

AMENDED IN SENATE AUGUST 20, 2002
AMENDED IN ASSEMBLY JANUARY 18, 2002
AMENDED IN ASSEMBLY JANUARY 14, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1698

Introduced by Committee on Judiciary (Steinberg (Chair), Robert Pacheco (Vice Chair), Corbett, Dutra, Jackson, Longville, Shelley, and Wayne)

March 6, 2001

~~An act to add Section 69616 to the Government Code, relating to judges.~~ *An act to repeal and add Chapter 5.5 (commencing with Section 6400) of Division 3 of the Business and Professions Code, relating to legal assistants.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as amended, Committee on Judiciary. ~~Superior court judges.~~ *Legal assistants.*

Existing law defines and regulates the activities of a legal document assistant and unlawful detainer assistant. Existing law requires a legal document assistant or unlawful detainer assistant to register in the county in which his or her principal place of business is located and restricts the type of information that he or she may provide for compensation. Existing law exempts from this regulation certain persons, including immigration consultants, registered process servers, and providers of services that are regulated by federal law. Existing law prescribes minimum qualifications to register as a legal document assistant or unlawful detainer assistant.

Existing law requires an applicant for registration as a legal document assistant or unlawful detainer assistant to be denied if, among other things, the applicant has suffered certain criminal convictions. Existing law requires each county to maintain a register of legal document assistants and unlawful detainer assistants. Existing law proscribes certain fraudulent conduct by a legal document assistant or unlawful detainer assistant. Existing law makes a violation of certain of its provisions by a legal document assistant or unlawful detainer assistant a misdemeanor.

Existing law provides for the repeal of these provisions on January 1, 2003, or the date the Director of the Department of Consumer Affairs suspends those requirements, whichever first occurs.

This bill instead would make these requirements operative indefinitely. By extending indefinitely the definition of a crime and the registration of legal document assistants duties and unlawful detainer assistants applicable to counties, the bill would impose 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.

~~(1) Existing law specifies the number of superior court judges for each county. The California Constitution also provides for the appointment of subordinate judicial officers.~~

~~This bill would increase the number of authorized superior court judges in a county by one and decrease the number of authorized subordinate judicial officer positions in a county by one, as specified; whenever either a vacancy occurs in any subordinate judicial officer position in the court and the Judicial Council files notice of the vacancy with the Secretary of State except that the Judicial Council may file notice of no more than 10 such positions under this provision in any fiscal year, as specified; or whenever the Governor appoints any full-time subordinate judicial officer in the court as a superior court judge in that court and notifies the Secretary of State that the appointment is made pursuant to this provision, with the judge position established by this provision coming into existence simultaneously with the Governor's appointment. The bill would limit the total number of superior court judgeships that may be established under the bill to 250;~~



~~and would specify that it does not entitle a court to an increase in funding. The bill would also impose various, related duties on the Judicial Council and the Secretary of State and declare the intent of the Legislature.~~

~~By authorizing additional costs to be imposed on the counties as a result of the authorized increase in the number of superior court judges, the bill would impose a state-mandated local program.~~

~~(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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. It is the intent of the Legislature in adding~~
2 ~~SECTION 1. Chapter 5.5 (commencing with Section 6400) of~~
3 ~~Division 3 of the Business and Professions Code is repealed.~~
4 ~~SEC. 2. Chapter 5.5 (commencing with Section 6400) is~~
5 ~~added to Division 3 of the Business and Professions Code, to read:~~

6
7 ~~CHAPTER 5.5. LEGAL DOCUMENT ASSISTANTS AND UNLAWFUL~~
8 ~~DETAINER ASSISTANTS~~

9
10 ~~Article 1. General Provisions~~

11
12 ~~6400. (a) “Unlawful detainer assistant” means any~~
13 ~~individual who for compensation renders assistance or advice in~~
14 ~~the prosecution or defense of an unlawful detainer claim or action,~~
15 ~~including any bankruptcy petition that may affect the unlawful~~
16 ~~detainer claim or action.~~



1 (b) “Unlawful detainer claim” means a proceeding, filing, or
2 action affecting rights or liabilities of any person that arises under
3 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
4 the Code of Civil Procedure and that contemplates an adjudication
5 by a court.

6 (c) “Legal document assistant” means:

7 (1) Any person who is not exempted under Section 6401 and
8 who provides, or assists in providing, or offers to provide, or offers
9 to assist in providing, for compensation, any self-help service to a
10 member of the public who is representing himself or herself in a
11 legal matter, or who holds himself or herself out as someone who
12 offers that service or has that authority. This paragraph does not
13 apply to any individual whose assistance consists merely of
14 secretarial or receptionist services.

15 (2) A corporation, partnership, association, or other entity that
16 employs or contracts with any person not exempted under Section
17 6401 who, as part of his or her responsibilities, provides, or assists
18 in providing, or offers to provide, or offers to assist in providing,
19 for compensation, any self-help service to a member of the public
20 who is representing himself or herself in a legal matter or holds
21 himself or herself out as someone who offers that service or has
22 that authority. This paragraph does not apply to an individual
23 whose assistance consists merely of secretarial or receptionist
24 services.

25 (d) “Self-help service” means all of the following:

26 (1) Completing legal documents in a ministerial manner,
27 selected by a person who is representing himself or herself in a
28 legal matter, by typing or otherwise completing the documents at
29 the person’s specific direction.

30 (2) Providing general published factual information that has
31 been written or approved by an attorney, pertaining to legal
32 procedures, rights, or obligations to a person who is representing
33 himself or herself in a legal matter, to assist the person in
34 representing himself or herself. This service in and of itself, shall
35 not require registration as a legal document assistant.

36 (3) Making published legal documents available to a person
37 who is representing himself or herself in a legal matter.

38 (4) Filing and serving legal forms and documents at the
39 specific direction of a person who is representing himself or herself
40 in a legal matter.



1 (e) “Compensation” means money, property, or anything else
2 of value.

3 (f) A legal document assistant, including any legal document
4 assistant employed by a partnership or corporation, may not
5 provide any self-help service for compensation, unless the legal
6 document assistant is registered in the county in which his or her
7 principal place of business is located and in any other county in
8 which he or she performs acts for which registration is required.

9 (g) A legal document assistant may not provide any kind of
10 advice, explanation, opinion, or recommendation to a consumer
11 about possible legal rights, remedies, defenses, options, selection
12 of forms, or strategies. A legal document assistant shall complete
13 documents only in the manner prescribed by paragraph (1) of
14 subdivision (d).

15 6401. This chapter does not apply to any person engaged in
16 any of the following occupations, provided that the person does not
17 also perform the duties of a legal document assistant in addition
18 to those occupations:

19 (a) Any government employee who is acting in the course of his
20 or her employment.

21 (b) A member of the State Bar of California, or his or her
22 employee, paralegal, or agent, or an independent contractor while
23 acting on behalf of a member of the State Bar.

24 (c) Any employee of a nonprofit, tax-exempt corporation who
25 either assists clients free of charge or is supervised by a member
26 of the State Bar of California who has malpractice insurance.

27 (d) A licensed real estate broker or licensed real estate
28 salesperson, as defined in Chapter 3 (commencing with Section
29 10130) of Part 1 of Division 4, who acts pursuant to subdivision
30 (b) of Section 10131 on an unlawful detainer claim as defined in
31 subdivision (b) of Section 6400, and who is a party to the unlawful
32 detainer action.

33 (e) An immigration consultant, as defined in Chapter 19.5
34 (commencing with Section 22441) of Division 8.

35 (f) A person registered as a process server under Chapter 16
36 (commencing with Section 22350) or a person registered as a
37 professional photocopier under Chapter 20 (commencing with
38 Section 22450) of Division 8.



1 (g) A person who provides services relative to the preparation
2 of security instruments or conveyance documents as an integral
3 part of the provision of title or escrow service.

4 (h) A person who provides services that are regulated by
5 federal law.

6 (i) A person who is employed by, and provides services to, a
7 supervised financial institution, holding company, subsidiary, or
8 affiliate.

9 6401.5. This chapter does not sanction, authorize, or
10 encourage the practice of law by nonlawyers. Registration under
11 this chapter, or an exemption from registration, does not immunize
12 any person from prosecution or liability pursuant to Section 6125,
13 6126, 6126.5, or 6127.

14 6401.6. A legal document assistant may not provide service to
15 a client who requires assistance that exceeds the definition of
16 self-help service in subdivision (d) of Section 6400, and shall
17 inform the client that the client requires the services of an attorney.

18

19

Article 2. Registration Procedures

20

21 6402. A legal document assistant or unlawful detainer
22 assistant shall be registered pursuant to this chapter by the county
23 clerk in the county in which his or her principal place of business
24 is located (deemed primary registration), and in any other county
25 in which he or she performs acts for which registration is required
26 (deemed secondary registration). Any registration in a county,
27 other than the county of the person's place of business, shall state
28 the person's principal place of business and provide proof that the
29 registrant has satisfied the bonding requirement of Section 6405.
30 No person who has been disbarred or suspended from the practice
31 of law pursuant to Article 6 (commencing with Section 6100) of
32 Chapter 4 may, during the period of any disbarment or suspension,
33 register as a legal document assistant or unlawful detainer
34 assistant. The Department of Consumer Affairs shall develop the
35 application required to be completed by a person for purposes of
36 registration as a legal document assistant. The application shall
37 specify the types of proof that the applicant shall provide to the
38 county clerk in order to demonstrate the qualifications and
39 requirements of Section 6402.1.



1 6402.1. *To be eligible to apply for registration under this*
2 *chapter as a legal document assistant, the applicant shall possess*
3 *at least one of the following:*

4 (a) *A high school diploma or general equivalency diploma, and*
5 *either a minimum of two years of law-related experience under the*
6 *supervision of a licensed attorney, or a minimum of two years*
7 *experience, prior to January 1, 1999, providing self-help service.*

8 (b) *A baccalaureate degree in any field and either a minimum*
9 *of one year of law-related experience under the supervision of a*
10 *licensed attorney, or a minimum of one year of experience, prior*
11 *to January 1, 1999, providing self-help service.*

12 (c) *A certificate of completion from a paralegal program that*
13 *is institutionally accredited but not approved by the American Bar*
14 *Association, that requires successful completion of a minimum of*
15 *24 semester units, or the equivalent, in legal specialization*
16 *courses.*

17 (d) *A certificate of completion from a paralegal program*
18 *approved by the American Bar Association.*

19 6403. (a) *The application for registration of a natural person*
20 *shall contain all of the following statements about the applicant:*

21 (1) *Name, age, address, and telephone number.*

22 (2) *Whether he or she has been convicted of a felony, or of a*
23 *misdemeanor under Section 6126 or 6127, or found liable under*
24 *Section 6126.5.*

25 (3) *Whether he or she has been held liable in a civil action by*
26 *final judgment or entry of a stipulated judgment, if the action*
27 *alleged fraud, the use of an untrue or misleading representation,*
28 *or the use of an unfair, unlawful, or deceptive business practice.*

29 (4) *Whether he or she has ever been convicted of a*
30 *misdemeanor violation of this chapter.*

31 (5) *Whether he or she has had a civil judgment entered against*
32 *him or her in an action arising out of the applicant's negligent,*
33 *reckless, or willful failure to properly perform his or her obligation*
34 *as a legal document assistant or unlawful detainer assistant.*

35 (6) *Whether he or she has had a registration revoked pursuant*
36 *to Section 6413.*

37 (7) *Whether this is a primary or secondary registration. If it is*
38 *a secondary registration, the county in which the primary*
39 *registration is filed.*



1 (b) *The application for registration of a natural person shall be*
2 *accompanied by the display of personal identification, such as a*
3 *California driver's license, birth certificate, or other identification*
4 *acceptable to the county clerk to adequately determine the identity*
5 *of the applicant.*

6 (c) *The application for registration of a partnership or*
7 *corporation shall contain all of the following statements about the*
8 *applicant:*

9 (1) *The names, ages, addresses, and telephone numbers of the*
10 *general partners or officers.*

11 (2) *Whether the general partners or officers have ever been*
12 *convicted of a felony, or a misdemeanor under Section 6126 or*
13 *6127 or found liable under Section 6126.5.*

14 (3) *Whether the general partners or officers have ever been*
15 *held liable in a civil action by final judgment or entry of a*
16 *stipulated judgment, if the action alleged fraud, the use of an*
17 *untrue or misleading representation, or the use of an unfair,*
18 *unlawful, or deceptive business practice.*

19 (4) *Whether the general partners or officers have ever been*
20 *convicted of a misdemeanor violation of this chapter.*

21 (5) *Whether the general partners or officers have had a civil*
22 *judgment entered against them in an action arising out of a*
23 *negligent, reckless, or willful failure to properly perform the*
24 *obligations of a legal document assistant or unlawful detainer*
25 *assistant.*

26 (6) *Whether the general partners or officers have ever had a*
27 *registration revoked pursuant to Section 6413.*

28 (7) *Whether this is a primary or secondary registration. If it is*
29 *a secondary registration, the county in which the primary*
30 *registration is filed.*

31 (d) *The applications made under this section shall be made*
32 *under penalty of perjury.*

33 6404. *An applicant shall pay a fee of one hundred seventy-five*
34 *dollars (\$175) to the county clerk at the time he or she files an*
35 *application for initial registration, including a primary or*
36 *secondary registration, or renewal of registration. An additional*
37 *fee of ten dollars (\$10) shall be paid to the county clerk for each*
38 *additional identification card.*

39 6405. (a) (1) *An application for a certificate of registration*
40 *by an individual shall be accompanied by a bond of twenty-five*



1 thousand dollars (\$25,000) executed by a corporate surety
2 qualified to do business in this state and conditioned upon
3 compliance with this chapter. The total aggregate liability on the
4 bond shall be limited to twenty-five thousand dollars (\$25,000).
5 An application for secondary registration shall meet all of the
6 requirements of this subdivision, except that in place of posting
7 another original bond or cash deposit, the applicant shall include
8 a certified copy of the bond or cash deposit posted in the county
9 in which the applicant filed the primary registration.

10 (2) An application for a certificate of registration by a
11 partnership or corporation shall be accompanied by a bond
12 executed by a corporate surety qualified to do business in this state
13 and conditioned upon compliance with this chapter in the
14 following amount, based on the total number of legal document
15 assistants and unlawful detainer assistants employed by the
16 partnership or corporation:

17 (A) Twenty-five thousand dollars (\$25,000) for one to four
18 assistants.

19 (B) Fifty thousand dollars (\$50,000) for five to nine assistants.

20 (C) One hundred thousand dollars (\$100,000) for 10 or more
21 assistants. An application for a certificate of registration by a
22 person employed by a partnership or corporation shall be
23 accompanied by a bond of twenty-five thousand dollars (\$25,000)
24 only if the partnership or corporation has not posted a bond in the
25 amount required by this subdivision. An application for secondary
26 registration shall meet all of the requirements of this subdivision,
27 except that in place of posting another original bond or cash
28 deposit, the applicant shall include a certified copy of the bond or
29 cash deposit posted in the county in which the applicant filed the
30 primary registration.

31 (3) If a partnership or corporation increases the number of
32 assistants it employs above the number stated in its application for
33 a certificate of registration, the partnership or corporation shall
34 promptly increase the bond to the applicable amount in
35 subparagraphs (B) or (C) of paragraph (2) based on the actual
36 number of assistants it employs, and shall promptly submit the
37 increased bond to the county clerk. The partnership or corporation
38 shall promptly send a certified copy of the increased bond to the
39 county clerk in any county of secondary registration.

1 (4) The bond may be terminated pursuant to Section 995.440
2 of, and Article 13 (commencing with Section 996.310) of Chapter
3 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

4 (b) The county clerk shall, upon filing of the bond, deliver the
5 bond forthwith to the county recorder for recording. The recording
6 fee specified in Section 27361 of the Government Code shall be
7 paid by the registrant. The fee may be paid to the county clerk who
8 shall transmit it to the recorder.

9 (c) The fee for filing, canceling, revoking, or withdrawing the
10 bond is seven dollars (\$7).

11 (d) The county recorder shall record the bond and any notice
12 of cancellation, revocation, or withdrawal of the bond, and shall
13 thereafter mail the instrument, unless specified to the contrary, to
14 the person named in the instrument and, if no person is named, to
15 the party leaving it for recording. The recording fee specified in
16 Section 27361 of the Government Code for notice of cancellation,
17 revocation, or withdrawal of the bond shall be paid to the county
18 clerk, who shall transmit it to the county recorder.

19 (e) In lieu of the bond required by subdivision (a), a registrant
20 may deposit the amount required by subdivision (a) in cash with
21 the county clerk.

22 (f) If the certificate is revoked, the bond or cash deposit shall
23 be returned to the bonding party or depositor subject to
24 subdivision (g) and the right of a person to recover against the
25 bond or cash deposit under Section 6412.

26 (g) The county clerk may retain a cash deposit until the
27 expiration of three years from the date the registrant has ceased to
28 do business, or three years from the expiration or revocation date
29 of the registration, in order to ensure there are no outstanding
30 claims against the deposit. A judge may order the return of the
31 deposit prior to the expiration of three years upon evidence
32 satisfactory to the judge that there are no outstanding claims
33 against the deposit.

34 (h) The bond required by this section shall be in favor of the
35 State of California for the benefit of any person who is damaged
36 as a result of the violation of this chapter or by the fraud,
37 dishonesty, or incompetency of an individual, partnership, or
38 corporation registered under this chapter. The bond required by
39 this section shall also indicate the name of the county in which it
40 will be filed.



1 6406. (a) *If granted, a certificate of registration shall be*
2 *effective for a period of two years, until the date the bond expires,*
3 *or until the total number of legal document assistants and unlawful*
4 *detainer assistants employed by a partnership or corporation*
5 *exceeds the number allowed for the amount of the bond in effect,*
6 *whichever occurs first. Thereafter, a registrant shall file a new*
7 *certificate of registration or a renewal of the certificate of*
8 *registration and pay the fee required by Section 6404, and increase*
9 *the amount of the bond if required to comply with subdivision (a)*
10 *of Section 6405. A certificate of registration that is currently*
11 *effective may be renewed up to 60 days prior to its expiration date*
12 *and the effective date of the renewal shall be the date the current*
13 *registration expires. The renewal shall be effective for a period of*
14 *two years from the effective date or until the expiration date of the*
15 *bond, or until the total number of legal document assistants and*
16 *unlawful detainer assistants employed by a partnership or*
17 *corporation exceeds the number allowed for the dollar amount of*
18 *the bond in effect, whichever occurs first.*

19 (b) *Except as provided in subdivisions (d) to (f), inclusive, an*
20 *applicant shall be denied registration or renewal of registration if*
21 *the applicant has been any of the following:*

22 (1) *Convicted of a felony, or of a misdemeanor under Section*
23 *6126 or 6127, or found liable under Section 6126.5.*

24 (2) *Held liable in a civil action by final judgment or entry of a*
25 *stipulated judgment, if the action alleged fraud, or the use of an*
26 *untrue or misleading representation, or the use of an unfair,*
27 *unlawful, or deceptive business practice.*

28 (3) *Convicted of a misdemeanor violation of this chapter.*

29 (4) *Had a civil judgment entered against him or her in an action*
30 *arising out of the applicant's negligent, reckless, or willful failure*
31 *to properly perform his or her obligation as a legal document*
32 *assistant or unlawful detainer assistant.*

33 (5) *Had his or her registration revoked pursuant to Section*
34 *6413.*

35 (c) *If the county clerk finds that the applicant has failed to*
36 *demonstrate having met the requisite requirements of Section 6402*
37 *or 6402.1, or that any of the paragraphs of subdivision (b) apply,*
38 *the county clerk, within three business days of submission of the*
39 *application and fee, shall return the application and fee to the*



1 applicant with a notice to the applicant indicating the reason for
2 the denial and the method of appeal.

3 (d) The denial of an application may be appealed by the
4 applicant by submitting, to the director, the following:

5 (1) The completed application and notice from the county clerk
6 specifying the reasons for the denial of the application.

7 (2) A copy of any final judgment or order that resulted from any
8 conviction or civil judgment listed on the application.

9 (3) Any relevant information the applicant wishes to include for
10 the record.

11 (e) The director shall order the applicant's certificate of
12 registration to be granted if the director determines that the
13 issuance of a certificate of registration is not likely to expose
14 consumers to a significant risk of harm based on a review of the
15 application and any other information relating to the applicant's
16 unlawful act or unfair practice described in paragraphs (1) to (5),
17 inclusive, of subdivision (b). The director shall order the
18 applicant's certificate of registration to be denied if the director
19 determines that issuance of a certificate of registration is likely to
20 expose consumers to a significant risk of harm based on a review
21 of the application and any other information relating to the
22 applicant's unlawful act or unfair practice described in
23 paragraphs (1) to (5), inclusive, of subdivision (b). The director
24 shall send to the applicant and the county clerk a written decision
25 listing the reasons registration shall be granted or denied within
26 30 days of the submission of the matter.

27 (f) If the director orders that the certificate of registration be
28 granted, the applicant may resubmit the application, with the
29 appropriate application fee and the written decision of the
30 director. The county clerk shall grant the certificate of registration
31 to the applicant within three business days of being supplied this
32 information.

33 6407. (a) The county clerk shall maintain a register of legal
34 document assistants, and a register of unlawful detainer
35 assistants, assign a unique number to each legal document
36 assistant, or unlawful detainer assistant, and issue an
37 identification card to each one. Additional cards for employees of
38 legal document assistants or unlawful detainer assistants shall be
39 issued upon the payment of ten dollars (\$10) for each card. Upon



1 *renewal of registration, the same number shall be assigned,*
2 *provided there is no lapse in the period of registration.*

3 *(b) The identification card shall be a card 3 1/2 inches by 2 1/4*
4 *inches, and shall contain at the top, the title "Legal Document*
5 *Assistant" or "Unlawful Detainer Assistant," as appropriate,*
6 *followed by the registrant's name, address, registration number,*
7 *date of expiration, and county of registration. It shall also contain*
8 *a photograph of the registrant in the lower left corner. The front of*
9 *the card, above the title, shall also contain the following statement*
10 *in 12-point boldface type: "This person is not a lawyer." The front*
11 *of the card, at the bottom, shall also contain the following*
12 *statement in 12-point boldface type: "The county clerk has not*
13 *evaluated this person's knowledge, experience, or services."*

14
15 *Article 3. Conduct of Business and Prohibited Acts*

16
17 *6408. The registrant's name, business address, telephone*
18 *number, registration number, expiration date of the registration,*
19 *and county of registration shall appear in any solicitation or*
20 *advertisement, and on any papers or documents prepared or used*
21 *by the registrant, including, but not limited to, contracts,*
22 *letterhead, business cards, correspondence, documents, forms,*
23 *claims, petitions, checks, receipts, money orders, and pleadings.*

24 *6408.5. (a) All advertisements or solicitations published,*
25 *distributed, or broadcast offering legal document assistant or*
26 *unlawful detainer assistant services shall include the following*
27 *statement: "I am not an attorney. I can only provide self help*
28 *services at your specific direction." This subdivision does not*
29 *apply to classified or "yellow pages" listings in a telephone or*
30 *business directory of three lines or less that state only the name,*
31 *address, and telephone number of the legal document assistant or*
32 *unlawful detainer assistant.*

33 *(b) If the advertisement or solicitation is in a language other*
34 *than English, the statement required by subdivision (a) shall be in*
35 *the same language as the advertisement or solicitation.*

36 *6409. No legal document assistant or unlawful detainer*
37 *assistant shall retain in his or her possession original documents*
38 *of a client. A legal document assistant or an unlawful detainer*
39 *assistant shall immediately return all of a client's original*

1 documents to the client in any one or more of the following
2 circumstances:

3 (a) If the client so requests at any time.

4 (b) If the written contract required by Section 6410 is not
5 executed or is rescinded, canceled, or voided for any reason.

6 (c) If the services described pursuant to paragraph (1) of
7 subdivision (b) of Section 6410 have been completed.

8 6410. (a) Every legal document assistant or unlawful
9 detainer assistant who enters into a contract or agreement with a
10 client to provide services shall, prior to providing any services,
11 provide the client with a written contract, the contents of which
12 shall be prescribed by regulations adopted by the Department of
13 Consumer Affairs.

14 (b) The written contract shall include all of the following
15 provisions:

16 (1) The services to be performed.

17 (2) The costs of the services to be performed.

18 (3) There shall be printed on the face of the contract in 12-point
19 boldface type a statement that the legal document assistant or
20 unlawful detainer assistant is not an attorney and may not perform
21 the legal services that an attorney performs.

22 (4) The contract shall contain a statement in 12-point boldface
23 type that the county clerk has not evaluated or approved the
24 registrant's knowledge or experience, or the quality of the
25 registrant's services.

26 (5) The contract shall contain a statement in 12-point boldface
27 type that the consumer may obtain information regarding free or
28 low-cost representation through a local bar association or legal
29 aid foundation and that the consumer may contact local law
30 enforcement, a district attorney, or a legal aid foundation if the
31 consumer believes that he or she has been a victim of fraud, the
32 unauthorized practice of law, or any other injury.

33 (6) The contract shall contain a statement in 12-point boldface
34 type that a legal document assistant or unlawful detainer assistant
35 is not permitted to engage in the practice of law, including
36 providing any kind of advice, explanation, opinion, or
37 recommendation to a consumer about possible legal rights,
38 remedies, defenses, options, selection of forms, or strategies.

39 (c) The contract shall be written both in English and in any
40 other language comprehended by the client and principally used



1 *in any oral sales presentation or negotiation leading to execution*
2 *of the contract. The legal document assistant or the unlawful*
3 *detainer assistant is responsible for translating the contract into*
4 *the language principally used in any oral sales presentation or*
5 *negotiation leading to the execution of the contract.*

6 (d) *Failure of a legal document assistant or unlawful detainer*
7 *assistant to comply with subdivisions (a), (b), and (c) shall make*
8 *the contract or agreement for services voidable at the option of the*
9 *client. Upon the voiding of the contract, the legal document*
10 *assistant or unlawful detainer assistant shall immediately return*
11 *in full any fees paid by the client.*

12 (e) *In addition to any other right to rescind, the client shall have*
13 *the right to rescind the contract within 24 hours of the signing of*
14 *the contract. The client may cancel the contract by giving the legal*
15 *document assistant or the unlawful detainer assistant any written*
16 *statement to the effect that the contract is canceled. If the client*
17 *gives notice of cancellation by mail addressed to the legal*
18 *document assistant or unlawful detainer assistant, with first-class*
19 *postage prepaid, cancellation is effective upon the date indicated*
20 *on the postmark. Upon the voiding or rescinding of the contract or*
21 *agreement for services, the legal document assistant or unlawful*
22 *detainer assistant shall immediately return to the client any fees*
23 *paid by the client, except fees for services that were actually,*
24 *necessarily, and reasonably performed on the client's behalf by the*
25 *legal document assistant or unlawful detainer assistant with the*
26 *client's knowing and express written consent. The requirements of*
27 *this subdivision shall be conspicuously set forth in the written*
28 *contract.*

29 6410.5. (a) *It is unlawful for any legal document assistant or*
30 *unlawful detainer assistant, in the first in-person or telephonic*
31 *solicitation of a prospective client of legal document or unlawful*
32 *detainer assistant services, to enter into a contract or agreement*
33 *for services or accept any compensation unless the legal document*
34 *assistant or the unlawful detainer assistant states orally, clearly,*
35 *affirmatively and expressly all of the following, before making any*
36 *other statement, except statements required by law in telephonic*
37 *or home solicitations, and a greeting, or asking the prospective*
38 *client any questions:*

39 (1) *The identity of the person making the solicitation.*



1 (2) *The trade name of the person represented by the person*
2 *making the solicitation, if any.*

3 (3) *The kind of services being offered for sale.*

4 (4) *The statement: “I am not an attorney” and, if the person*
5 *offering legal document assistant or unlawful detainer assistant*
6 *services is a partnership or a corporation, or uses a fictitious*
7 *business name, “[name] is not a law firm. I/we cannot represent*
8 *you in court, advise you about your legal rights or the law, or select*
9 *legal forms for you.”*

10 (b) *If the first contact between a legal document assistant or an*
11 *unlawful detainer assistant and a prospective client is initiated by*
12 *the prospective client, it is unlawful for the legal document*
13 *assistant or unlawful detainer assistant to enter into a contract or*
14 *agreement for services or accept any compensation unless the*
15 *legal document assistant or the unlawful detainer assistant states*
16 *orally, clearly, affirmatively and expressly, during that first*
17 *contact, and before offering any contract or agreement for services*
18 *to the prospective client, the following: “I am not an attorney [and,*
19 *if the person offering legal document assistant or unlawful*
20 *detainer assistant services is a partnership or a corporation, or*
21 *uses a fictitious business name, “[name] is not a law firm.”] [I/We]*
22 *cannot (1) represent you in court, (2) advise you about your legal*
23 *rights or the law, or (3) select legal forms for you.” After making*
24 *this statement, and before offering the prospective client a contract*
25 *or agreement for services, a legal document assistant or unlawful*
26 *detainer assistant who has made the statement in accordance with*
27 *this subsection may ask the prospective client to read the “Notice*
28 *to Consumer” set forth below, and after allowing the prospective*
29 *client time to read the notice, may ask the prospective client to sign*
30 *and date the notice. The notice shall be set forth in black, bold,*
31 *14-point type on a separate, white, 8 and 1/2 by 11 inch sheet of*
32 *paper which contains no other print or graphics, and shall be in*
33 *the following form. The notice shall contain only the appropriate*
34 *name or other designation from those indicated in brackets below.*
35 *At the time a prospective client signs the notice and before that*
36 *prospective client is offered any contract or agreement for*
37 *signature, the legal document assistant or unlawful detainer*
38 *assistant shall give the prospective client a clearly legible copy of*
39 *the signed notice. A legal document assistant or unlawful detainer*



1 assistant shall not ask or require a prospective client or a client to
2 sign any other form of acknowledgment regarding this notice.

3

4

NOTICE TO CONSUMER

5

6

DO NOT SIGN ANYTHING BEFORE YOU READ THIS PAGE

7

8 In the first conversation when you contacted

9 [the unlawful detainer assistant or

10 the legal document assistant], did [he

11 or she] explain

12

13 [Name of unlawful detainer assistant

14 or legal document assistant] is not

15 an attorney.

16

17 [Name of corporation or partnership,

18 if any, that is offering legal document

19 assistant services or unlawful

20 detainer assistant services] is not a

21 law firm.

22

23 [He/she/name of the business]

24 cannot represent you in court.

25

26 [He/she/name of the business] cannot

27 advise you about your legal rights or

28 the law.

29

30 [He/she/name of the business] cannot

31 select legal forms for you.

32

33

34 Choose one:

35

36 Yes, [he/she] explained.

37

38 No, [he/she] did not explain.

39



1 *Date:*

2

3 *Signature:*

4

5

6 *6411. It is unlawful for any person engaged in the business or*
7 *acting in the capacity of a legal document assistant or unlawful*
8 *detainer assistant to do any of the following:*

9 *(a) Make false or misleading statements to the consumer*
10 *concerning the subject matter, legal issues, or self-help service*
11 *being provided by the legal document assistant or unlawful*
12 *detainer assistant.*

13 *(b) Make any guarantee or promise to a client or prospective*
14 *client, unless the guarantee or promise is in writing and the legal*
15 *document assistant or unlawful detainer assistant has a*
16 *reasonable factual basis for making the guarantee or promise.*

17 *(c) Make any statement that the legal document assistant or*
18 *unlawful detainer assistant can or will obtain favors or has special*
19 *influence with a court, or a state or federal agency.*

20 *(d) Provide assistance or advice which constitutes the unlawful*
21 *practice of law pursuant to Section 6125, 6126, or 6127.*

22 *(e) Engage in the unauthorized practice of law, including, but*
23 *not limited to, giving any kind of advice, explanation, opinion, or*
24 *recommendation to a consumer about possible legal rights,*
25 *remedies, defenses, options, selection of forms, or strategies. A*
26 *legal document assistant shall complete documents only in the*
27 *manner prescribed by subdivision (d) of Section 6400.*

28 *(f) Use in the person’s business name or advertising the words*
29 *“legal aid,” “legal services,” or any similar term that has the*
30 *capacity, tendency, or likelihood to mislead members of the public*
31 *about that person’s status as a nonprofit corporation or*
32 *governmentally supported organization offering legal services*
33 *without charge to indigent people, or employing members of the*
34 *State Bar to provide those services.*

35 *6412. (a) Any owner or manager of residential or*
36 *commercial rental property, tenant, or other person who is*
37 *awarded damages in any action or proceeding for injuries caused*
38 *by the acts of a registrant while in the performance of his or her*
39 *duties as a legal document assistant or unlawful detainer assistant*



1 *may recover damages from the bond or cash deposit required by*
2 *Section 6405.*

3 *(b) If there has been a recovery against a bond or cash deposit*
4 *under subdivision (a) and the registration has not been revoked*
5 *pursuant to Section 6413, the registrant shall file a new bond or*
6 *deposit an additional amount of cash within 30 days to reinstate*
7 *the bond or cash deposit to the amount required by Section 6405.*
8 *If the registrant does not file a bond, or deposit this amount within*
9 *30 days, his or her certificate of registration shall be revoked.*

10 *6412.1. (a) Any person injured by the unlawful act of a legal*
11 *document assistant or unlawful detainer assistant shall retain all*
12 *rights and remedies cognizable under law. The penalties, relief,*
13 *and remedies provided in this chapter are not exclusive, and do not*
14 *affect any other penalties, relief, and remedies provided by law.*

15 *(b) Any person injured by a violation of this chapter by a legal*
16 *document assistant or unlawful detainer assistant may file a*
17 *complaint and seek redress in any superior court for injunctive*
18 *relief, restitution, and damages. Attorney's fees shall be awarded*
19 *to the prevailing plaintiff. A claim under this chapter may be*
20 *maintained in small claims court, if the claim and relief sought are*
21 *within the small claims court's jurisdiction.*

22 *6412.5. A legal document assistant or an unlawful detainer*
23 *assistant may neither seek nor obtain a client's waiver of any of the*
24 *provisions of this chapter. Any waiver of the provisions of this*
25 *chapter is contrary to public policy, and is void and unenforceable.*

26 *6413. The county clerk shall revoke the registration of a legal*
27 *document assistant or unlawful detainer assistant upon receipt of*
28 *an official document or record stating that the registrant has been*
29 *found guilty of the unauthorized practice of law pursuant to*
30 *Section 6125, 6126, or 6127, has been found guilty of a*
31 *misdemeanor violation of this chapter, has been found liable under*
32 *Section 6126.5, or that a civil judgment has been entered against*
33 *the registrant in an action arising out of the registrant's negligent,*
34 *reckless, or willful failure to properly perform his or her obligation*
35 *as a legal document assistant or unlawful detainer assistant. The*
36 *county clerk shall be given notice of the disposition in any court*
37 *action by the city attorney, district attorney, or plaintiff, as*
38 *applicable. A registrant whose registration is revoked pursuant to*
39 *this section may reapply for registration three years after the*
40 *revocation.*



1 6414. A registrant whose certificate is revoked shall be
2 entitled to challenge the decision in a court of competent
3 jurisdiction.

4 6415. A failure, by a person who engages in acts of a legal
5 document assistant or unlawful detainer assistant, to comply with
6 any of the requirements of Section 6401.6, 6402, 6408, or 6410,
7 subdivision (a), (b), or (c) of Section 6411, or Section 6412.5 is a
8 misdemeanor punishable by a fine of not less than one thousand
9 dollars (\$1,000) or more than two thousand dollars (\$2,000), as
10 to each client with respect to whom a violation occurs, or
11 imprisonment for not more than one year, or by both that fine and
12 imprisonment. Payment of restitution to a client shall take
13 precedence over payment of a fine.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 ~~Section 69616 to the Government Code to provide for the~~
24 ~~conversion of subordinate judicial officer positions to judgeships~~
25 ~~in courts that assign subordinate judicial officers to perform the~~
26 ~~duties of a temporary judge more often than other duties because~~
27 ~~of a shortage of judges.~~

28 ~~SEC. 2. Section 69616 is added to the Government Code, to~~
29 ~~read:~~

30 ~~69616. (a) At the beginning of each fiscal year, the Judicial~~
31 ~~Council shall provide to the Secretary of State and the Governor~~
32 ~~a list containing the number of subordinate judicial officer~~
33 ~~positions in each county for which all of the following factors are~~
34 ~~true:~~

35 ~~(1) The Judicial Council has consulted with the court in which~~
36 ~~the subordinate judicial officer position exists and certifies that the~~
37 ~~workload and judicial resources of the court are such that, to~~
38 ~~effectively and fairly administer justice, the court assigns the~~
39 ~~subordinate judicial officer to act as a temporary superior court~~
40 ~~judge more often than to perform other duties; and that an~~



1 additional superior court judge position will enable the court to
2 assign a judge to perform judicial duties that were previously
3 performed by the subordinate judicial officer acting as a temporary
4 judge.

5 ~~(2) The subordinate judicial officer position is a full-time
6 position or the equivalent of a full-time position and existed on
7 January 1, 2001.~~

8 ~~(3) The subordinate judicial officer position is not a
9 commissioner position established under Section 4251 of the
10 Family Code.~~

11 ~~(b) In a superior court with at least one subordinate judicial
12 officer position on the list provided by the Judicial Council under
13 subdivision (a), the number of authorized superior court judges
14 shall be increased by one, and the number of authorized
15 subordinate judicial officer positions shall be decreased by one,
16 when either of the following occurs:~~

17 ~~(1) A vacancy occurs in any subordinate judicial officer
18 position in the court and the Judicial Council files notice of the
19 vacancy with the Secretary of State. The Judicial Council may file
20 with the Secretary of State notice of no more than 10 such positions
21 in any fiscal year, which shall be the positions in those counties
22 having vacancies that the Judicial Council has determined to have
23 the greatest need for an increase in the number of judges.~~

24 ~~(2) The Governor appoints any full-time subordinate judicial
25 officer for a superior court as a superior court judge for that court
26 and notifies the Secretary of State that the appointment is made
27 pursuant to this paragraph. The judge position established by this
28 paragraph shall come into existence simultaneously with the
29 Governor's appointment.~~

30 ~~(c) For purposes of paragraph (1) of subdivision (a), a
31 subordinate judicial officer performing the duties of a juvenile
32 referee under Sections 247 to 254, inclusive, of the Welfare and
33 Institutions Code shall be considered to be performing the duties
34 of a superior court judge.~~

35 ~~(d) For purposes of this section, "subordinate judicial officer"
36 means an officer appointed under the authority of Section 22 of
37 Article VI of the California Constitution.~~

38 ~~(e) It is the intent of the Legislature that no subordinate judicial
39 officer shall involuntarily lose his or her position solely due to the
40 operation of this section. Nothing in this section shall be construed~~



1 to change the employment relationship established by law between
2 a subordinate judicial officer and the superior court.

3 ~~(f) This section does not entitle a court to an increase in
4 funding.~~

5 ~~(g) The operation of this section shall neither increase nor
6 decrease the total number of judicial and subordinate judicial
7 officer positions or court support positions for which a county is
8 responsible by law.~~

9 ~~(h) Nothing in this section limits the authority of the Governor
10 to appoint a person pursuant to Section 16 of Article VI of the
11 California Constitution. Nothing in this section creates a
12 preference for a commissioner over any other eligible person to be
13 appointed a judge.~~

14 ~~(i) The list filed by the Judicial Council pursuant to subdivision
15 (a) expires when a new list is provided by the council.~~

16 ~~(j) No more than 250 superior court judge positions may be
17 established by the operation of this section.~~

18 ~~SEC. 3. Notwithstanding Section 17610 of the Government
19 Code, if the Commission on State Mandates determines that this
20 act contains costs mandated by the state, reimbursement to local
21 agencies and school districts for those costs shall be made pursuant
22 to Part 7 (commencing with Section 17500) of Division 4 of Title
23 2 of the Government Code. If the statewide cost of the claim for
24 reimbursement does not exceed one million dollars (\$1,000,000),
25 reimbursement shall be made from the State Mandates Claims
26 Fund.~~

