

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE AUGUST 22, 2013

AMENDED IN SENATE AUGUST 15, 2013

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JULY 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1159

Introduced by Assembly Member Gonzalez
(Principal coauthor: Senator De León)
(Coauthors: Assembly Members Alejo and Wagner)
(Coauthors: Senators Anderson, Block, and Hueso)

February 22, 2013

An act to amend Sections 22442 and 22442.3 of, to add Sections 6126.7, 22442.5, and 22442.6 to, to add Article 16 (commencing with Section 6240) to Chapter 4 of Division 3 of, and to amend, repeal, and add Section 22443.1 of, the Business and Professions Code, relating to immigration services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1159, as amended, Gonzalez. Immigration services.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation.

~~This bill would require attorneys providing immigration reform act services, as defined, to provide a client with a written contract containing~~

~~specified information, including a description of the services that the attorney anticipates will be performed, the basis of compensation for these services, and a statement informing the client that he or she may report complaints regarding the attorney's services to specified entities. The bill would provide certain exceptions to these requirements.~~

This bill would make it a violation of specified provisions of law relating to the unauthorized practice of law for any person who is not an attorney to literally translate from English into another language the phrases "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the person is an attorney. The bill would prescribe penalties, not to exceed \$1,000 per day for each violation, for a person who violates these provisions.

Existing law provides for the regulation of a person engaged in the business or acting in the capacity of an immigration consultant, and provides that a violation of these provisions is a crime. Existing law requires an immigration consultant to provide a client with a written contract containing specified information prior to providing services. Existing law requires an immigration consultant to file a bond of \$50,000 with the Secretary of State in accordance with specified provisions of law.

This bill would, commencing July 1, 2014, increase the amount of this bond to \$100,000. The bill would require that the written contract contain additional information relating to an explanation of the purpose of each service to be performed. The bill would require an immigration consultant to establish a client trust account and to deposit in this account any funds received from the client prior to performing immigration reform act services, as defined, for that client, and would impose certain requirements relating to the expenditure of funds from this trust account.

The bill would prohibit an attorney or an immigration consultant from demanding or accepting the advance payment of any funds from a person before the enactment of an immigration reform act, as defined, and would require any funds received after the effective date of this bill, but before the enactment of an immigration reform act, to be refunded to the client. The bill would require any funds that were received before the effective date of the bill for services not yet rendered to be either refunded to the client or deposited in a client trust fund in accordance with specified provisions. The bill would prescribe penalties, not to exceed \$1,000 per day for each violation, for immigration consultants who violate these provisions.

Existing law prohibits an immigration consultant from literally translating the phrase “notary public” into Spanish.

This bill would provide that a violation of these provisions constitutes a violation of specified provisions of law relating to the unauthorized practice of law. The bill also would prescribe penalties, not to exceed \$1,000 per day for each violation, for immigration consultants who violate these provisions. ~~Additionally, the bill would make it a violation of specified provisions of law relating to the unauthorized practice of law for any person who is not an attorney to literally translate from English into another language the phrases “notary public,” “notary,” “licensed,” “attorney,” “lawyer,” or any other terms that imply that the person is an attorney. The bill would prescribe penalties, not to exceed \$1,000 per day for each violation, for a person who violates these provisions.~~

Because a violation of these provisions by an immigration consultant would be a crime, this 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 6126.7 is added to the Business and
- 2 Professions Code, to read:
- 3 6126.7. (a) It is a violation of subdivision (a) of Section 6126
- 4 for any person who is not an attorney to literally translate from
- 5 English into another language, in any document, including an
- 6 advertisement, stationery, letterhead, business card, or other
- 7 comparable written material, any words or titles, including, but
- 8 not limited to, “notary public,” “notary,” “licensed,” “attorney,”
- 9 or “lawyer,” *that* imply that the person is an attorney. As provided
- 10 in this subdivision, the literal translation of the phrase “notary

1 public” into Spanish as “notario publico” or “notario,” is expressly
2 prohibited.

3 (b) For purposes of this section, “literal translation” of a word
4 or phrase from one language means the translation of a word or
5 phrase without regard to the true meaning of the word or phrase
6 in the language that is being translated.

7 (c) (1) In addition to any other remedies and penalties
8 prescribed in this article, a person who violates this section shall
9 be subject to a civil penalty not to exceed one thousand dollars
10 (\$1,000) per day for each violation, to be assessed and collected
11 in a civil action brought by the State Bar.

12 (2) In assessing the amount of the civil penalty, the court may
13 consider relevant circumstances presented by the parties to the
14 case, including, but not limited to, the following:

- 15 (A) The nature and severity of the misconduct.
- 16 (B) The number of violations.
- 17 (C) The length of time over which the misconduct occurred,
18 and the persistence of the misconduct.
- 19 (D) The wilfulness of the misconduct.
- 20 (E) The defendant’s assets, liabilities, and net worth.

21 (3) The court shall grant a prevailing plaintiff reasonable
22 attorneys’ fees and costs.

23 (4) A civil action brought under this section shall be commenced
24 within four years after the cause of action accrues.

25 SEC. 2. Article 16 (commencing with Section 6240) is added
26 to Chapter 4 of Division 3 of the Business and Professions Code,
27 to read:

28
29 Article 16. Attorneys Providing Immigration Reform Act
30 Services
31

32 6240. For purposes of this article, the following definitions
33 apply:

34 (a) “Immigration reform act” means any pending or future act
35 of Congress that is enacted after the effective date of this section
36 but before January 1, 2017, including, but not limited to, the federal
37 act known as the “Border Security, Economic Opportunity, and
38 Immigration Modernization Act” (S. 744, 2013), that authorizes
39 an undocumented immigrant who either entered the United States

1 without inspection or who did not depart after the expiration of a
2 nonimmigrant visa, to attain a lawful status under federal law.

3 (b) “Immigration reform act services” means services *offered*
4 *in connection with an immigration reform act that are* necessary
5 in the preparation of an application and other related initial
6 processes in order for an undocumented immigrant, who either
7 entered the United States without inspection or who did not depart
8 after the expiration of a nonimmigrant visa, to attain a lawful status
9 under an immigration reform act.

10 6241. This article shall apply to the following:

11 (a) An attorney who is an active member of the State Bar who
12 provides immigration reform act services.

13 (b) An attorney who is not an active member of the State Bar,
14 but who meets both of the following:

15 (1) The attorney is authorized by federal law to practice law
16 and to represent persons before the Board of Immigration Appeals
17 or the United States Citizenship and Immigration Services.

18 (2) The attorney is providing immigration reform act services
19 in an office or business in California.

20 6242. (a) It is unlawful for an attorney to demand or accept
21 the advance payment of any funds from a person for immigration
22 reform act services before the enactment of an immigration reform
23 act.

24 (b) Any funds received after the effective date of this section,
25 but before the enactment of an immigration reform act, shall be
26 refunded to the client.

27 (c) (1) If an attorney providing immigration reform act services
28 accepted funds prior to the effective date of this section, and the
29 services provided in connection with payment of those funds were
30 rendered, the attorney shall provide the client with a statement of
31 accounting describing the services rendered.

32 (2) (A) Any funds received before the effective date of this
33 section and before the enactment of an immigration reform act,
34 for which immigration reform act services have not yet been
35 rendered, shall either be refunded to the client or shall be deposited
36 in a client trust account.

37 (B) If an attorney deposits funds in a client trust account
38 pursuant to this paragraph, he or she shall ~~comply with Section~~
39 ~~6243 and shall~~ provide to the client a written notice, in both English
40 and the client’s native language, that there are no benefits or relief

1 that are available, and that no application for such benefits or relief
2 may be processed until enactment of an immigration reform act
3 and the related necessary federal regulations and forms.

4 ~~6243. (a) An attorney providing immigration reform act~~
5 ~~services shall, prior to providing those services, provide the client~~
6 ~~with a written contract. The written contract shall include, but need~~
7 ~~not be limited to, all of the following:~~

8 ~~(1) A description explaining the services that the attorney~~
9 ~~anticipates will be performed.~~

10 ~~(2) The basis of compensation for the services, including, but~~
11 ~~not limited to, hourly rates, statutory fees, flat fees, and other~~
12 ~~standard rates, fees, and charges applicable to the services.~~

13 ~~(3) A statement informing the client that he or she may report~~
14 ~~complaints to the Office of Immigrant Assistance of the~~
15 ~~Department of Justice, to the State Bar of California, or to the bar~~
16 ~~of the court of any state, possession, territory, or commonwealth~~
17 ~~of the United States or of the District of Columbia where the~~
18 ~~attorney is admitted to practice law. This statement shall include~~
19 ~~the toll-free telephone numbers and Internet Web sites of those~~
20 ~~entities.~~

21 ~~(b) (1) Except as specified in paragraphs (2) and (3), the~~
22 ~~provisions of the written contract shall be stated in both English~~
23 ~~and the client's native language.~~

24 ~~(2) Upon the consent of the client, the contract need not be~~
25 ~~written in English, and may instead be written in the client's native~~
26 ~~language or another language that the client understands.~~

27 ~~(3) For unwritten languages and languages that, in a reasonable~~
28 ~~person's estimation, are extremely rare or uncommon, the~~
29 ~~provisions of the contract shall be written in English and shall be~~
30 ~~orally translated to the client in a language the client can~~
31 ~~understand. If a contract is orally translated pursuant to this~~
32 ~~paragraph, the written contract shall include a verification that the~~
33 ~~provisions of the contract have been orally translated, that the~~
34 ~~translator is competent to make the translation, and that the~~
35 ~~translation is true and accurate to the best of the translator's~~
36 ~~abilities.~~

37 ~~(4) A written contract is void if it does not comply with this~~
38 ~~subdivision.~~

39 ~~(e) The State Bar shall work with the necessary professional~~
40 ~~association for attorneys practicing immigration law to prepare~~

1 and provide forms for contracts, which the State Bar shall translate
2 into the languages specified in Section 1632 of the Civil Code for
3 use under this section.

4 (d) (1) Except if required pursuant to subparagraph (B) of
5 paragraph (2) of subdivision (c) of Section 6242, this section shall
6 not apply to an attorney providing immigration reform act services
7 in accordance with any of the following:

8 (A) For a qualified legal services project or support center under
9 subdivisions (a) and (b) of Section 6213.

10 (B) For a nonprofit, tax-exempt corporation that helps clients
11 complete application forms in immigration matters free of charge,
12 or for a nominal fee, including reasonable costs, consistent with
13 that authorized by the Board of Immigration Appeals under Section
14 292.2 of Title 8 of the Code of Federal Regulations.

15 (C) For free, at no cost to the client, as pro bono legal services.

16 (2) Notwithstanding the exemption described in paragraph (1),
17 an attorney who is providing immigration reform act services, and
18 who meets any of the criteria described in subparagraphs (A) to
19 (C), inclusive, of paragraph (1), shall provide a written notice to
20 the client containing the information specified in paragraphs (1)
21 to (3), inclusive, of subdivision (a). This written notice need not
22 be a contract.

23 SEC. 3. Section 22442 of the Business and Professions Code
24 is amended to read:

25 22442. (a) Every person engaged in the business, or acting in
26 the capacity of, an immigration consultant who enters into a
27 contract or agreement with a client to provide services shall, prior
28 to providing any services, provide the client with a written contract,
29 the contents of which shall be prescribed by the Department of
30 Consumer Affairs in regulations.

31 (b) The written contract shall include all provisions relating to
32 the following:

33 (1) The services to be performed. Each service to be performed
34 shall be itemized with an explanation of the purpose and process
35 of each service.

36 (2) The cost of each itemized service to be performed.

37 (3) There shall be printed on the face of the contract in 10-point
38 boldface type a statement that the immigration consultant is not
39 an attorney and may not perform the legal services that an attorney
40 performs.

1 (4) The written contract shall list the documents to be prepared
2 by the immigration consultant, shall explain the purpose and
3 process of each document, and shall list the cost for preparing each
4 document.

5 (5) The written contract shall state the purpose for which the
6 immigration consultant has been hired and the actions to be taken
7 by the immigration consultant regarding each document, including
8 the agency and office where each document will be filed and the
9 approximate processing times according to current published
10 agency guidelines.

11 (6) The written contract shall include a provision that informs
12 the client that he or she may report complaints relating to
13 immigration consultants to the Office of Immigrant Assistance of
14 the Department of Justice. The written contract shall also include
15 a provision stating that complaints concerning the unauthorized
16 practice of law may be reported to the State Bar of California.
17 These required provisions shall include the toll-free telephone
18 numbers and Internet Web sites of those entities.

19 (c) An immigration consultant shall not include provisions in
20 the written contract relating to either of the following:

21 (1) Any guarantee or promise, unless the immigration consultant
22 has some basis in fact for making the guarantee or promise.

23 (2) Any statement that the immigration consultant can or will
24 obtain special favors from or has special influence with the United
25 States Citizenship and Immigration Services, or any other
26 governmental agency, employee, or official, that may have a
27 bearing on a client's immigration matter.

28 (d) The provisions of the written contract shall be stated both
29 in English and in the client's native language.

30 (e) A written contract is void if it is not written pursuant to
31 subdivision (d).

32 (f) The client shall have the right to rescind the contract within
33 72 hours of signing the contract. The contents of this subdivision
34 shall be conspicuously set forth in the written contract in both
35 English and the client's native language.

36 (g) An immigration consultant shall not make the statements
37 described in subdivision (c) orally to a client.

38 (h) Except if required pursuant to subparagraph (B) of paragraph
39 (2) of subdivision (c) of Section 22442.6, this section does not
40 apply to employees of nonprofit, tax-exempt corporations who

1 help clients complete application forms in an immigration matter
2 free of charge or for a nominal fee, including reasonable costs,
3 consistent with that authorized by the Board of Immigration
4 Appeals under Section 292.2 of Title 8 of the Code of Federal
5 Regulations.

6 SEC. 4. Section 22442.3 of the Business and Professions Code
7 is amended to read:

8 22442.3. (a) An immigration consultant shall not, with the
9 intent to mislead, literally translate, from English into another
10 language, any words or titles, including, but not limited to, “notary
11 public,” “notary,” “licensed,” “attorney,” or “lawyer,” that imply
12 that the person is an attorney, in any document, including an
13 advertisement, stationery, letterhead, business card, or other
14 comparable written material describing the immigration consultant.

15 (b) For purposes of this section, “literal translation” of a word
16 or phrase from one language means the translation of a word or
17 phrase without regard to the true meaning of the word or phrase
18 in the language that is being translated.

19 (c) An immigration consultant may not make or authorize the
20 making of any verbal or written references to his or her compliance
21 with the bonding requirements of Section 22443.1 except as
22 provided in this chapter.

23 (d) A violation of subdivision (a) or (c) by an immigration
24 consultant shall constitute a violation of subdivision (a) of Section
25 6126.

26 (e) (1) In addition to the remedies and penalties prescribed in
27 this chapter, a person who violates this section shall be subject to
28 a civil penalty not to exceed one thousand dollars (\$1,000) per day
29 for each violation, to be assessed and collected in a civil action
30 brought by any person injured by the violation or in a civil action
31 brought in the name of the people of the State of California by the
32 Attorney General, a district attorney, or a city attorney.

33 (2) In assessing the amount of the civil penalty, the court may
34 consider relevant circumstances presented by the parties to the
35 case, including, but not limited to, the following:

36 (A) The nature and severity of the misconduct.

37 (B) The number of violations.

38 (C) The length of time over which the misconduct occurred,
39 and the persistence of the misconduct.

40 (D) The willfulness of the misconduct.

1 (E) The defendant's assets, liabilities, and net worth.

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

11 (4) The court shall grant a prevailing plaintiff reasonable
12 attorneys' fees and costs.

13 SEC. 5. Section 22442.5 is added to the Business and
14 Professions Code, to read:

15 22442.5. (a) An immigration consultant who provides
16 immigration reform act services shall establish and deposit into a
17 client trust account any funds received from a client prior to
18 performing those services for that client.

19 (b) For purposes of this section, the following definitions apply:

20 (1) "Immigration reform act" means any pending or future act
21 of Congress that is enacted after the effective date of this section
22 but before January 1, 2017, including, but not limited to, the federal
23 act known as the "Border Security, Economic Opportunity, and
24 Immigration Modernization Act" (S. 744, 2013), that authorizes
25 an undocumented immigrant who either entered the United States
26 without inspection or who did not depart after expiration of a
27 nonimmigrant visa, to attain a lawful status under federal law.

28 (2) "Immigration reform act services" means services described
29 in Section 22441 that are provided in connection with an
30 immigration reform act.

31 (c) The immigration consultant providing immigration reform
32 act services for the client may withdraw funds received from that
33 client only in compliance with either of the following:

34 (1) After completing one or more of the itemized services
35 described in paragraph (1) of subdivision (b) of Section 22442,
36 and only in the amount identified as the cost of that service or
37 those services pursuant to paragraph (2) of subdivision (b) of
38 Section 22442.

1 (2) After completing one or more of the documents listed, and
2 only in the amounts listed, pursuant to paragraph (4) of subdivision
3 (b) of Section 22442.

4 SEC. 6. Section 22442.6 is added to the Business and
5 Professions Code, to read:

6 22442.6. (a) It is unlawful for an immigration consultant to
7 demand or accept the advance payment of any funds from a person
8 for immigration reform act services before the enactment of an
9 immigration reform act, as defined in subdivision (b) of Section
10 22442.5.

11 (b) Any funds received after the effective date of this section,
12 but before the enactment of an immigration reform act, as defined
13 in subdivision (b) of Section 22442.5, shall be refunded to the
14 client.

15 (c) (1) If an immigration consultant providing immigration
16 reform act services accepted funds prior to the effective date of
17 this section, and the services provided in connection with payment
18 of those funds were rendered, the consultant shall provide the client
19 with a statement of accounting describing the services rendered.

20 (2) (A) Any funds received before the effective date of this
21 section and before the enactment of an immigration reform act,
22 for which immigration reform act services have not yet been
23 rendered, shall either be refunded to the client or shall be deposited
24 in a client trust account pursuant to Section 22442.5.

25 (B) If an immigration consultant deposits funds in a client trust
26 account pursuant to this paragraph, he or she shall comply with
27 all applicable provisions of this chapter, including Section 22442,
28 and shall provide to the client a written notice, in both English and
29 in the client's native language, that there are no benefits or relief
30 that are available and that no application for such benefits or relief
31 may be processed until enactment of an immigration reform act
32 and the related necessary federal regulations and forms.

33 (d) (1) In addition to the remedies and penalties prescribed in
34 this chapter, a person who violates this section shall be subject to
35 a civil penalty not to exceed one thousand dollars (\$1,000) per day
36 for each violation, to be assessed and collected in a civil action
37 brought by any person injured by the violation or in a civil action
38 brought in the name of the people of the State of California by the
39 Attorney General, a district attorney, or a city attorney.

1 (2) In assessing the amount of the civil penalty, the court may
2 consider relevant circumstances presented by the parties to the
3 case, including, but not limited to, the following:

- 4 (A) The nature and severity of the misconduct.
- 5 (B) The number of violations.
- 6 (C) The length of time over which the misconduct occurred,
7 and the persistence of the misconduct.
- 8 (D) The willfulness of the misconduct.
- 9 (E) The defendant’s assets, liabilities, and net worth.

10 (3) If the Attorney General brings the action, one-half of the
11 civil penalty collected shall be paid to the treasurer of the county
12 in which the judgment was entered, and one-half to the General
13 Fund. If a district attorney brings the action, the civil penalty
14 collected shall be paid to the treasurer of the county in which the
15 judgment was entered. If a city attorney brings the action, one-half
16 of the civil penalty collected shall be paid to the treasurer of the
17 city in which the judgment was entered, and one-half to the
18 treasurer of the county in which the judgment was entered.

19 (4) The court shall grant a prevailing plaintiff reasonable
20 attorneys’ fees and costs.

21 SEC. 7. Section 22443.1 of the Business and Professions Code
22 is amended to read:

23 22443.1. (a) (1) Prior to engaging in the business, or acting
24 in the capacity, of an immigration consultant, each person shall
25 file with the Secretary of State a bond of fifty thousand dollars
26 (\$50,000) executed by a corporate surety admitted to do business
27 in this state and conditioned upon compliance with this chapter.
28 The total aggregate liability on the bond shall be limited to fifty
29 thousand dollars (\$50,000).

30 (2) The bond may be terminated pursuant to Section 995.440
31 of, and Article 13 (commencing with Section 996.310) of Chapter
32 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

33 (b) The bond required by this section shall be in favor of, and
34 payable to, the people of the State of California and shall be for
35 the benefit of any person damaged by any fraud, misstatement,
36 misrepresentation, unlawful act or omission, or failure to provide
37 the services of the immigration consultant or the agents,
38 representatives, or employees of the immigration consultant, while
39 acting within the scope of that employment or agency.

1 (c) An immigration consultant who is required to file a surety
2 bond with the Secretary of State shall also file a disclosure form
3 with the Secretary of State that contains all of the following
4 information:

5 (1) The immigration consultant's name, date of birth, residence
6 address, business address, residence telephone number, and
7 business telephone number.

8 (2) The name and address of the immigration consultant's agent
9 for service of process if one is required to be or has been appointed.

10 (3) Whether the immigration consultant has ever been convicted
11 of a violation of this chapter or of Section 6126.

12 (4) Whether the immigration consultant has ever been arrested
13 or convicted of a crime.

14 (5) If applicable, the name, business address, business telephone
15 number, and agent for service of process of the corporation or
16 partnership employing the immigration consultant.

17 (d) An immigration consultant shall notify the Secretary of
18 State's office in writing within 30 days when the surety bond
19 required by this section is renewed, and of any change of name,
20 address, telephone number, or agent for service of process.

21 (e) The Secretary of State shall post information on its Internet
22 Web site demonstrating that an immigration consultant is in
23 compliance with the bond required by this section and has
24 satisfactorily passed the background check required under Section
25 22441.1, and shall also post a copy of the immigration consultant's
26 photograph. The Secretary of State shall ensure that the information
27 is current and shall update the information at least every 30 days.
28 The Secretary of State shall only post this information and
29 photograph on its Internet Web site if the person has filed and
30 maintained the bond, filed the disclosure form and photograph
31 required to be filed with the Secretary of State, and passed the
32 background check required by Section 22441.1.

33 (f) The Secretary of State shall develop the disclosure form
34 required to file a bond under this section and make it available to
35 any immigration consultant filing a bond pursuant to this section.

36 (g) An immigration consultant shall submit all of the following
37 with the disclosure form:

38 (1) A copy of valid and current photo identification to determine
39 the immigration consultant's identity, such as a California driver's

1 license or identification card, passport, or other identification
2 acceptable to the Secretary of State.

3 (2) A photograph of himself or herself with the dimensions and
4 in the style that would be acceptable to the U.S. Department of
5 State for obtaining a United States passport, as instructed by the
6 Secretary of State. An immigration consultant bonded on or before
7 December 31, 2006, shall submit the photograph on or before July
8 1, 2007.

9 (h) The Secretary of State shall charge and collect a filing fee
10 to cover the cost of filing the bond.

11 (i) The Secretary of State shall enforce the provisions of this
12 chapter that govern the filing and maintenance of bonds.

13 (j) Except if required pursuant to subparagraph (B) of paragraph
14 (2) of subdivision (c) of Section 22442.6, this section does not
15 apply to employees of nonprofit, tax-exempt corporations who
16 help clients complete application forms in an immigration matter
17 free of charge or for a nominal fee, including reasonable costs,
18 consistent with that authorized by the Board of Immigration
19 Appeals under Section 292.2 of Title 8 of the Code of Federal
20 Regulations.

21 (k) This section shall become inoperative on July 1, 2014, and
22 as of January 1, 2015, is repealed.

23 SEC. 8. Section 22443.1 is added to the Business and
24 Professions Code, to read:

25 22443.1. (a) (1) Prior to engaging in the business, or acting
26 in the capacity, of an immigration consultant, each person shall
27 file with the Secretary of State a bond of one hundred thousand
28 dollars (\$100,000) executed by a corporate surety admitted to do
29 business in this state and conditioned upon compliance with this
30 chapter. The total aggregate liability on the bond shall be limited
31 to one hundred thousand dollars (\$100,000).

32 (2) The bond may be terminated pursuant to Section 995.440
33 of, and Article 13 (commencing with Section 996.310) of Chapter
34 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

35 (b) The bond required by this section shall be in favor of, and
36 payable to, the people of the State of California and shall be for
37 the benefit of any person damaged by any fraud, misstatement,
38 misrepresentation, unlawful act or omission, or failure to provide
39 the services of the immigration consultant or the agents,

1 representatives, or employees of the immigration consultant, while
2 acting within the scope of that employment or agency.

3 (c) An immigration consultant who is required to file a surety
4 bond with the Secretary of State shall also file a disclosure form
5 with the Secretary of State that contains all of the following
6 information:

7 (1) The immigration consultant's name, date of birth, residence
8 address, business address, residence telephone number, and
9 business telephone number.

10 (2) The name and address of the immigration consultant's agent
11 for service of process if one is required to be or has been appointed.

12 (3) Whether the immigration consultant has ever been convicted
13 of a violation of this chapter or of Section 6126.

14 (4) Whether the immigration consultant has ever been arrested
15 or convicted of a crime.

16 (5) If applicable, the name, business address, business telephone
17 number, and agent for service of process of the corporation or
18 partnership employing the immigration consultant.

19 (d) An immigration consultant shall notify the Secretary of
20 State's office in writing within 30 days when the surety bond
21 required by this section is renewed, and of any change of name,
22 address, telephone number, or agent for service of process.

23 (e) The Secretary of State shall post information on its Internet
24 Web site demonstrating that an immigration consultant is in
25 compliance with the bond required by this section and has
26 satisfactorily passed the background check required under Section
27 22441.1, and shall also post a copy of the immigration consultant's
28 photograph. The Secretary of State shall ensure that the information
29 is current and shall update the information at least every 30 days.
30 The Secretary of State shall only post this information and
31 photograph on its Internet Web site if the person has filed and
32 maintained the bond, filed the disclosure form and photograph
33 required to be filed with the Secretary of State, and passed the
34 background check required by Section 22441.1.

35 (f) The Secretary of State shall develop the disclosure form
36 required to file a bond under this section and make it available to
37 any immigration consultant filing a bond pursuant to this section.

38 (g) An immigration consultant shall submit all of the following
39 with the disclosure form:

1 (1) A copy of valid and current photo identification to determine
2 the immigration consultant’s identity, such as a California driver’s
3 license or identification card, passport, or other identification
4 acceptable to the Secretary of State.

5 (2) A photograph of himself or herself with the dimensions and
6 in the style that would be acceptable to the United States
7 Department of State for obtaining a United States passport, as
8 instructed by the Secretary of State.

9 (h) The Secretary of State shall charge and collect a filing fee
10 to cover the cost of filing the bond.

11 (i) The Secretary of State shall enforce the provisions of this
12 chapter that govern the filing and maintenance of bonds.

13 (j) Except if required pursuant to subparagraph (B) of paragraph
14 (2) of subdivision (c) of Section 22442.6, this section does not
15 apply to employees of nonprofit, tax-exempt corporations who
16 help clients complete application forms in an immigration matter
17 free of charge or for a nominal fee, including reasonable costs,
18 consistent with that authorized by the Board of Immigration
19 Appeals under Section 292.2 of Title 8 of the Code of Federal
20 Regulations.

21 (k) This section shall become operative on July 1, 2014.

22 SEC. 9. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

31 SEC. 10. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the Constitution and shall go into
34 immediate effect. The facts constituting the necessity are:

35 In order to implement measures as quickly as possible and as
36 necessary to prevent fraud on immigrants by attorneys and other
37 persons by making promises of benefits and relief under pending

1 and proposed federal immigration reform acts before their
2 enactment, it is necessary that this act take effect immediately.

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