

AMENDED IN SENATE JUNE 19, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1999**

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**Introduced by Assembly Members Correa and Maldonado  
(Coauthors: Assembly Members Chavez, Chu, Corbett,  
Firebaugh, Frommer, Goldberg, Harman, Kehoe, Koretz,  
Longville, Negrete McLeod, Strom-Martin, Thomson, and  
Vargas)**

February 15, 2002

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An act to amend Sections 22445 and ~~22446.5~~, 22446.5, and 22447 of the Business and Professions Code, relating to immigration consultants.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Correa. Immigration consultants.

Existing law, the Immigration Consultants Act, authorizes a person claiming to be aggrieved by an immigration consultant to bring a civil action for injunctive relief or damages, or both. An injured party may also seek civil penalties against an immigration consultant in an amount not to exceed \$100,000. Existing law also allows any other party to bring a civil action on behalf of the general public against an immigration consultant for injunctive relief.

This bill ~~authorizes~~ *would authorize* the Attorney General, district attorney, or city attorney to seek civil penalties not exceeding \$100,000 against immigration consultants *for a violation of the act*. The bill would expand the types of civil remedies available to include restitution

and other equitable relief *and would require that an action for civil penalties brought by the Attorney General, a district attorney, or a city attorney seek these remedies. The bill would provide that an action being brought on behalf of the people would not preclude an action being brought by an injured person.*

*Existing law requires that a court impose a civil penalty for a violation of the Immigration Consultants Act, and that the court, in imposing the penalty, consider certain relevant circumstances presented by the parties to the case.*

*This bill would instead authorize the court to consider the relevant circumstances in assessing the civil penalty.*

*Existing law prohibits a person from representing himself or herself as an immigration consultant unless the person has a bond on file with the Secretary of State. Existing law permits a person awarded damages in a civil action to recover the damages from that bond.*

*This bill would provide that in an action brought by the Attorney General, a district attorney, or a city attorney the court may order relief for the benefit of the injured parties to be paid from the bond.*

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

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

1 SECTION 1. Section 22445 of the Business and Professions  
 2 Code is amended to read:  
 3 22445. (a) (1) A person who violates this chapter shall be  
 4 subject to a civil penalty not to exceed one hundred thousand  
 5 dollars (\$100,000) for each violation, to be assessed and collected  
 6 in a civil action brought by any person injured by the violation or  
 7 in a civil action brought in the name of the people of the State of  
 8 California by the Attorney General, a district attorney, or a city  
 9 attorney. *An action brought in the name of the people of the State*  
 10 *of California shall not preclude an action being brought by an*  
 11 *injured person.*  
 12 (2) The court shall impose a civil penalty for each violation of  
 13 this chapter. In assessing the amount of the civil penalty, the court  
 14 ~~shall~~ *may* consider relevant circumstances presented by the parties  
 15 to the case, including, but not limited to, the following: the nature  
 16 and seriousness of the misconduct, the number of violations, the  
 17 persistence of the misconduct, the length of time over which the



1 misconduct occurred, the willfulness of the defendant's  
2 misconduct, and the defendant's assets, liabilities, and net worth.

3 (3) *Any action brought pursuant to this section by the Attorney  
4 General, a district attorney, or a city attorney shall also seek relief  
5 under subdivision (c) of Section 22446.5.*

6 (4) If the Attorney General brings the action, one-half of the  
7 civil penalty collected shall be paid to the treasurer of the county  
8 in which the judgment was entered, and one-half to the General  
9 Fund. If a district attorney brings the action, the civil penalty  
10 collected shall be paid to the treasurer of the county in which the  
11 judgment was entered. If a city attorney brings the action, one-half  
12 of the civil penalty collected shall be paid to the treasurer of the city  
13 in which the judgment was entered, and one-half to the treasurer  
14 of the county in which the judgment was entered.

15 (b) In addition to the provisions of subdivision (a), a violation  
16 of this chapter is a misdemeanor punishable by a fine of not less  
17 than two thousand dollars (\$2,000) or more than ten thousand  
18 dollars (\$10,000), as to each client with respect to whom a  
19 violation occurs, or imprisonment in the county jail for not more  
20 than one year, or by both fine and imprisonment. However,  
21 payment of restitution to a client shall take precedence over  
22 payment of a fine.

23 (c) A second or subsequent violation of Sections 22442.2,  
24 22442.3, and 22442.4 is a misdemeanor subject to the penalties  
25 specified in subdivisions (a) and (b). A second or subsequent  
26 violation of any other provision of this chapter is a felony  
27 punishable by imprisonment in state prison.

28 SEC. 2. Section 22446.5 of the Business and Professions  
29 Code is amended to read:

30 22446.5. (a) A person claiming to be aggrieved by a violation  
31 of this chapter by an immigration consultant may bring a civil  
32 action for injunctive relief or damages, or both. If the court finds  
33 that the defendant has violated a provision of this chapter, it shall  
34 award actual damages, plus an amount equal to treble the amount  
35 of actual damages or one thousand dollars (\$1,000) per violation,  
36 whichever is greater. The court shall also grant a prevailing  
37 plaintiff reasonable attorneys' fees and costs.

38 (b) Any other party who, upon information and belief, claims  
39 a violation of this chapter has been committed by an immigration  
40 consultant may bring a civil action for injunctive relief on behalf



1 of the general public and, upon prevailing, shall recover  
2 reasonable attorneys' fees and costs.

3 (c) The Attorney General, a district attorney, or a city attorney  
4 who claims a violation of this chapter has been committed by an  
5 immigration consultant, may bring a civil action for injunctive  
6 relief, restitution, and other equitable relief against the  
7 immigration consultant in the name of the people of the State of  
8 California.

9 (d) An action brought under this chapter shall be set for trial at  
10 the earliest possible date, and shall take precedence over all other  
11 cases, except older matters of the same character and matters to  
12 which special preference may be given by law.

13 *SEC. 3. Section 22447 of the Business and Professions Code*  
14 *is amended to read:*

15 22447. (a) A person who is awarded damages in an action or  
16 proceeding for injuries caused by the acts of a person engaged in  
17 the business of, or acting in the capacity of, an immigration  
18 consultant, in the performance of his or her duties as an  
19 immigration consultant, may recover damages from the bond  
20 required by Section 22443.1. *In an action brought by the Attorney*  
21 *General, a district attorney, or a city attorney, the court may order*  
22 *relief for benefit of the injured parties to be paid from the bond.*

23 (b) When any claim or claims against a bond have been paid so  
24 as to reduce the principal amount of the bond remaining available  
25 to pay claims below the principal amount required by Section  
26 22443.1, the immigration consultant shall cease to conduct any  
27 business unless and until the bond has been reinstated up to the  
28 minimum amount required by Section 22443.1.

