

Senate Bill No. 1077

CHAPTER 1137

An act to amend Sections 5004, 5020, 5023, 5024, 5029, 7313, 7353, 7396, 7810, 7817, 7823, 8025, 18641, 18814, 19004, 19006, 19051, 19052, 19053, 19054, 19055, 19056, 19059, 19060.6, 19071, 19072, 19072.5, 19080, 19124, 19161, and 19170 of, to amend and repeal Section 18602 of, to add Sections 19008.1, 19008.2, 19011.1, and 19053.1 to, to add and repeal Chapter 14 (commencing with Section 22250) of Division 8 of, to repeal Sections 5005, 5020, 5023, 5025, 5029, 7814, 7824, 18612, 19057, 19058, and 19155 of, to repeal Chapter 20.6 (commencing with Section 9891) of Division 3 of, and to repeal Article 17 (commencing with Section 18890) of Chapter 2 of Division 8 of, the Business and Professions Code, to amend Section 1940.5 of the Civil Code, and to amend Section 69944 of the Government Code, relating to boards and commissions.

[Approved by Governor September 30, 1996. Filed
with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1077, Greene. Boards and commissions.

(1) Existing law creates various licensing and regulatory boards in the Department of Consumer Affairs, including the State Board of Accountancy, the State Board of Registration for Geologists and Geophysicists, the Court Reporters Board of California, and the State Board of Barbering and Cosmetology, with specified powers and duties.

This bill would make various changes to these licensing and regulatory provisions and would make certain provisions relating to the Geologists and Geophysicists Board inoperative on July 1, 2001, unless extended.

(2) The Boxing Act provides for the creation of the State Athletic Commission within the Department of Consumer Affairs, with a specified membership.

This bill would make these provisions inoperative on July 1, 2001, and repeal them thereafter, as specified, unless the provisions are extended. The bill would make other changes to these provisions.

(3) Existing law provides for the creation of the Bureau of Home Furnishings and Thermal Insulation in the Department of Consumer Affairs.

This bill would revise certain provisions relative to the regulatory authority of the bureau. Among other things, it would add importers as a license category, revise provisions relative to waterbeds, exempt



from regulation furniture used exclusively for physical fitness and exercise, and revise license fees.

(4) Existing law provides for the Tax Preparer Program in the Department of Consumer Affairs. Existing law requires tax preparers to register with the administrator of the tax preparer program, to pay specified fees, and to file a surety bond with the Director of Consumer Affairs as a requirement of doing business.

This bill would eliminate the Tax Preparer Program effective July 1, 1997. This bill would instead require tax preparers to maintain a bond with a surety company. This bill would also prohibit a tax preparer from making a deposit in lieu of bond and would limit the aggregate liability of the surety to all persons against any one tax preparer. The bill would enact provisions governing continuing education requirements, prohibited acts, and related matters. The new provisions would become inoperative on July 1, 2002, and would be repealed on January 1, 2003. A violation of these provisions would be a misdemeanor, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The bill would also provide that certain provisions shall not become operative unless SB 2031 is also enacted and becomes operative.

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

SECTION 1. The Legislature finds and declares that the State Board of Accountancy shall study and include in its report to the Legislature, as required by Section 101.1 of the Business and Professions Code, all of the following:

(a) The minimum standards for passage of the board's licensing examination.

(b) The relevance of the licensing examination to the practice of accountancy.

(c) The experience requirement to obtain a license from the board.

(d) The minimum standards for annual continuing education required by the board.

SEC. 2. Section 5004 of the Business and Professions Code is amended to read:

5004. The president, vice president, and secretary-treasurer shall be elected by the board for a term of one year from among its members at the time of the annual meeting. The newly elected



president, vice president, and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected.

SEC. 3. Section 5005 of the Business and Professions Code is repealed.

SEC. 4. Section 5020 of the Business and Professions Code, as amended by Section 38 of Chapter 1275 of the Statutes of 1994, is amended to read:

5020. The board may, for the purpose of obtaining technical expertise, appoint an administrative committee of not more than 13 licensees, at least one of whom shall be a public accountant, to perform any of the following duties, and the committee may be vested with the powers of the board for those purposes:

(a) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees.

(b) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees.

(c) In exercising the duties prescribed in this section, the committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the board, or upon direction of the board, to the executive officer.

SEC. 5. Section 5020 of the Business and Professions Code, as added by Section 5 of Chapter 1273 of the Statutes of 1994, is repealed.

SEC. 6. Section 5023 of the Business and Professions Code, as amended by Section 1 of Chapter 1278 of the Statutes of 1994, is amended to read:

5023. The board may establish an advisory committee of its own certified public accountant members or other certified public accountants of the state in good standing, to perform either of the following advisory duties:

(a) To examine all applicants for the license of certified public accountant.

(b) To recommend to the board applicants for the certified public accountant license who fulfill the requirements of this chapter.

SEC. 7. Section 5023 of the Business and Professions Code, as added by Section 7 of Chapter 1273 of the Statutes of 1994, is repealed.

SEC. 8. Section 5024 of the Business and Professions Code is amended to read:

5024. The board may create and appoint other advisory committees consisting of public accountants or certified public



accountants of this state in good standing and who need not be members of the board for the purpose of making recommendations on matters as may be specified by the board.

SEC. 9. Section 5025 of the Business and Professions Code is repealed.

SEC. 10. Section 5029 of the Business and Professions Code, as amended by Section 9 of Chapter 1273 of the Statutes of 1994, is repealed.

SEC. 11. Section 5029 of the Business and Professions Code, as added by Section 10 of Chapter 1273 of the Statutes of 1994, is amended to read:

5029. The board may establish an advisory continuing education committee of nine members, six of whom shall be certified public accountants, two of whom shall be board members, one of whom is a public member of the board, and one of whom shall be a public accountant, to perform any of the following duties:

(a) To evaluate programs and advise the board as to whether they qualify under the regulations adopted by the board pursuant to subdivision (b) of Section 5027. Educational courses offered by professional accounting societies shall be accepted by the board as qualifying if the courses are approved by the committee as meeting the requirements of the board under the regulations.

(b) To consider applications for exceptions as permitted under Section 5028 and provide a recommendation to the board.

(c) To consider other advisory matters relating to the requirements of this article as the board may assign to the committee.

SEC. 12. Section 7313 of the Business and Professions Code is amended to read:

7313. (a) (1) To ensure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years



allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the board, the executive officer and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy of the notice of violation shall be provided to the Council for Private Postsecondary and Vocational Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 13. Section 7353 of the Business and Professions Code is amended to read:

7353. Within 90 days after issuance of the establishment license, the board or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the board adopted pursuant to this chapter. The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

SEC. 14. Section 7396 of the Business and Professions Code, as amended by Section 2 of Chapter 213 of the Statutes of 1992, is amended to read:

7396. The form and content of a license issued by the board shall be determined in accordance with Section 164.



The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, or cosmetology instructor.

SEC. 15. Section 7810 of the Business and Professions Code is amended to read:

7810. The State Board of Registration for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

Each member shall hold office until the appointment and qualification of the member's successor or until one year has elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.

At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.

This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 16. Section 7814 of the Business and Professions Code is repealed.

SEC. 17. Section 7817 of the Business and Professions Code is amended to read:

7817. Five members of the board shall constitute a quorum for the transaction of business; provided, however, that four members of the



board shall constitute a quorum for the transaction of business when the board's membership is reduced to seven pursuant to Section 7810.

SEC. 18. Section 7823 of the Business and Professions Code is amended to read:

7823. The board shall have the authority to appoint committees as required or as deemed advisable to perform duties as the board may direct; provided, however, that the board shall not delegate any final decisionmaking authority to any committee that has as a member any person who is not a member of the board.

Membership on those committees is at the pleasure of the board.

No member of a committee shall receive any other compensation than his or her necessary expenses, as approved by the board, connected with the performance of his or her duties as a member of the committee.

SEC. 19. Section 7824 of the Business and Professions Code is repealed.

SEC. 20. Section 8025 of the Business and Professions Code is amended to read:

8025. A certificate issued under this chapter may be suspended or revoked, or certification may be denied, for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

(b) Failure to notify the board of a conviction, in accordance with Section 8024 or Section 8024.2.

(c) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetency in practice, or unprofessional conduct in the practice of shorthand reporting.

"Unprofessional conduct" includes, but is not limited to, acts contrary to professional standards concerning confidentiality; impartiality; filing and retention of notes; notifications, availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.

(e) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract. Violation of this subdivision shall also be deemed an act endangering the public health, safety, or welfare within the meaning of Section 494.



(f) Loss or destruction of stenographic notes, whether on paper or electronic media, which prevents the production of a transcript, due to negligence of the licensee.

(g) Failure to comply with or to pay a monetary sanction imposed by any court for failure to provide timely transcripts.

(h) Violation of this chapter or the rules and regulations pertaining to certified shorthand reporters.

SEC. 21. Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code is repealed.

SEC. 22. Section 18602 of the Business and Professions Code is amended to read:

18602. Except as provided in this section, there is in the Department of Consumer Affairs the State Athletic Commission, which consists of eight members. Six members shall be appointed by the Governor, one member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

No person who is licensed under this chapter as a promoter, manager, or judge may be appointed or reappointed to, or serve on, the commission.

Upon the first expiration of the term of a member appointed by the Governor, the commission shall be reduced to seven members. Notwithstanding any provision of law, the term of that member shall not be extended for any reason.

This section shall become inoperative on July 1, 2001, and as of January 1, 2002, is repealed, unless a later enacted statute, which becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the commission subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 23. Section 18612 of the Business and Professions Code is repealed.

SEC. 24. Section 18641 of the Business and Professions Code is amended to read:

18641. The commission may license clubs to conduct, hold, or give, and shall license referees, judges, matchmakers, and timekeepers, and may license assistant matchmakers and corporation treasurers, to participate in, or be employed in connection with, professional or amateur boxing contests, sparring matches, or exhibitions.

No club may conduct, hold, or give, and no person performing tasks for which licensure is required by the commission may participate in, or be employed in connection with, those boxing contests, sparring



matches, or exhibitions unless the club or person has been licensed for that purpose by the commission.

SEC. 25. Section 18814 of the Business and Professions Code is amended to read:

18814. The application and renewal fee for a timekeeper's license shall be fifty dollars (\$50) unless the commission establishes a lower fee by regulation.

SEC. 26. Article 17 (commencing with Section 18890) of Chapter 2 of Division 8 of the Business and Professions Code is repealed.

SEC. 27. Section 19004 of the Business and Professions Code is amended to read:

19004. (a) "Bureau" refers to the Bureau of Home Furnishings and Thermal Insulation.

(b) "Chief" refers to the chief of the bureau.

(c) "Inspector" refers to an inspector either employed by, or under contract to, the bureau.

(d) "Director" refers to the Director of Consumer Affairs.

(e) "Department" refers to the Department of Consumer Affairs.

SEC. 28. Section 19006 of the Business and Professions Code is amended to read:

19006. "Upholstered furniture" means any furniture, including children's furniture, movable or stationary, which is made or sold with cushions or pillows, loose or attached, or is itself stuffed or filled in whole or in part with any material, is or can be stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or any other covering, including cushions or pillows belonging to or forming a part thereof, together with the structural units, the filling material and its container and its covering which can be used as a support for the body of a human being, or his or her limbs and feet when sitting or resting in an upright or reclining position. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

SEC. 29. Section 19008.1 is added to the Business and Professions Code, to read:

19008.1. "Used" means furniture that has been previously owned or used by another individual.

SEC. 30. Section 19008.2 is added to the Business and Professions Code, to read:

19008.2. "Antique" means furniture having special value because of its age, especially a work of art or handicraft that is over 100 years old.

SEC. 31. Section 19011.1 is added to the Business and Professions Code, to read:

19011.1. "Importer" means a person who manufactures or wholesales, through employees or agents, any article of upholstered furniture, bedding, or filling material manufactured outside of the United States for the purpose of sale or resale in California.



SEC. 32. Section 19051 of the Business and Professions Code is amended to read:

19051. Every upholstered-furniture retailer, unless he or she holds an importer's license, a furniture and bedding manufacturer's license, a wholesale furniture and bedding dealer's license, a custom upholsterer's license, or a retail furniture and bedding dealer's license shall hold a retail furniture dealer's license.

This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable upholstered furniture items on behalf of a client, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer. This section does not apply to a person who sells "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2.

SEC. 33. Section 19052 of the Business and Professions Code is amended to read:

19052. Every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, shall hold a custom upholsterer's license.

SEC. 34. Section 19053 of the Business and Professions Code is amended to read:

19053. Every upholstered-furniture wholesaler, bedding wholesaler, and upholstered-furniture and bedding wholesaler, unless he or she holds an importer's license, shall hold a wholesale furniture and bedding dealer's license.

SEC. 35. Section 19053.1 is added to the Business and Professions Code, to read:

19053.1. Every importer shall hold an importer's license.

SEC. 36. Section 19054 of the Business and Professions Code is amended to read:

19054. Every upholstered-furniture manufacturer, bedding manufacturer, upholstered-furniture and bedding manufacturer, or bedding renovator, unless he or she holds an importer's license, shall hold a furniture and bedding manufacturer's license.

SEC. 37. Section 19055 of the Business and Professions Code is amended to read:

19055. Every bedding retailer, unless he or she holds an importer's license, an upholstered-furniture and bedding manufacturer's license, a wholesale upholstered-furniture and bedding dealer's license, or a retail furniture and bedding dealer's license, shall hold a retail bedding dealer's license.

This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable bedding items on behalf of a client, provided that the bedding is purchased from an appropriately licensed importer, wholesaler, or retailer.



SEC. 38. Section 19056 of the Business and Professions Code is amended to read:

19056. Every bedding renovator shall hold an upholstered-furniture and bedding manufacturer's license.

SEC. 39. Section 19057 of the Business and Professions Code is repealed.

SEC. 40. Section 19058 of the Business and Professions Code is repealed.

SEC. 41. Section 19059 of the Business and Professions Code is amended to read:

19059. Every supply dealer, unless he or she holds an upholstered-furniture and bedding manufacturer's license or an importer's license, shall hold a supply dealer's license.

SEC. 42. Section 19060.6 of the Business and Professions Code is amended to read:

19060.6. (a) Except as provided in subdivision (b), every person who, on his or her own account, advertises, solicits or contracts to manufacture, repair or renovate upholstered furniture or bedding, and who either does the work himself or herself or has others do it for him or her, shall obtain the particular license required by this chapter for the particular type of work that he or she solicits or advertises that he or she will do, regardless of whether he or she has a shop or factory.

(b) Every person who, on his or her own account, advertises, solicits or contracts to repair or renovate upholstered furniture and who does not do the work himself or herself nor have employees do it for him or her but does have the work done by a licensed custom upholsterer need not obtain a license as a custom upholsterer but shall obtain a license as a retail furniture dealer. However, nothing in this section shall exempt a retail furniture dealer from complying with Sections 19162 and 19163.

SEC. 43. Section 19071 of the Business and Professions Code is amended to read:

19071. Secondhand bedding, or secondhand filling materials to be used or that could be used in bedding received from outside of this state shall comply with all the sanitization provisions of this chapter before it is accepted, sold or delivered, either directly or indirectly by any person.

SEC. 44. Section 19072 of the Business and Professions Code is amended to read:

19072. Responsibility for compliance with this chapter rests not only with the manufacturer but also with the importer, wholesaler, retailer, or any person having in his or her possession any article of upholstered furniture or bedding, or filling materials with intent to resell contrary to the provisions of this chapter.

SEC. 45. Section 19072.5 of the Business and Professions Code is amended to read:



19072.5. Importers, wholesalers, and retailers shall not sell or resell in California unlabeled upholstered furniture or bedding. Importers, wholesalers, and retailers shall obtain labels from the manufacturer of those articles and shall affix the labels before offering any upholstered furniture or bedding for sale. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

SEC. 46. Section 19080 of the Business and Professions Code is amended to read:

19080. A person shall not, at wholesale, retail, or otherwise, directly or indirectly, make, repair, renovate, process, prepare, sell, offer for sale, display, or deliver any article of upholstered furniture or bedding, or any filling materials in prefabricated form or loose in bags or containers, unless such article or material is plainly and indelibly labeled. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

SEC. 47. Section 19124 of the Business and Professions Code is amended to read:

19124. Every person who receives for sanitization any bedding filling material shall sanitize all those articles and material in accordance with the sanitization regulations.

SEC. 48. Section 19155 of the Business and Professions Code is repealed.

SEC. 49. Section 19161 of the Business and Professions Code is amended to read:

19161. All mattresses manufactured for sale in this state, including any mattress manufactured for sale for use in a hotel, motel, or other place of public accommodation in this state, shall be fire retardant. All seating furniture sold or offered for sale by an importer, manufacturer, or wholesaler for use in this state, including any seating furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall be fire retardant and shall be labeled in a manner specified by the bureau. "Fire retardant," as used in this section, means a product that meets the regulations adopted by the bureau. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

SEC. 50. Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:



	Maximum fee	Minimum fee
Importer’s license	\$540	\$120
Furniture and bedding manufacturer’s license	540	120
Wholesale furniture and bedding dealer’s license	540	120
Supply dealer’s license	540	120
Custom upholsterer’s license	360	80
Sanitizer’s license	360	80
Retail furniture and bedding dealer’s license	240	40
Retail furniture dealer’s license	120	20
Retail bedding dealer’s license	120	20

(b) A person who has paid the required fee and who is duly licensed as an upholstered-furniture and bedding manufacturer or a custom upholsterer under this chapter shall not be required to pay, in addition, the fee prescribed herein for a sanitizer’s license.

(c) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, such individuals must comply with all other provisions of this chapter.

(d) Retailers who only sell “used” and “antique” furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(e) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(f) It is the intent of the Legislature that upon the enactment of the amendments to this section, the two hundred twenty-four thousand dollars (\$224,000) unallocated reduction proposed in the 1993–94 Governor’s Budget shall be restored to the Bureau of Home Furnishings and Thermal Insulation Fund.

SEC. 51. Chapter 14 (commencing with Section 22250) is added to Division 8 of the Business and Professions Code, to read:



CHAPTER 14. TAX PREPARERS

22250. (a) A tax preparer shall maintain a bond issued by a surety company admitted to do business in this state for each individual preparing tax returns for another person. The principal sum of the bond shall be five thousand dollars (\$5,000). A tax preparer subject to this section shall provide to the surety company proof of the following before a surety bond may be issued:

(1) That the individual is at least 18 years of age.

(2) A “certificate of completion” of instruction as required by subdivision (a) of Section 22255 and a “statement of compliance” of continuing education as required by subdivision (b) of Section 22255.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, or any unlawful acts or omissions by the tax preparer, or the tax preparers employed or associated with it to provide tax preparation services.

(c) The tax preparer filing the bond shall identify all tax preparers employed or associated with the tax preparer and shall provide for each employee or associate the evidence required by paragraphs (1) and (2) of subdivision (a) to the surety company. A tax preparer employed or associated with a tax preparer shall be covered by the bond of the tax preparer with which he or she is employed or associated. However, in no event shall the total bond required for any single tax preparer and the tax preparers employed or associated with it be required to exceed one hundred twenty-five thousand dollars (\$125,000). The aggregate liability of the surety to any and all persons regardless of the number of claims against the bond or the number of years the bond remains in force shall not exceed five thousand dollars (\$5,000) for any one tax preparer. Any revision of the bond amount shall not be cumulative. The liability of the surety on the bond shall not include payment of any civil penalties, fines, attorneys’ fees, or any other cost provided by statute or regulation.

(d) The tax preparer shall file an amendment to the bond within 30 days of a change in information contained in the bond, including a change in the tax preparers employed or associated with the tax preparer.

(e) (1) A tax preparer may not conduct business without having a current surety bond in the amount prescribed by this section.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to the tax preparer, identifying the bond and the date of cancellation or termination.

(3) If a tax preparer fails to obtain a new bond by the effective date of the cancellation or termination of the former bond, the tax



preparer shall cease to conduct business until that time as a new surety bond is obtained.

(f) Notwithstanding Section 995.710 of the Code of Civil Procedure, a tax preparer may not make a deposit in lieu of bond.

(g) A tax preparer shall furnish evidence of the bond required by this section upon the request of any state or federal agency or any law enforcement agency.

22251. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), “tax preparer” includes:

(A) A person who, for a fee, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), “tax preparer” does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer’s income, sales, or payroll tax returns.

(b) “Tax return” means a return, declaration, statement, refund claim, or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

(c) An “approved curriculum provider,” for purposes of basic instruction as described in subdivision (a) of Section 22255, and continuing education as described in subdivision (b) of Section 22255, is one who has been approved by the tax education council as defined in subdivision (d), or by the Council for Private Postsecondary and Vocational Education under Chapter 3 (commencing with Section 94300) of Part 59 of Division 10 of the Education Code. A curriculum provider who is approved by the tax education council is exempt from Chapter 3 (commencing with Section 94300) of Part 59 of Division 10 of the Education Code.

(d) A “tax education council” means a single organization made up of not more than one representative from each professional society, association, or other entity operating as a California nonprofit corporation which chooses to participate in the council and which represents tax preparers, enrolled agents, attorneys, or certified



public accountants with a membership of at least 200 for the last three years, and not more than one representative from each for profit tax preparation corporation which chooses to participate in the council and which has at least 200 employees and has been operating in California for the last three years.

22252. Prior to rendering any tax preparation services, a tax preparer shall provide the customer in writing with the tax preparer's name, address, telephone number, and evidence of compliance with the bonding requirement of Section 22250, including the bond number, if any.

22253. It is a violation of this chapter for a tax preparer to do any of the following:

(a) Make, or authorize the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(b) Obtain the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.

(c) Fail or refuse to give a customer, for his or her own records, a copy of any document requiring the customer's signature, within a reasonable time after the customer signs such document.

(d) Fail to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return, whichever is later.

(e) Engage in advertising practices which are fraudulent, untrue, or misleading, including, but not limited to, assertions that the bond required by Section 22250 in any way implies licensure or endorsement of a tax preparer by the State of California.

(f) Violate the provisions of Sections 17530.5.

(g) Violate the provisions of Section 7216 of Title 26 of the United States Code.

(h) Fail to sign a customer's tax return when payment for services rendered has been made.

(i) Fail to return, upon the demand by or on behalf of a customer and after payment for services rendered, records or other data provided to the tax preparer by the customer.

(j) Knowingly give false or misleading information to the consumer pursuant to Section 22252, or give false or misleading information to the surety company pursuant to subdivision (a) of Section 22250.

22254. A provider of tax preparer education for tax preparers shall meet standards and procedures as approved by the tax education council, or by the Council for Private Postsecondary and Vocational Education. The tax education council shall either approve or decline to approve providers of tax preparer education within 120



days of receiving a request for approval. If approval is not declined within 120 days, the provider shall be deemed approved. A listing of those providers approved by the tax education council shall be made available to tax preparers upon request.

22255. (a) The tax education council shall issue a “certificate of completion” to the tax preparer when the tax preparer demonstrates that he or she was previously registered with the Tax Preparer Program under the Department of Consumer Affairs, or has completed not less than 60 hours of instruction in basic personal income tax law, theory, and practice by an approved curriculum provider within the previous 18 months.

(b) A tax preparer shall complete on an annual basis not less than 20 hours of continuing education, including 12 hours in federal taxation, four hours in California taxation and an additional four hours in either federal or California taxation from an approved curriculum provider. The tax education council shall issue annually a “statement of compliance” when the tax preparer demonstrates that he or she has completed the required 20 hours of continuing education.

22256. (a) The superior court in and for the county in which any person acts as a tax preparer in violation of the provisions of this chapter, may, upon a petition by any person, issue an injunction or other appropriate order restraining the conduct. The proceedings under this paragraph shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) A person who violates a provision of this chapter is guilty of a misdemeanor, which offense is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both.

22257. (a) If a tax preparer fails to perform a duty specifically imposed upon him or her pursuant to this chapter, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars (\$1,000), or for both enforcement and recovery.

(b) In an action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney’s fees and costs, in addition to the civil penalties provided under subdivision (a).

22258. The following persons are exempt from the requirements of this title:

(a) A person with a current and valid license issued by the State Board of Accountancy and his or her employees while functioning within the scope of their employment.

(b) A person who is an active member of the State Bar of California and his or her employees while functioning within the scope of their employment.

(c) An employee of any trust company or trust business as defined in Chapter 1 (commencing with Section 99) of Division 1 of the



Financial Code while functioning within the scope of his or her employment.

(d) A financial institution regulated by the state or federal government, and employees thereof, insofar as the activities of the employees are related to their employment and the activities of the financial institution with respect to tax preparation are subject to federal or state examination or oversight.

(e) A person who is enrolled to practice before the Internal Revenue Service pursuant to Subpart A (commencing with Section 10.1) of Part 10 of Title 31 of the Code of Federal Regulations, and his or her employees while functioning within the scope of his or her employment.

22259. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473).

This chapter shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends that date on which it becomes inoperative and is repealed.

SEC. 52. Section 1940.5 of the Civil Code is amended to read:

1940.5. An owner or an owner's agent shall not refuse to rent a dwelling unit in a structure which received its valid certificate of occupancy after January 1, 1973, to an otherwise qualified prospective tenant or refuse to continue to rent to an existing tenant solely on the basis of that tenant's possession of a waterbed or other bedding with liquid filling material where all of the following requirements and conditions are met:

(a) A tenant or prospective tenant furnishes to the owner, prior to installation, a valid waterbed insurance policy or certificate of insurance for property damage. The policy shall be issued by a company licensed to do business in California and possessing a Best's Insurance Report rating of "B" or higher. The insurance policy shall be maintained in full force and effect until the bedding is permanently removed from the rental premises. The policy shall be written for no less than one hundred thousand dollars (\$100,000) of coverage. The policy shall cover, up to the limits of the policy, replacement value of all property damage, including loss of use, incurred by the rental property owner or other caused by or arising out of the ownership, maintenance, use, or removal of the waterbed on the rental premises only, except for any damage caused intentionally or at the direction of the insured, or for any damage caused by or resulting from fire. The owner may require the tenant to produce evidence of insurance at any time. The carrier shall give the owner notice of cancellation or nonrenewal 10 days prior to this action. Every application for a policy shall contain the information as provided in subdivisions (a), (b), and (c) of Section 1962 and Section 1962.5.



(b) The bedding shall conform to the pounds-per-square foot weight limitation and placement as dictated by the floor load capacity of the residential structure. The weight shall be distributed on a pedestal or frame which is substantially the dimensions of the mattress itself.

(c) The tenant or prospective tenant shall install, maintain and remove the bedding, including, but not limited to, the mattress and frame, according to standard methods of installation, maintenance, and removal as prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety. The tenant shall notify the owner or owner's agent in writing of the intent to install, remove, or move the waterbed. The notice shall be delivered 24 hours prior to the installation, removal, or movement. The owner or the owner's agent may be present at the time of installation, removal, or movement at the owner's or the owner's agent's option. If the bedding is installed or moved by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name, address, and business affiliation where appropriate.

(d) Any new bedding installation shall conform to the owner's or the owner's agent's reasonable structural specifications for placement within the rental property and shall be consistent with floor capacity of the rental dwelling unit.

(e) The tenant or prospective tenant shall comply with the minimum component specification list prescribed by the manufacturer, retailer, or state law, whichever provides the higher degree of safety.

(f) Subject to the notice requirements of Section 1954, the owner, or the owner's agent, shall have the right to inspect the bedding installation upon completion, and periodically thereafter, to insure its conformity with this section. If installation or maintenance is not in conformity with this section, the owner may serve the tenant with a written notice of breach of the rental agreement. The owner may give the tenant three days either to bring the installation into conformity with those standards or to remove the bedding, unless there is an immediate danger to the structure, in which case there shall be immediate corrective action. If the bedding is installed by any person other than the tenant or prospective tenant, the tenant or prospective tenant shall deliver to the owner or to the owner's agent a written installation receipt stating the installer's name and business affiliation where appropriate.

(g) Notwithstanding Section 1950.5, an owner or owner's agent is entitled to increase the security deposit on the dwelling unit in an amount equal to one-half of one months' rent. The owner or owner's agent may charge a tenant, lessee, or sublessee a reasonable fee to cover administration costs. In no event does this section authorize the



payment of a rebate of premium in violation of Article 5 (commencing with Section 750) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(h) Failure of the owner, or owner’s agent, to exercise any of his or her rights pursuant to this section does not constitute grounds for denial of an insurance claim.

(i) As used in this section, “tenant” includes any lessee, and “rental” means any rental or lease.

SEC. 53. Section 69944 of the Government Code is amended to read:

69944. Until an official reporter of any court or official reporter pro tempore has fully completed and filed all transcriptions of his notes in any case on appeal which he is required by law to transcribe, he is not competent to act as official reporter in any court. Violation of subdivision (d) of Section 8025 of the Business and Professions Code shall also render an official reporter or official reporter pro tempore incompetent to act as official reporter in any court.

SEC. 54. Sections 21 and 51 of this act shall become operative on July 1, 1997.

SEC. 55. Notwithstanding any other provision of law, all assets remaining in the special fund of the Tax Preparers Program on the effective date of the repeal pursuant to Section 21 of this act shall be transferred to the Cemetery Fund as successor fund pursuant to Section 16346 of the Government Code.

SEC. 56. Sections 1 to 20, inclusive, Sections 22 to 50, inclusive, and Sections 52 and 53, shall not become operative unless SB 2031 of the 1995–96 Regular Session is also enacted and becomes operative.

SEC. 57. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

