

AMENDED IN SENATE MAY 14, 1997

SENATE BILL

No. 1348

**Introduced by Committee on Business and Professions
(Senators Polanco (Chair), Ayala, Craven, Greene,
Johannessen, Kelley, O'Connell, and Rosenthal)**

March 18, 1997

An act to amend Sections 5053, 5055, 5056, 5060, 5070.6, 5071, 5072, 5073, 5081.1, 5084, 5153, 11302, 11315, 11410, and 17550.47 of, to add ~~Section 5058.1~~ Sections 5058.1, 11316, 11317, 11318, and 11409 to, and to repeal Sections 5059, 5074, 5075, and 5076 of, the Business and Professions Code, relating to professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1348, as amended, Committee on Business and Professions. Professions: accountancy: sellers of travel: *real estate appraisers*.

(1) Existing law requires that any person who has received from the State Board of Accountancy a certificate of certified public accountant or a certificate of public accountant and holds a valid permit to practice be styled and known as a "certified public accountant" or "public accountant," respectively. Existing law prohibits any other person, except a partnership of registered certified public accountants or a partnership of public accountants to assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant or public accountant, respectively.

This bill would except a registered accountancy corporation from the above prohibition. The bill would also prohibit a person or firm from using any title or designation in connection with the designation “certified public accountant” or “public accountant” that is false or misleading or that is likely to lead to public confusion concerning either the source of the title or designation or the training, education, or experience required to earn, obtain, or use the title or designation. The bill would also make various revisions regarding the use of names in an accountancy firm or accountancy corporation and registration requirements for accountancy partnerships.

Violation of certain provisions relating to accountancy ~~would~~ constitute a crime. Because the above provisions pertaining to the designation “certified public accountant” or “public accountant” would create a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides that an expired permit to practice public accountancy may be renewed at any time within 5 years after its expiration on filing of an application for renewal on a form prescribed by the Board of Accountancy, payment of all accrued and unpaid renewal fees, and giving evidence to the board of compliance with the continuing education provisions. Existing law further provides that if the permit is renewed more than 30 days after its expiration, its holder, as a condition precedent to renewal, shall also pay a prescribed delinquency fee.

This bill would delete the 30-day grace period for renewal of a permit.

(3) Under existing law, an applicant for admission to the examination for a certified public accountant certificate is required to comply with various requirements, including presenting satisfactory evidence that he or she has a baccalaureate degree from a university, college, or other 4-year institution of learning accredited as specified.

This bill would provide that such an applicant may also present satisfactory evidence of a degree from a college, university, or other institution of learning located outside the United States that is approved by the board as the equivalent of the aforementioned baccalaureate degree.



(4) Existing law provides that any person aggrieved, as defined, who suffers a loss may file a claim with the Travel Consumer Restitution Corporation. Existing law further provides that a claimant may request reconsideration of, and appeal, an adverse decision by the corporation and, if the claimant prevails on the appeal, the claimant shall be entitled to attorney's fees and costs.

This bill would authorize a seller of travel to request reconsideration of, and appeal, an adverse decision of the corporation and would entitle a seller of travel that prevailed on an appeal to attorney's fees and costs.

(5) *The Real Estate Appraisers' Licensing and Certification Law* authorizes the Director of the Office of Real Estate Appraisers to issue to a licensee, applicant for licensure, or person who acts in a capacity that requires a license under the act a citation that may contain an order to pay an administrative fine assessed by the office if the appraiser is in violation of this law or any regulations adopted to carry out its purposes.

This bill would authorize the director to issue a citation that may contain an administrative fine assessment to a course provider, as defined, applicant for course provider accreditation, or a person who acts in a capacity that requires course provider accreditation for violation of this law or any regulations adopted to carry out its purposes. The bill would provide that, if appropriate, the citation may contain an order to enroll in, and successfully complete, additional basic or continuing education courses related to the standards of professional appraisal practice, as specified, and would revise provisions relating to the payment of fines assessed by the director.

This bill would also authorize an administrative law judge to assess a fine at an administrative hearing against a licensee, applicant for licensure, person who acts in a capacity that requires a license under the law, course provider, applicant for course provider accreditation, or a person who acts in a capacity that requires course provider accreditation for violation of the law or any regulations adopted to carry out its purposes to the same extent as provided to the director. The bill, in addition, would require a licensee, applicant for



licensure, course provider, or applicant for course provider accreditation to report to the office, in writing, the occurrence of certain events relating to any criminal convictions of a licensee, applicant for licensure, course provider, or applicant for course provider accreditation, or any disciplinary proceedings against a licensee or course provider, in accordance with prescribed procedures.

(6) Existing law requires the Office of Real Estate Appraisers to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest.

This bill would require the office to publish a summary of public disciplinary actions taken by the office, resignations while under investigation, and the violations upon which these actions are based.

(7) Existing law does not provide for the recovery of costs for investigation and enforcement by the Office of Real Estate Appraisers.

This bill would authorize the office to request an administrative law judge to direct a licensee, applicant for licensure, person who acts in a capacity that requires a license under the Real Estate Appraisers' Licensing and Certification Law, course provider, applicant for course provider accreditation, or a person who acts in a capacity that requires course provider accreditation found to have committed a violation or violations of statutes or regulations relating to the standards of professional appraiser practice to pay these costs.

(8) The Real Estate Appraisers' Licensing and Certification Law establishes the Real Estate Appraisers Regulation Fund in the State Treasury consisting of moneys raised by fees and assessments imposed pursuant to the act, and requires that interest be paid on all money transferred to the General Fund from the Real Estate Appraisers Regulation Fund, notwithstanding certain provisions.

This bill would require that the interest on this money be paid at the pooled money investment rate.

(9) 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.

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

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

1 SECTION 1. Section 5053 of the Business and
2 Professions Code is amended to read:

3 5053. Nothing contained in this chapter precludes a
4 person who is not a certified public accountant or public
5 accountant from serving as an employee of, or an assistant
6 to, a certified public accountant or public accountant or
7 partnership or a corporation composed of certified public
8 accountants or public accountants holding a permit to
9 practice pursuant to this chapter if the employee or
10 assistant works under the control and supervision of a
11 certified public accountant, or a public accountant
12 authorized to practice public accountancy pursuant to
13 this chapter and if the employee or assistant does not issue
14 any statement over his or her name.

15 This section does not apply to an attorney at law in
16 connection with his or her practice of law.

17 SEC. 2. Section 5055 of the Business and Professions
18 Code is amended to read:

19 5055. Any person who has received from the board a
20 certificate of certified public accountant and holds a valid
21 permit to practice under this chapter shall be styled and
22 known as a “certified public accountant” and may also use
23 the abbreviation “C.P.A.” No other person, except a
24 partnership of certified public accountants registered
25 under Sections 5072 and 5073, or an accountancy
26 corporation registered under Section 5150, shall assume
27 or use that title, designation, or abbreviation or any other
28 title, designation, sign, card, or device tending to indicate
29 that the person using it is a certified public accountant.

30 SEC. 3. Section 5056 of the Business and Professions
31 Code is amended to read:

32 5056. Any person who has received from the board a
33 certificate of public accountant and holds a valid permit



1 to practice under this chapter shall be styled and known
2 as a “public accountant” and may also use the
3 abbreviation “P.A.” No other person, except a
4 partnership of public accountants registered under
5 Sections 5072 and 5073, or an accountancy corporation
6 registered under Section 5150, shall assume or use that
7 title, designation, or abbreviation or any other title,
8 designation, sign, card, or device tending to indicate that
9 the person using it is a public accountant.

10 SEC. 4. Section 5058.1 is added to the Business and
11 Professions Code, to read:

12 5058.1. (a) A person or firm may not use any title or
13 designation in connection with the designation “certified
14 public accountant” or “public accountant” that is either
15 of the following:

16 (1) False or misleading.

17 (2) Likely to lead to public confusion concerning
18 either of the following:

19 (A) The source of the title or designation, such as a
20 governmental agency, educational institution, or private
21 organization.

22 (B) The training, education, or experience required to
23 earn, obtain, or use the title or designation.

24 (b) The board may adopt regulations covering the use
25 of name styles, titles, or designations including, but not
26 limited to, those related to specialized training,
27 qualifications, or areas of specialized practice.

28 SEC. 5. Section 5059 of the Business and Professions
29 Code is repealed.

30 SEC. 6. Section 5060 of the Business and Professions
31 Code is amended to read:

32 5060. (a) The name or names under which a firm
33 may render professional services shall contain, and may
34 be restricted to, the name, last name, or initials of one or
35 more partners, shareholders, or owners of the firm who
36 are either licensed to practice under this chapter,
37 applicants for licensure under Sections 5087 and 5088, or
38 licensed to practice in another state or foreign country
39 where the firm is engaged in the practice of public
40 accountancy or its functional equivalent, if the firm name



1 does not include the name of any person whose license to
2 practice public accountancy is revoked by the board.

3 (b) Notwithstanding subdivision (a), the name of a
4 partnership or accountancy corporation may continue to
5 include, or may be limited to, the name, last name, or
6 initials of one or more former partners, shareholders, or
7 owners of the firm or a predecessor firm, if the firm name
8 does not include the name of any person whose license to
9 practice public accountancy is revoked by the board.

10 (c) Nothing in this chapter shall prohibit the right to
11 the continuous use of a firm name registered with the
12 board on or before December 31, 1997.

13 SEC. 7. Section 5070.6 of the Business and Professions
14 Code is amended to read:

15 5070.6. Except as otherwise provided in this chapter,
16 an expired permit may be renewed at any time within
17 five years after its expiration on filing of application for
18 renewal on a form prescribed by the board, payment of
19 all accrued and unpaid renewal fees and on and after
20 December 31, 1974, giving evidence to the board of
21 compliance with the continuing education provisions of
22 this chapter. If the permit is renewed after its expiration,
23 its holder, as a condition precedent to renewal, shall also
24 pay the delinquency fee prescribed by this chapter.
25 Renewal under this section shall be effective on the date
26 on which the application is filed, on the date on which the
27 accrued renewal fees are paid, or on the date on which
28 the delinquency fee, if any, is paid, whichever last occurs.
29 If so renewed, the permit shall continue in effect through
30 the date provided in Section 5070.5 that next occurs after
31 the effective date of the renewal, when it shall expire if
32 it is not again renewed.

33 SEC. 8. Section 5071 of the Business and Professions
34 Code is amended to read:

35 5071. No persons shall engage in the practice of
36 accountancy as a partnership unless the partnership is
37 registered by the board under Sections 5072 and 5073.

38 SEC. 9. Section 5072 of the Business and Professions
39 Code is amended to read:



1 5072. A partnership of certified public accountants or
2 public accountants, other than a limited partnership, may
3 be registered by the board provided it meets the
4 following requirements:

5 (a) At least one general partner must be a certified
6 public accountant or public accountant of this state in
7 good standing or must have applied for a certificate as a
8 certified public accountant under Sections 5087 and 5088.

9 (b) Each partner personally engaged within this state
10 in the practice of public accountancy must be a licensee
11 in good standing of this state or must have applied for a
12 certificate as a certified public accountant under Sections
13 5087 and 5088.

14 (c) Each partner not personally engaged within this
15 state must be a certified public accountant in good
16 standing of some state.

17 (d) Each resident manager in charge of an office of the
18 firm in this state must be a licensee in good standing of
19 this state, or must have applied for a certificate as a
20 certified public accountant under Sections 5087 and 5088.

21 SEC. 10. Section 5073 of the Business and Professions
22 Code is amended to read:

23 5073. Application for registration of a partnership
24 must be made upon the affidavit of a general partner of
25 the partnership who holds a valid permit in this state to
26 practice as a certified public accountant or public
27 accountant, or must have applied for a certificate as a
28 certified public accountant under Sections 5087 and 5088.
29 The affidavit shall set forth any information that may be
30 prescribed by the rules of the board. The board shall in
31 each case determine whether the applicant is eligible for
32 registration. A partnership that is so registered and that
33 holds a valid permit issued under this article and that has
34 at least one general partner who is licensed to practice
35 using the designation “certified public accountant” or
36 abbreviation “C.P.A.” may use the words “certified
37 public accountants” or the abbreviation “C.P.A.s” in
38 connection with its partnership name. Notification shall
39 be given to the board within one month after the



1 admission to, or withdrawal of, a partner from any
2 partnership so registered.

3 Any registration of a partnership under this section
4 granted in reliance upon Sections 5087 and 5088 shall
5 terminate forthwith if the board rejects the application
6 under Sections 5087 and 5088 of the general partner who
7 signed the application for registration as a partnership, or
8 any partner personally engaged in the practice of public
9 accountancy in this state, or any resident manager of a
10 partnership in charge of an office in this state.

11 SEC. 11. Section 5074 of the Business and Professions
12 Code is repealed.

13 SEC. 12. Section 5075 of the Business and Professions
14 Code is repealed.

15 SEC. 13. Section 5076 of the Business and Professions
16 Code is repealed.

17 SEC. 14. Section 5081.1 of the Business and
18 Professions Code is amended to read:

19 5081.1. An applicant for admission to the examination
20 for a certified public accountant certificate shall comply
21 with one of the following:

22 (a) He or she shall present satisfactory evidence that
23 he or she has either of the following:

24 (1) A baccalaureate degree from a university, college,
25 or other four-year institution of learning accredited by a
26 regional or national accrediting agency or association
27 included in a list of these agencies or associations
28 published by the United States Commissioner of
29 Education under the requirements of Section 253 of the
30 Veterans' Readjustment Assistance Act of 1952, known as
31 Public Law 550 of the 82nd Congress, as amended, with
32 a major in accounting or related subjects requiring a
33 minimum of 45 semester units of instruction in these
34 subjects. If the applicant has received a baccalaureate
35 degree in a nonaccounting major, the applicant shall
36 present satisfactory evidence of study substantially the
37 equivalent of accounting major, including courses in
38 related business administration.

39 (2) A degree from a college, university, or other
40 institution of learning located outside the United States



1 that is approved by the board as the equivalent of the
2 baccalaureate degree described in paragraph (1). The
3 board may require an applicant to submit documentation
4 of his or her education to a credentials evaluation service
5 for review and to report the results of this review to the
6 board.

7 (b) He or she shall present satisfactory evidence that
8 he or she has successfully completed a two-year course of
9 study at college grade or received an associate in arts
10 degree from a junior college, either institution accredited
11 by a regional or national accrediting agency or association
12 that is included in a list published by the United States
13 Commissioner of Education under the provisions of
14 federal law specified in paragraph (1) of subdivision (a),
15 and that he or she has studied accounting, commercial
16 law, economics, finance, and related business
17 administration subjects for a period of at least four years.

18 (c) The applicant shall show to the satisfaction of the
19 board that he or she has had the equivalent of the
20 educational qualifications required by subdivision (b), or
21 shall pass a preliminary written examination approved
22 and administered by an agency approved by the State
23 Department of Education and shall have completed a
24 minimum of 10 semester hours or the equivalent in
25 accounting subjects. The 10 semester hours in accounting
26 subjects shall be completed at a college, university, or
27 other institution of higher learning accredited at the
28 college level by an agency or association that is included
29 in a list published by the United States Commissioner of
30 Education under the provisions of federal law specified in
31 paragraph (1) of subdivision (a).

32 (d) He or she shall be a public accountant registered
33 under this chapter.

34 SEC. 15. Section 5084 of the Business and Professions
35 Code is amended to read:

36 5084. The board shall grant one year's credit toward
37 fulfillment of its public accounting experience
38 requirement to a graduate of a college who has
39 completed a four-year course with 45 or more semester
40 hours or the equivalent thereof in the study of



1 accounting, commercial law, economics, and finance, of
2 which at least 20 semester units or the equivalent thereof
3 shall be in the study of accounting.

4 The members of the board shall prescribe rules
5 establishing the character and variety of experience
6 necessary to fulfill the experience requirements set forth
7 in this section.

8 SEC. 16. Section 5153 of the Business and Professions
9 Code is amended to read:

10 5153. An accountancy corporation may not render
11 professional services under a name unless the name
12 complies with this chapter, including Article 3
13 (commencing with Section 5050) and Article 3.5
14 (commencing with Section 5060) and applicable
15 regulations adopted by the board, and has been approved
16 by the board as being neither false nor misleading.

17 SEC. 17. *Section 11302 of the Business and Professions*
18 *Code is amended to read:*

19 11302. For the purpose of applying this part, the
20 following terms, unless otherwise expressly indicated,
21 shall mean and have the following definitions:

22 (a) “Agency” means the Business, Transportation and
23 Housing Agency.

24 (b) “Appraisal” means a written statement
25 independently and impartially prepared by a qualified
26 appraiser setting forth an opinion in a federally related
27 transaction as to the market value of an adequately
28 described property as of a specific date, supported by the
29 presentation and analysis of relevant market information.

30 The term “appraisal” does not include an opinion given
31 by a real estate licensee or engineer or land surveyor in
32 the ordinary course of his or her business in connection
33 with a function for which a license is required under
34 Chapter 7 (commencing with Section 6700) or Chapter
35 15 (commencing with Section 8700) of Division 3, or
36 Chapter 3 (commencing with Section 10130) or Chapter
37 7 (commencing with Section 10500) and the opinion shall
38 not be referred to as an appraisal. This part does not apply
39 to a probate referee acting pursuant to Sections 400 to 408,



1 inclusive, of the Probate Code unless the appraised
2 transaction is federally related.

3 (c) “Appraisal Foundation” means the Appraisal
4 Foundation that was incorporated as an Illinois
5 not-for-profit corporation on November 30, 1987.

6 (d) “Appraisal Subcommittee” means the Appraisal
7 Subcommittee of the Federal Financial Institutions
8 Examination Council.

9 (e) “Director” means the Director of the Office of
10 Real Estate Appraisers.

11 (f) “Federal financial institutions regulatory agency”
12 means the Federal Reserve Board, Federal Deposit
13 Insurance Corporation, Office of the Comptroller of the
14 Currency, Office of Thrift Supervision, Federal Home
15 Loan Bank System, National Credit Union
16 Administration, the Resolution Trust Corporation, and
17 any other agency determined by the director to have
18 jurisdiction over transactions subject to this part.

19 (g) “Federally related real estate appraisal activity”
20 means the act or process of making or performing an
21 appraisal on real estate or real property in a federally
22 related transaction and preparing an appraisal as a result
23 of that activity.

24 (h) “Federally related transaction” means any real
25 estate-related financial transaction which a federal
26 financial institutions regulatory agency engages in,
27 contracts for or regulates and which requires the services
28 of a state licensed real estate appraiser regulated by this
29 part. This term also includes any transaction identified as
30 such by a federal financial institutions regulatory agency.

31 (i) “License” means any license, certificate, permit,
32 registration, or other means issued by the office
33 authorizing the person to whom it is issued to act
34 pursuant to this part within this state.

35 (j) “Licensure” means the procedures and
36 requirements a person shall comply with in order to
37 qualify for issuance of a license and includes the issuance
38 of the license.

39 (k) “Office” means the Office of Real Estate
40 Appraisers.



1 (l) “Secretary” means the Secretary of the Business,
2 Transportation and Housing Agency.

3 (m) “State licensed real estate appraiser” is a person
4 who is issued and holds a current valid license under this
5 part.

6 (n) “Uniform Standards of Professional Appraisal
7 Practice” are the standards of professional appraisal
8 practice established by the Appraisal Foundation.

9 (o) “Course provider” means a person or entity that
10 provides educational courses related to the standards of
11 professional appraisal practice.

12 (p) “Fine payment” means a payment amount
13 determined by the director that is less than the full
14 amount of the fine and that is paid in installments until
15 the total amount of the fine is paid.

16 SEC. 18. Section 11315 of the Business and Professions
17 Code is amended to read:

18 11315. (a) The director may issue to a licensee,
19 applicant for licensure, ~~or~~ person who acts in a capacity
20 that requires a license under this part, *course provider*,
21 *applicant for course provider accreditation*, or a person
22 who acts in a capacity that requires *course provider*
23 *accreditation* a citation that may contain an order to pay
24 an administrative fine assessed by the office if the
25 ~~appraiser~~ person or entity is in violation of this part or any
26 regulations adopted to carry out its purposes.

27 (b) A citation shall be written and describe with
28 particularity the nature of the violation, including a
29 specific reference to the provision of law determined to
30 have been violated.

31 (c) If appropriate, the citation shall contain an order
32 of abatement fixing a reasonable time for abatement of
33 the violation.

34 (d) (1) *If appropriate, the citation may contain an*
35 *order to enroll in and successfully complete additional*
36 *basic or continuing education courses related to the*
37 *standards of professional appraisal practice.*

38 (2) *When a citation imposes an education course or*
39 *courses, the completion of the course or courses by the*
40 *licensee shall be subject to the following conditions:*



1 (A) *The citation imposing the education requirement*
2 *may specify the specific course content, the number of*
3 *hours to be completed, the date by which the course is to*
4 *be completed, and the method by which satisfaction of*
5 *the order is to be reported to the office.*

6 (B) *An education course imposed by citation may not*
7 *be credited towards the licensee's continuing education*
8 *requirements pursuant to Section 11360.*

9 (C) *Only courses accredited by the office shall be*
10 *accepted for purposes of fulfilling education imposed by*
11 *citation.*

12 (D) *Any failure to satisfactorily complete or timely*
13 *report an education course to the office on the date*
14 *specified in the citation shall result in the automatic*
15 *suspension of the licensee's appraisal license as of that*
16 *date.*

17 (E) *Reinstatement of a license suspended pursuant to*
18 *subparagraph (D) shall be made only if all of the*
19 *following events occur:*

20 (i) *Satisfactory verification of the completion of the*
21 *education course or courses imposed by the citation.*

22 (ii) *Completion and filing of a reinstatement*
23 *application.*

24 (iii) *Payment of all applicable fees, fines, or penalties.*

25 (e) *In no event shall the administrative fine assessed*
26 *by the office by citation or order exceed ten thousand*
27 *dollars (\$10,000) per violation. In assessing a fine, the*
28 *office shall give due consideration to the appropriateness*
29 *of the amount of the fine with respect to factors such as*
30 *the gravity of the violation, the good faith of the person*
31 *who committed the violation, and the history of previous*
32 *violations.*

33 ~~(e)~~

34 (f) *A citation or fine assessment issued pursuant to a*
35 *citation or order of the director shall inform the person*
36 *cited that, if he or she desires a hearing to contest the*
37 *finding of a violation, he or she must request a hearing by*
38 *written notice to the office within 30 days of the date of*
39 *issuance of the citation or assessment. Hearings shall be*
40 *held pursuant to Chapter 5 (commencing with Section*



1 11500) of Part 1 of Division 3 of Title 2 of the Government
2 Code. The citation *or fine assessment* shall also inform the
3 person cited that failure to respond to the citation *or fine*
4 *assessment* shall result in any order ~~of abatement~~ or
5 administrative fine imposed becoming final, and that any
6 order ~~of abatement~~ or administrative fine shall constitute
7 an enforceable civil judgment in addition to any other
8 penalty or remedy available pursuant to law.

9 ~~(f)~~

10 (g) (1) Failure of a licensee, *applicant for licensure,*
11 *person who acts in a capacity that requires a license under*
12 *this part, course provider, applicant for course provider*
13 *accreditation, or a person who acts in a capacity that*
14 *requires course provider accreditation* to pay a fine *or*
15 *make a fine payment* within 30 days of the date ~~of~~
16 ~~assessment~~ *ordered in the citation*, unless the citation is
17 being appealed, shall result in disciplinary action by the
18 office. If a licensee, *applicant for licensure, person who*
19 *acts in a capacity that requires a license under this part,*
20 *course provider, applicant for course provider*
21 *accreditation, or a person who acts in a capacity that*
22 *requires course provider accreditation* fails to pay a fine
23 *or make a fine payment* within 30 days, the director shall
24 charge him or her interest and a penalty of 10 percent of
25 the fine *or fine payment* amount. Interest shall be
26 charged at the pooled money investment rate.

27 (2) If a citation is not contested and a fine *or fine*
28 *payment* is not paid *within 30 days of the date ordered in*
29 *the citation or order of the director*, the full amount of the
30 assessed fine shall be added to any fee for renewal of a
31 license. A license shall not be renewed prior to payment
32 of the renewal fee and fine.

33 (3) *The director may order the full amount of any fine*
34 *to be immediately due and payable within 30 days of its*
35 *due date.*

36 (4) Any fine, *or interest thereon*, not paid within 30
37 days of a final order shall constitute a valid and
38 enforceable civil judgment.

39 (5) *A certified copy of the final order, or the citation*
40 *with certification by the office that no request for hearing*



1 was received within 30 days of the date of issuance of the
2 citation, shall be conclusive proof of the civil judgment
3 and its terms.

4 ~~(g)~~

5 (h) A citation may be issued without the assessment of
6 an administrative fine.

7 ~~(h)~~

8 (i) Any administrative fine or penalty imposed
9 pursuant to this section shall be in addition to any other
10 criminal or civil penalty provided for by law.

11 ~~(i)~~

12 (j) Administrative fines collected pursuant to this
13 section shall be deposited in the Real Estate Appraisers
14 Regulation Fund.

15 SEC. 19. Section 11316 is added to the Business and
16 Professions Code, to read:

17 11316. (a) An administrative law judge may assess a
18 fine at an administrative hearing pursuant to Chapter 5
19 (commencing with Section 11500) of Part 1 of Division 3
20 of Title 2 of the Government Code, against a licensee,
21 applicant for licensure, person who acts in a capacity that
22 requires a license under this part, course provider,
23 applicant for course provider accreditation, or a person
24 who acts in a capacity that requires course provider
25 accreditation for violation of this part or any regulations
26 adopted to carry out its purposes.

27 (b) (1) Failure of a licensee, applicant for licensure,
28 person who acts in a capacity that requires a license under
29 this part, course provider, applicant for course provider
30 accreditation, or a person who acts in a capacity that
31 requires course provider accreditation to pay a fine or
32 make a fine payment within 30 days of the date of
33 assessment shall result in disciplinary action by the office.
34 If a licensee, applicant for licensure, person who acts in
35 a capacity that requires a license under this part, course
36 provider, applicant for course provider accreditation, or
37 a person who acts in a capacity that requires course
38 provider accreditation fails to pay a fine within 30 days,
39 the director shall charge him or her interest and a penalty



1 of 10 percent of the fine or payment amount. Interest
2 shall be charged at the pooled money investment rate.

3 (2) If a fine is not paid, the full amount of the assessed
4 fine shall be added to any fee for renewal of a license. A
5 license shall not be renewed prior to payment of the
6 renewal fee and fine.

7 (3) The director may order the full amount of any fine
8 to be immediately due and payable if any payment on the
9 fine, or portion thereof, is not received within 30 days of
10 its due date.

11 (4) Any fine, or interest thereon, not paid within 30
12 days of a final order shall constitute a valid and
13 enforceable civil judgment.

14 (5) A certified copy of the final order shall be
15 conclusive proof of the validity of the order of payment
16 and the terms of payment.

17 (c) Any administrative fine or penalty imposed
18 pursuant to this section shall be in addition to any other
19 criminal or civil penalty provided for by law.

20 (d) Administrative fines collected pursuant to this
21 section shall be deposited in the Real Estate Appraisers
22 Regulation Fund.

23 SEC. 20. Section 11317 is added to the Business and
24 Professions Code, to read:

25 11317. The office shall publish a summary of public
26 disciplinary actions taken by the office, resignations while
27 under investigation, and the violations upon which these
28 actions are based, which shall meet, at a minimum, the
29 requirements of the appraisal subcommittee. The office
30 shall not publish identifying information with respect to
31 private reprovals or letters of warning, which shall
32 remain confidential.

33 SEC. 21. Section 11318 is added to the Business and
34 Professions Code, to read:

35 11318. (a) A licensee, applicant for licensure, course
36 provider, or applicant for course provider accreditation
37 shall report to the office, in writing, the occurrence of any
38 of the following events within 30 days of the date he or she
39 has knowledge of any of these events:



1 (1) *The conviction of the licensee, applicant for*
2 *licensure, course provider, or applicant for course*
3 *provider accreditation of any of the following:*

4 (A) *A felony.*

5 (B) *Any crime related to the qualifications, functions,*
6 *or duties of a licensee, or to acts or activities committed*
7 *in the course of the licensee's or course provider's*
8 *practice.*

9 *As used in this section, a conviction includes an initial*
10 *plea, verdict, or finding of guilty, plea of no contest, or*
11 *pronouncement of sentence by a trial court even though*
12 *that conviction may not be final, the sentence may not be*
13 *imposed, or all appeals may not be exhausted.*

14 (2) *The cancellation, revocation, or suspension of a*
15 *license, other authority to practice, or refusal to renew a*
16 *license or other authority to practice as an occupational*
17 *or professional licensee or course provider, by any other*
18 *regulatory entity.*

19 (3) *The cancellation, revocation, or suspension of the*
20 *right to practice before any governmental body or*
21 *agency.*

22 (b) *The report required by subdivision (a) shall be*
23 *signed by the licensee, applicant for licensure, course*
24 *provider, or applicant for course provider accreditation*
25 *and clearly set forth the facts that constitute the*
26 *reportable event. The report shall include the title of the*
27 *matter, court or agency name, docket number, and dates*
28 *of occurrence of the reportable event.*

29 (c) *The licensee, applicant for licensure, course*
30 *provider, or applicant for course provider accreditation*
31 *shall also promptly obtain and submit a certified copy of*
32 *the police or administrative agency's investigative report*
33 *and certified copies of the court or administrative*
34 *agency's docket, complaint or accusation, and judgment*
35 *or other order.*

36 (d) *A licensee, applicant for licensure, course*
37 *provider, or applicant for course provider accreditation*
38 *shall promptly respond to oral or written inquiries from*
39 *the office concerning the reportable events.*



1 SEC. 22. Section 11409 is added to the Business and
2 Professions Code, to read:

3 11409. (a) Except as otherwise provided by law, in
4 any order issued in resolution of a disciplinary proceeding
5 before the office, the office may request the
6 administrative law judge to direct a licensee, applicant for
7 licensure, person who acts in a capacity that requires a
8 license under this part, course provider, applicant for
9 course provider accreditation, or a person who acts in a
10 capacity that requires course provider accreditation
11 found to have committed a violation or violations of
12 statutes or regulations relating to real estate appraiser
13 practice to pay a sum not to exceed the reasonable costs
14 of investigation and enforcement of the case.

15 (b) Where an order for recovery of costs is made and
16 payment is not made within 30 days of the date directed
17 in the office's decision, the order for recovery shall
18 constitute a valid and enforceable civil judgment. This
19 judgment shall be in addition to, and not in place of, any
20 other criminal or civil penalties provided for by law.

21 (c) (1) Failure of a licensee, applicant for licensure,
22 person who acts in a capacity that requires a license under
23 this part, course provider, applicant for course provider
24 accreditation, or a person who acts in a capacity that
25 requires course provider accreditation to pay recovery
26 costs or make a recovery cost payment within 30 days of
27 the date ordered, shall result in disciplinary action by the
28 office. If the person fails to pay recovery costs within 30
29 days, that person shall pay interest and a penalty of 10
30 percent of the recovery costs or payment amount.
31 Interest shall be charged at the pooled money investment
32 rate.

33 (2) If recovery costs are not paid as ordered, the full
34 amount of the assessed fine shall be added to any fee for
35 renewal of a license. A license shall not be renewed prior
36 to payment of the renewal fee and recovery costs.

37 (3) The director may order the full amount of any
38 recovery costs to be immediately due and payable if any
39 payment on the recovery costs, or portion thereof, is not
40 received within 30 days of its due date.

1 (4) Any recovery costs, or interest thereon, not paid
2 within 30 days of a final order shall constitute a valid and
3 enforceable civil judgment.

4 (d) A certified copy of the office's decision shall be
5 conclusive proof of the validity of the order and its terms.

6 (e) The office shall not renew or reinstate the license
7 of any licensee who has failed to pay all of the costs
8 ordered under this section.

9 (f) Nothing in this section shall preclude the office
10 from including the recovery of the costs of investigation
11 and enforcement of a case in any default decision or
12 stipulated settlement.

13 SEC. 23. Section 11410 of the Business and Professions
14 Code is amended to read:

15 11410. The Real Estate Appraisers Regulation Fund is
16 hereby created in the State Treasury to consist of moneys
17 raised by fees and assessments imposed pursuant to this
18 part. Interest shall be paid *at the pooled money*
19 *investment rate* on all money transferred to the General
20 Fund from the Real Estate Appraisers Regulation Fund,
21 notwithstanding the provisions of Section 16310 of the
22 Government Code.

23 SEC. 24. Section 17550.47 of the Business and
24 Professions Code is amended to read:

25 17550.47. (a) (1) Any person aggrieved who suffers
26 a loss may file a claim with the Travel Consumer
27 Restitution Corporation. Except as provided in
28 paragraph (2), the claim must be filed within 60 days of
29 the date upon which the person aggrieved becomes
30 aware, or should have become aware, of the loss.

31 (2) Any person aggrieved who did not receive the
32 notice required by subdivision (h) of Section 17550.13
33 shall have until 60 days after receiving a notice setting
34 forth the information required by subdivision (h) of
35 Section 17550.13, or 60 days after the date upon which the
36 person aggrieved becomes aware, or should have become
37 aware, of the loss, whichever is later, within which to file
38 a claim.

39 (3) In no event shall a person aggrieved have more
40 than one year after the scheduled date of completion of



1 travel within which to file a claim with the Travel
2 Consumer Restitution Fund.

3 (b) A person aggrieved may recover from the Travel
4 Consumer Restitution Fund an amount of no more than
5 fifteen thousand dollars (\$15,000) per person aggrieved
6 not to exceed the amount paid to the participant for
7 transportation or travel services. The person aggrieved
8 shall not be entitled to receive attorney's fees in
9 connection with a filed claim, except as provided in this
10 section, on appeal.

11 (c) All claims are to be decided on the written record
12 before the corporation, with no hearing to be held. The
13 record shall consist of a fully executed and complete
14 claim, any other documentation submitted by the
15 claimant, and any documents or reports submitted by
16 staff or the designated representative of the office of the
17 Attorney General. Claims are to be decided within 45
18 days of receipt unless the designated representative of
19 the office of the Attorney General requests a continuance
20 to obtain and submit information. A claim not decided
21 timely shall be deemed granted.

22 (d) Whenever the Travel Consumer Restitution
23 Corporation denies a claim in whole or in part, it shall
24 provide to the claimant a written statement of decision
25 setting forth the factual and legal basis for the denial.

26 (e) A claimant or seller of travel may request
27 reconsideration of an adverse decision of the Travel
28 Consumer Restitution Corporation by mailing a written
29 request within 20 days of the date a notice of denial and
30 statement of decision was mailed to the claimant.

31 (f) The Travel Consumer Restitution Corporation
32 shall decide the request for reconsideration within 30
33 days of receipt of the request, and if the decision is a
34 denial in whole or in part, it shall provide to the claimant
35 and seller of travel a written statement of decision setting
36 forth the factual and legal basis for the decision. No appeal
37 may be taken pursuant to subdivision (g) until
38 reconsideration has been requested and decided. The
39 claimant or seller of travel shall not be entitled to any



1 attorney's fees incurred in connection with presentation
2 of a claim or request for reconsideration.

3 (g) A claimant or seller of travel may only seek review
4 of the denial of a claim by filing a notice of appeal after
5 having served the notice by mail on the Travel Consumer
6 Restitution Corporation. The notice of appeal shall be
7 filed and served on the Travel Consumer Restitution
8 Corporation not later than 30 days after a written
9 statement of decision on a request for reconsideration has
10 been mailed to the claimant or seller of travel. The notice
11 of appeal from a decision of the Travel Consumer
12 Restitution Corporation shall be filed with the clerk of the
13 superior court either in the county in which the principal
14 place of business of the Travel Consumer Restitution
15 Corporation is located, or in the county in which the
16 claimant or seller of travel was a resident at the time the
17 claimant purchased the transportation or travel services
18 in dispute.

19 (h) The claimant or seller of travel shall pay the same
20 filing fee as is required for appeals from small claims
21 court. The Travel Consumer Restitution Corporation
22 shall file with the clerk of the superior court the record
23 before the corporation within 30 days of the day the
24 notice of appeal was served on the Travel Consumer
25 Restitution Corporation.

26 (i) Upon the filing of the record the clerk of the court
27 shall schedule a hearing for the earliest available time and
28 shall mail written notice of the hearing at least 14 days
29 prior to the time set for the hearing.

30 (j) The hearing on appeal shall be limited to the record
31 before the Travel Consumer Restitution Corporation and
32 any relevant evidence that could not have been with
33 reasonable diligence submitted previously to the
34 corporation. The reviewing court shall apply a
35 preponderance of the evidence standard of review. The
36 pretrial discovery procedures described in subdivision
37 (a) of Section 2019 of the Code of Civil Procedure are not
38 permitted, there is no right to trial by jury, no tentative
39 decision or statement of decision is required, and the
40 decision of the superior court after a hearing on appeal is



1 final and not appealable. No money may be claimed from
2 or paid by the Travel Consumer Restitution Fund except
3 in accordance with the provisions and procedures set
4 forth in this article. No provision herein shall limit or
5 otherwise affect those remedies as may be available
6 against persons or entities other than the Travel
7 Consumer Restitution Fund.

8 (k) If the claimant or seller of travel prevails in whole
9 or in part in an appeal, the prevailing claimant or seller
10 of travel shall be entitled to attorney's fees and costs
11 actually and reasonably incurred in connection with the
12 appeal, those fees and costs not to exceed the amount
13 awarded by the reviewing court.

14 (l) Any claim awarded by the corporation shall be paid
15 promptly by the trustee of the restitution fund when the
16 time for appeal has passed or the right to an appeal is
17 waived in writing by the claimant. Any judgment on
18 appeal shall be paid promptly by the trustee of the
19 restitution fund. If there should be insufficient funds to
20 pay a claim when otherwise due, claims shall be paid in
21 the order received. If the Travel Consumer Restitution
22 Corporation ceases to operate pursuant to the terms of
23 Section 17550.52, any remaining trust funds shall be
24 allocated on a pro rata basis to claims accruing prior to the
25 corporation ceasing to operate.

26 (m) A claim shall require a majority of at least three
27 affirmative votes for denial, otherwise it shall be deemed
28 granted.

29 ~~SEC. 18.~~

30 *SEC. 25.* No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition
38 of a crime within the meaning of Section 6 of Article
39 XIII B of the California Constitution.



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

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