

AMENDED IN SENATE MAY 21, 1997

SENATE BILL

No. 1289

Introduced by Senator Calderon

February 28, 1997

An act to repeal and add Section 5061 of the Business and Professions Code, relating to accountancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1289, as amended, Calderon. Public accountancy: commissions.

Existing law prohibits any person engaged in the practice of public accountancy from paying a commission to obtain a client, or from accepting a commission for a referral to a client of products or services of others. Existing law further provides that these provisions shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accounting or payments to their heirs or estates.

This bill would repeal the above provisions and instead would prohibit a licensee under the public accountancy provisions from recommending or referring to a client, for a commission, any product or service, or recommending or referring, for a commission, any product or service to be supplied by a client, or receiving a commission when that licensee or that licensee's firm also performs specified services. The bill would also require a licensee who is not prohibited from performing services for a commission, or from receiving a commission, and who is paid or expects to be paid a commission, to disclose that fact to any person or entity

to whom the licensee recommends or refers a product or service to which the commission relates, and would require a licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity, or who pays a referral fee to obtain a client, to disclose that acceptance or payment to the client.

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

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

1 SECTION 1. Section 5061 of the Business and
2 Professions Code is repealed.

3 SEC. 2. Section 5061 is added to the Business and
4 Professions Code, to read:

5 5061. (a) A licensee may not recommend or refer to
6 a client, for a commission, any product or service, or
7 recommend or refer, for a commission, any product or
8 service to be supplied by a client, or receive a commission
9 when that licensee or that licensee’s firm also performs
10 for that client any of the following services:

11 (1) An audit or review of a financial statement.

12 (2) A compilation of a financial statement when that
13 licensee expects, or reasonably might expect, that a third
14 party will use the financial statement and the licensee’s
15 compilation report does not disclose a lack of
16 independence.

17 (3) An examination of prospective financial
18 information.

19 (b) The prohibition specified in subdivision (a)
20 applies during the period in which the licensee is engaged
21 to perform any of the services listed, and during the
22 period covered by any historical financial statements
23 involved in those listed services.

24 (c) A licensee who is not prohibited under subdivision
25 (a) from performing services for a commission, or from
26 receiving a commission, and who is paid or expects to be
27 paid a commission, shall disclose that fact to any person
28 or entity to whom the licensee recommends or refers a
29 product or service to which the commission relates.



1 (d) A licensee who accepts a referral fee for
2 recommending or referring any service of a licensee to
3 any person or entity, or who pays a referral fee to obtain
4 a client, shall disclose that acceptance or payment to the
5 client.

6 *SEC. 3. By modifying the regulation of commissions*
7 *in Section 5061 of the Business and Professions Code, it is*
8 *not the intent of the Legislature in enacting this act to*
9 *diminish in any manner the duties of certified public*
10 *accounts to clients, nor to abrogate regulations of the*
11 *Board of Accountancy relating to objectivity.*

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