rendered the conviction or judgment shall report that
16 fact to the board and provide the board with a copy of the
17 conviction or judgment and any orders or opinions of the court
18 accompanying or ordering the conviction or judgment.

19 SEC. 10. Section 5063.2 is added to the Business and
20 Professions Code, to read:

21 5063.2. Within 30 days of payment of all or any portion of any
22 civil action settlement or arbitration award against a licensee of
23 the board in which the amount or value of the settlement or
24 arbitration award is thirty thousand dollars (\$30,000) or greater,
25 any insurer or licensed surplus broker providing professional
26 liability insurance to that licensee shall report to the board the
27 name of the licensee, the amount or value of the settlement or
28 arbitration award, the amount paid by the insurer or licensed
29 surplus broker, and the identity of the payee.

30 SEC. 11. Section 5072 of the Business and Professions Code
31 is amended to read:

32 5072. (a) No persons shall engage in the practice of
33 accountancy as a partnership unless the partnership is registered by
34 the board.

35 (b) A partnership, other than a limited partnership, may be
36 registered by the board to engage in the practice of public
37 accountancy provided it meets the following requirements:

38 (1) At least one general partner shall hold a valid permit to
39 practice as a certified public accountant, public accountant, or



1 accountancy corporation, or shall be an applicant for a certificate
2 as a certified public accountant under Sections 5087 and 5088.

3 (2) Each partner personally engaged within this state in the
4 practice of public accountancy as defined by Section 5051 shall
5 hold a valid permit to practice in this state or shall have applied for
6 a certificate as a certified public accountant under Sections 5087
7 and 5088.

8 (3) Each partner not personally engaged in the practice of
9 public accountancy within this state shall be a certified public
10 accountant in good standing of some state, ~~except as permitted by~~
11 ~~Section 5079.~~

12 (4) Each resident manager in charge of an office of the firm in
13 this state shall be a licensee in good standing of this state, or shall
14 have applied for a certificate as a certified public accountant under
15 Sections 5087 and 5088.

16 *SEC. 12. Section 5076 of the Business and Professions Code*
17 *is repealed.*

18 ~~5076. (a) In order to renew its registration, a firm providing~~
19 ~~attest services, other than a sole proprietor or a small firm as~~
20 ~~defined in Section 5000, shall complete a peer review prior to the~~
21 ~~first registration expiration date after January 1, 2006, and no less~~
22 ~~frequently than every three years thereafter.~~

23 (b) For purposes of this article, the following definitions apply:

24 (1) ~~“Peer review” means a study, appraisal, or review~~
25 ~~conducted in accordance with professional standards of the~~
26 ~~professional work of a licensee or registered firm by another~~
27 ~~licensee unaffiliated with the licensee or registered firm being~~
28 ~~reviewed. The peer review shall include, but not be limited to, a~~
29 ~~review of at least one attest engagement representing the highest~~
30 ~~level of service performed by the firm and may include an~~
31 ~~evaluation of other factors in accordance with requirements~~
32 ~~specified by the board in regulations.~~

33 (2) ~~“Attest services” include an audit, a review of financial~~
34 ~~statements, or an examination of prospective financial~~
35 ~~information, provided, however, “attest services” shall not~~
36 ~~include the issuance of compiled financial statements.~~

37 (c) ~~The board shall adopt regulations as necessary to~~
38 ~~implement, interpret, and make specific the peer review~~
39 ~~requirements in this section, including, but not limited to,~~
40 ~~regulations specifying the requirements for the approval of peer~~



1 ~~review providers, and regulations establishing a peer review~~
2 ~~oversight committee.~~

3 *SEC. 13. Section 5076 of the Business and Professions Code,*
4 *as added by Section 5 of Chapter 718 of the Statutes of 2001, is*
5 *amended to read:*

6 5076. (a) In order to renew its registration, a firm providing
7 attest services, other than a sole proprietor or a small firm as
8 defined in Section 5000, shall complete a peer review prior to the
9 first registration expiration date after January 1, 2006, and no less
10 frequently than every three years thereafter.

11 (b) For purposes of this article, the following definitions apply:

12 (1) "Peer review" means a study, appraisal, or review
13 conducted in accordance with professional standards of the
14 professional work of a licensee or registered firm by another
15 licensee unaffiliated with the licensee or registered firm being
16 reviewed. The peer review shall include, but not be limited to, a
17 review of at least one attest engagement representing the highest
18 level of service performed by the firm and may include an
19 evaluation of other factors in accordance with requirements
20 specified by the board in regulations.

21 (2) "Attest services" include an audit, a review of financial
22 statements, or an examination of prospective financial
23 information, provided, however, "attest services" shall not
24 include the issuance of compiled financial statements.

25 (c) The board shall adopt regulations as necessary to
26 implement, interpret, and make specific the peer review
27 requirements in this section, including, but not limited to,
28 regulations specifying the requirements for the approval of peer
29 review providers, and regulations establishing a peer review
30 oversight committee.

31 (d) *The board shall review whether to implement the program*
32 *specified in this section in light of the changes in federal and state*
33 *law or regulations or professional standards, and shall report its*
34 *findings to the Legislature and the department by September 1,*
35 *2003.*

36 *SEC. 14. Section 5079 of the Business and Professions Code*
37 *is repealed.*

38 ~~5079. (a) Notwithstanding any other provision of this~~
39 ~~chapter, any firm lawfully engaged in the practice of public~~
40 ~~accountancy in this state may have owners who are not licensed as~~



1 ~~certified public accountants or public accountants if the following~~
2 ~~conditions are met:~~

3 ~~(1) Nonlicensee owners shall be natural persons or entities,~~
4 ~~such as partnerships, professional corporations, or others,~~
5 ~~provided that each ultimate beneficial owner of an equity interest~~
6 ~~in that entity shall be a natural person materially participating in~~
7 ~~the business conducted by the firm or an entity controlled by the~~
8 ~~firm.~~

9 ~~(2) Nonlicensee owners shall materially participate in the~~
10 ~~business of the firm, or an entity controlled by the firm, and their~~
11 ~~ownership interest shall revert to the firm upon the cessation of any~~
12 ~~material participation.~~

13 ~~(3) Licensees shall in the aggregate, directly or beneficially,~~
14 ~~comprise a majority of owners, except that firms with two owners~~
15 ~~may have one owner who is a nonlicensee.~~

16 ~~(4) Licensees shall in the aggregate, directly or beneficially,~~
17 ~~hold more than half of the equity capital and possess majority~~
18 ~~voting rights.~~

19 ~~(5) Nonlicensee owners shall not hold themselves out as~~
20 ~~certified public accountants or public accountants.~~

21 ~~(6) There shall be a certified public accountant or public~~
22 ~~accountant who has ultimate responsibility for each financial~~
23 ~~statement attest and compilation service engagement.~~

24 ~~(7) Except as permitted by the board in the exercise of its~~
25 ~~discretion, a person may not become a nonlicensee owner or~~
26 ~~remain a nonlicensee owner if the person has done either of the~~
27 ~~following:~~

28 ~~(A) Been convicted of any crime, an element of which is~~
29 ~~dishonesty or fraud, under the laws of any state, of the United~~
30 ~~States, or of any other jurisdiction.~~

31 ~~(B) Had a professional license or the right to practice revoked~~
32 ~~or suspended for reasons other than nonpayment of dues or fees,~~
33 ~~or has voluntarily surrendered a license or right to practice with~~
34 ~~disciplinary charges or a disciplinary investigation pending, and~~
35 ~~not reinstated by a licensing agency of any state, or the United~~
36 ~~States, or of any other jurisdiction.~~

37 ~~(8) A nonlicensee owner of a licensed firm shall report to the~~
38 ~~board in writing of the occurrence of any of the events set forth in~~
39 ~~paragraph (7) within 30 days of the date the nonlicensee owner has~~
40 ~~knowledge of the event. A conviction includes the initial plea,~~



1 ~~verdict, or finding of guilt, pleas of no contest, or pronouncement~~
2 ~~of sentence by a trial court even though that conviction may not be~~
3 ~~final or sentence actually imposed until appeals are exhausted. The~~
4 ~~report shall be signed by the nonlicensee owner and set forth the~~
5 ~~facts that constitute the reportable event. The report shall identify~~
6 ~~the event by the name of the agency or court, the title of the matter,~~
7 ~~the docket number, and the date of occurrence of the event.~~

8 ~~(b) For purposes of this section, the following definitions~~
9 ~~apply:~~

10 ~~(1) “Licensee” means a certified public accountant or public~~
11 ~~accountant in this state or a certified public accountant in good~~
12 ~~standing in another state.~~

13 ~~(2) “Material participation” means an activity that is regular,~~
14 ~~continuous, and substantial.~~

15 ~~(c) All firms with nonlicensee owners shall certify at the time~~
16 ~~of registration and renewal that the firm is in compliance with this~~
17 ~~section.~~

18 ~~(d) The board shall adopt regulations to implement, interpret,~~
19 ~~or make specific this section.~~

20 *SEC. 15. Section 5100 of the Business and Professions Code*
21 *is amended to read:*

22 5100. After notice and hearing the board may revoke, suspend
23 or refuse to renew any permit or certificate granted under Article
24 4 (commencing with Section 5070) and Article 5 (commencing
25 with Section 5080), or may censure the holder of that permit or
26 certificate for unprofessional conduct which includes, but is not
27 limited to, one or any combination of the following causes:

28 (a) Conviction of any crime substantially related to the
29 qualifications, functions and duties of a certified public accountant
30 or a public accountant.

31 (b) A violation of Section 478, 498, or 499 dealing with false
32 statements or omissions in the application for a license, or in
33 obtaining a certificate as a certified public accountant or in
34 obtaining registration under this chapter or in obtaining a permit
35 to practice public accountancy under this chapter.

36 (c) Dishonesty, fraud, ~~or~~ gross negligence, *or repeated*
37 *negligent acts committed in the same or different engagements, for*
38 *the same or different clients, or any combination of engagements*
39 *or clients, each resulting in a violation of applicable professions*
40 *standards that indicate a lack of competency in the practice of*



1 public accountancy or in the performance of the bookkeeping
2 operations described in Section 5052.

3 (d) Cancellation, revocation or suspension of a certificate,
4 other authority to practice or refusal to renew the certificate or
5 other authority to practice as a certified public accountant or a
6 public accountant, or any other discipline by any other state or
7 foreign country.

8 (e) Violation of Section 5120.

9 (f) Willful violation of this chapter or any rule or regulation
10 promulgated by the board under the authority granted under this
11 chapter.

12 (g) Suspension or revocation of the right to practice before any
13 governmental body or agency.

14 (h) Fiscal dishonesty or breach of fiduciary responsibility of
15 any kind.

16 (i) Knowing preparation, publication or dissemination of false,
17 fraudulent, or materially misleading financial statements, reports,
18 or information.

19 (j) Embezzlement, theft, misappropriation of funds or
20 property, or obtaining money, property, or other valuable
21 consideration by fraudulent means or false pretenses.

22 (k) *The imposition of any discipline, penalty or sanction on a*
23 *registered public accounting firm or any associated person of such*
24 *firm, or both, or on any other holder of a permit, certificate, license*
25 *or other authority to practice in this state, by the Public*
26 *Accounting Oversight Board or the United States Securities and*
27 *Exchange Commission, or their successors or functional*
28 *equivalents, under the Sarbanes-Oxley Act of 2002 or other*
29 *federal legislation.*

30 *SEC. 16. Section 5103 is added to the Business and*
31 *Professions Code, to read:*

32 *5103. (a) Notwithstanding any other provision of law, the*
33 *board may inquire into any alleged violation of this chapter or any*
34 *other state or federal law, regulation, or rule relevant to the*
35 *practice of accountancy.*

36 *(b) The board, or its executive officer pursuant to a delegation*
37 *of authority from the board, is authorized to perform the following*
38 *functions:*

39 *(1) To receive and investigate complaints and to conduct*
40 *investigations or hearings, with or without the filing of any*



1 *complaint, and to obtain information and evidence relating to any*
2 *matter involving the conduct of licensees, as directed by the board,*
3 *or as directed by the executive officer pursuant to a delegation of*
4 *authority from the board.*

5 (2) *To receive and investigate complaints and to conduct*
6 *investigations or hearings, with or without the filing of any*
7 *complaint, and to obtain information and evidence relating to any*
8 *matter involving any violation or alleged violation of this chapter*
9 *by licensees, as directed by the board, or as directed by the*
10 *executive officer pursuant to a delegation of authority from the*
11 *board.*

12 *SEC. 17. Section 5108 is added to the Business and*
13 *Professions Code, to read:*

14 *5108. In connection with any investigation or action*
15 *authorized by this chapter, the board may issue subpoenas for the*
16 *attendance of witnesses and the production of papers, books,*
17 *accounts, documents and testimony pertinent or material to any*
18 *inquiry, investigation, hearing, proceeding, or action conducted in*
19 *any part of the state.*

20 *SEC. 18. Section 5109 is added to the Business and*
21 *Professions Code, to read:*

22 *5109. The expiration, cancellation, forfeiture, or suspension*
23 *of a license by operation of law or by order or decision of the board*
24 *or a court of law, or the voluntary surrender of a license by a*
25 *licensee shall not deprive the board of jurisdiction to proceed with*
26 *any investigation of or action or disciplinary proceeding against*
27 *the license, or to render a decision suspending or revoking the*
28 *license.*

29 *SEC. 19. Section 5109.5 is added to the Business and*
30 *Professions Code, to read:*

31 *5109.5. The board shall report to the Legislature by*
32 *September 1, 2003, on problems associated with policing and*
33 *disciplining those accountants who violate Section 5100 or other*
34 *provisions of this chapter and who are employed by a large public*
35 *accounting firm. The board shall look critically at their*
36 *enforcement budget and identify costs of investigation and*
37 *prosecution of these disciplinary actions and propose ways to*
38 *cover costs of handling these types of cases.*

39 *SEC. 20. This act is an urgency statute necessary for the*
40 *immediate preservation of the public peace, health, or safety*



1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*

3 *In order to provide for regulation of certified public accountants*
4 *by the California Board of Accountancy and to permit the board*
5 *to adopt regulations and make specified reports in a timely manner,*
6 *it is necessary that this act take immediate effect.*

7 ~~Code, as added by Section 2 of Chapter 704 of the Statutes of 2001,~~
8 ~~is amended to read:~~

9 ~~5076. (a) In order to renew its registration, a firm providing~~
10 ~~attest services, other than a sole proprietor or small firm as defined~~
11 ~~in Section 5000, shall complete a peer review prior to the first~~
12 ~~registration expiration date after July 1, 2003, and no less~~
13 ~~frequently than every three years thereafter.~~

14 ~~(b) For purposes of this article, the following definitions apply:~~

15 ~~(1) "Peer review" means a study, appraisal, or review~~
16 ~~conducted in accordance with professional standards of the~~
17 ~~professional work of a licensee or registered firm by another~~
18 ~~licensee unaffiliated with the licensee or registered firm being~~
19 ~~reviewed. The peer review shall include, but not be limited to, a~~
20 ~~review of at least one attest engagement representing the highest~~
21 ~~level of service performed by the firm and may include an~~
22 ~~evaluation of other factors in accordance with requirements~~
23 ~~specified by the board in regulations.~~

24 ~~(2) "Attest services" include an audit, a review of financial~~
25 ~~statements, or an examination of prospective financial~~
26 ~~information, provided, however, "attest services" shall not~~
27 ~~include the issuance of compiled financial statements.~~

28 ~~(c) The board shall immediately adopt regulations as necessary~~
29 ~~to implement, interpret, and make specific the peer review~~
30 ~~requirements in this section, including, but not limited to,~~
31 ~~regulations specifying the requirements for the approval of peer~~
32 ~~review providers, and regulations establishing a peer review~~
33 ~~oversight committee.~~

34 ~~(d) Firms subject to peer review shall meet all professional~~
35 ~~standards for attest services.~~

36 ~~SEC. 2. Section 5076 of the Business and Professions Code,~~
37 ~~as added by Section 5 of Chapter 718 of the Statutes of 2001, is~~
38 ~~repealed.~~

39 ~~SEC. 3. This act is an urgency statute necessary for the~~
40 ~~immediate preservation of the public peace, health, or safety~~



1 ~~within the meaning of Article IV of the Constitution and shall go~~
2 ~~into immediate effect. The facts constituting the necessity are:~~

3 ~~In order to accelerate the implementation of a peer review~~
4 ~~program for certified public accountants by the California Board~~
5 ~~of Accountancy and to permit the board to adopt regulations~~
6 ~~needed to establish the peer review program, it is necessary that~~
7 ~~this act take immediate effect.~~

