

AMENDED IN SENATE SEPTEMBER 6, 2013

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**

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**Introduced by Assembly Member Gonzalez**

(Principal coauthor: Senator De León)

**(Coauthors: Assembly Members ~~Alejo and Wagner~~, Ian Calderon, Campos, Chavez, Cooley, Gorell, Hernandez, Linder, Levine, Maienschein, Nestande, Perea, Quirk-Silva, Wagner, and Weber)**

(Coauthors: Senators Anderson, Block, and Hueso)

February 22, 2013

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An act to amend Sections 22442 and 22442.3 of, *to amend, repeal, and add Section 22443.1 of*, to add Sections 6126.7, 22442.5, and 22442.6 to, *and 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 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. *The bill would authorize these penalties to be allocated to a specified fund for purposes of providing free legal services related to immigration reform act services to clients of limited means, or to a fund for the purposes of mitigating unpaid claims of injured immigrant clients, as specified, as directed by the Board of Trustees of the State Bar. The bill would require the Board of Trustees of the State Bar to annually report any collection and expenditure of these moneys to the Assembly and Senate Committees on Judiciary.*

*This bill would require, when a contract for legal services is required in writing pursuant to specified provisions of law, that an attorney providing immigration reform act services, as defined, provide a written notice informing the client that he or she may report complaints to specified entities. The bill would make these provisions operative when the State Bar posts the form and specified translations of the form on its Internet Web site, but no later than 45 days after the effective date of the bill.*

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 *promptly, but no later than 30 days after the receipt of any funds*. The bill would require any funds that were received before the effective date of the bill for services not yet rendered *before the effective date of the bill* 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.

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

1 English into another language, in any document, including an  
 2 advertisement, stationery, letterhead, business card, or other  
 3 comparable written material, any words or titles, including, but  
 4 not limited to, “notary public,” “notary,” “licensed,” “attorney,”  
 5 or “lawyer,” that imply that the person is an attorney. As provided  
 6 in this subdivision, the literal translation of the phrase “notary  
 7 public” into Spanish as “notario publico” or “notario,” is expressly  
 8 prohibited.

9 (b) For purposes of this section, ~~“literal translation” of a word~~  
 10 *translation of” or “to literally translate” a word, title, or phrase*  
 11 *from one language means the translation of a word or word, title,*  
 12 *or phrase without regard to the true meaning of the word or phrase*  
 13 *in the language that is being translated.*

14 (c) (1) In addition to any other remedies and penalties  
 15 prescribed in this article, a person who violates this section shall  
 16 be subject to a civil penalty not to exceed one thousand dollars  
 17 (\$1,000) per day for each violation, to be assessed and collected  
 18 in a civil action brought by the State Bar.

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

- 22 (A) The nature and severity of the misconduct.
- 23 (B) The number of violations.
- 24 (C) The length of time over which the misconduct occurred,
- 25 and the persistence of the misconduct.
- 26 (D) The wilfulness of the misconduct.
- 27 (E) The defendant’s assets, liabilities, and net worth.

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

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

32 (5) *In a civil action brought by the State Bar under this section,*  
 33 *the civil penalty collected shall be paid to the State Bar and*  
 34 *allocated to the fund established pursuant to Section 6033 to*  
 35 *provide free legal services related to immigration reform act*  
 36 *services to clients of limited means or to a fund for the purposes*  
 37 *of mitigating unpaid claims of injured immigrant clients under*  
 38 *Section 22447, as directed by the Board of Trustees of the State*  
 39 *Bar. The board shall annually report any collection and*  
 40 *expenditure of funds for the preceding calendar year, as authorized*

1 *by this section, to the Assembly and Senate Committees on*  
2 *Judiciary. The report required by this section may be included in*  
3 *the report described in Section 6086.15.*

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

7

8 Article 16. Attorneys Providing Immigration Reform Act  
9 Services

10

11 6240. For purposes of this article, the following definitions  
12 apply:

13 (a) “Immigration reform act” means any pending or future act  
14 of Congress that is enacted after the effective date of this section  
15 but before January 1, 2017, including, but not limited to, the federal  
16 act known as the “Border Security, Economic Opportunity, and  
17 Immigration Modernization Act” (S. 744, 2013), that authorizes  
18 an undocumented immigrant who either entered the United States  
19 without inspection or who did not depart after the expiration of a  
20 nonimmigrant visa, to attain a lawful status under federal law. *The*  
21 *State Bar shall announce and post on its Internet Web site when*  
22 *an immigration reform act has been enacted.*

23 (b) “Immigration reform act services” means services offered  
24 in connection with an immigration reform act that are necessary  
25 in the preparation of an application and other related initial  
26 processes in order for an undocumented immigrant, who either  
27 entered the United States without inspection or who did not depart  
28 after the expiration of a nonimmigrant visa, to attain a lawful status  
29 under an immigration reform act.

30 6241. This article shall apply to the following:

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

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

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

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

1 6242. (a) It is unlawful for an attorney to demand or accept  
2 the advance payment of any funds from a person for immigration  
3 reform act services before the enactment of an immigration reform  
4 act.

5 (b) Any funds received after the effective date of this section,  
6 but before the enactment of an immigration reform act, shall be  
7 refunded to the client *promptly, but no later than 30 days after the*  
8 *receipt of the funds.*

9 (c) (1) If an attorney providing immigration reform act services  
10 accepted funds *for immigration reform act services* prior to the  
11 effective date of this section, and the services ~~provided to be~~  
12 *performed* in connection with payment of those funds were  
13 rendered, the attorney shall *promptly, but no later than 30 days*  
14 *after the effective date of this section*, provide the client with a  
15 statement of accounting describing the services rendered.

16 (2) (A) Any funds received before the effective date of this  
17 section ~~and before the enactment of an immigration reform act,~~  
18 for which immigration reform act services ~~have not yet been~~ *were*  
19 *not rendered prior to the effective date of this section*, shall be  
20 either ~~be~~ refunded to the client or ~~shall be~~ deposited in a client  
21 trust account.

22 (B) If an attorney deposits funds in a client trust account  
23 pursuant to this paragraph, he or she shall provide ~~to the client~~ a  
24 written notice, in both English and the client's native language,  
25 ~~that there are no benefits or relief that are available, and that no~~  
26 ~~application for such benefits or relief may be processed until~~  
27 ~~enactment of an immigration reform act and the related necessary~~  
28 ~~federal regulations and forms.~~ *informing the client of the following:*

29 (i) *That there are no benefits or relief available, and that no*  
30 *application for such benefits or relief may be processed, until*  
31 *enactment of an immigration reform act and the related necessary*  
32 *federal regulations or forms, and that, commencing with the*  
33 *effective date of this section, it is unlawful for an attorney to*  
34 *demand or accept the advance payment of any funds from a person*  
35 *for immigration reform act services before the enactment of an*  
36 *immigration reform act.*

37 (ii) *That he or she may report complaints to the Executive Office*  
38 *for Immigration Review of the United States Department of Justice,*  
39 *to the State Bar of California, or to the bar of the court of any*  
40 *state, possession, territory, or commonwealth of the United States*

1 *or of the District of Columbia where the attorney is admitted to*  
2 *practice law. The notice shall include the toll-free telephone*  
3 *numbers and Internet Web sites of those entities.*

4 6243. (a) (1) *When a contract for legal services is required*  
5 *in writing pursuant to Section 6148, or is subject to Section 1632*  
6 *of the Civil Code, an attorney providing immigration reform act*  
7 *services shall provide a written notice informing the client that he*  
8 *or she may report complaints to the Executive Office for*  
9 *Immigration Review of the United States Department of Justice,*  
10 *to the State Bar of California, or to the bar of the court of any*  
11 *state, possession, territory, or commonwealth of the United States*  
12 *or of the District of Columbia where the attorney is admitted to*  
13 *practice law. The notice shall include the toll-free telephone*  
14 *numbers and Internet Web sites of those entities.*

15 (2) *The notice shall be in English and in one of the languages*  
16 *of the forms translated by the State Bar pursuant to paragraph (1)*  
17 *of subdivision (b), if the contract for immigration reform act*  
18 *services was negotiated in one of those languages.*

19 (3) *The notice shall be attached or incorporated into any written*  
20 *contract for immigration reform act services. If the notice is*  
21 *attached to a written contract, it shall be signed by both the*  
22 *attorney and the client.*

23 (b) (1) *The State Bar shall provide the form of the notice*  
24 *required in subdivision (a) and shall post the form and translations*  
25 *on its Internet Web site. The State Bar shall translate the form into*  
26 *the following languages: Spanish, Chinese, Tagalog, Vietnamese,*  
27 *Korean, Armenian, Persian, Japanese, Russian, Hindi, Arabic,*  
28 *French, Punjabi, Portuguese, Mon-Khmer, Hmong, Thai, Gujarati.*  
29 *The State Bar, upon request, may translate the forms into other*  
30 *languages.*

31 (2) *Notwithstanding paragraph (1), an attorney providing*  
32 *immigration reform act services who meets the criteria of*  
33 *subdivision (b) of Section 6141 shall be responsible for adding*  
34 *and translating the name of, toll-free telephone number of, and*  
35 *information on the Internet Web site for, the bar of the court of*  
36 *any state, possession, territory, or commonwealth of the United*  
37 *States or the District of Columbia in which he or she is admitted*  
38 *to practice law.*

39 (c) *Failure to comply with any provision of this section renders*  
40 *the contract voidable at the option of the client, and the attorney*

1 shall, upon the contract being voided, be entitled to collect a  
2 reasonable fee.

3 (d) This section shall become operative when the State Bar posts  
4 on its Internet Web site the form and translations required by  
5 paragraph (1) of subdivision (b). The State Bar shall post the form  
6 and translations as soon as practicable, but no later than 45 days  
7 after the effective date of this section.

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

10 22442. (a) Every person engaged in the business, or acting in  
11 the capacity of, an immigration consultant who enters into a  
12 contract or agreement with a client to provide services shall, prior  
13 to providing any services, provide the client with a written contract,  
14 the contents of which shall be prescribed by the Department of  
15 Consumer Affairs in regulations.

16 (b) The written contract shall include all provisions relating to  
17 the following:

18 (1) The services to be performed. Each service to be performed  
19 shall be itemized with an explanation of the purpose and process  
20 of each service.

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

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

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

30 (5) The written contract shall state the purpose for which the  
31 immigration consultant has been hired and the actions to be taken  
32 by the immigration consultant regarding each document, including  
33 the agency and office where each document will be filed and the  
34 approximate processing times according to current published  
35 agency guidelines.

36 (6) The written contract shall include a provision that informs  
37 the client that he or she may report complaints relating to  
38 immigration consultants to the ~~Office of Immigrant Assistance of~~  
39 ~~the Department of Justice Executive Office for Immigration Review~~  
40 *of the United States Department of Justice*. The written contract



1 shall also include a provision stating that complaints concerning  
2 the unauthorized practice of law may be reported to the State Bar  
3 of California. These required provisions shall include the toll-free  
4 telephone numbers and Internet Web sites of those entities.

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

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

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

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

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

18 (f) The client shall have the right to rescind the contract within  
19 72 hours of signing the contract. The contents of this subdivision  
20 shall be conspicuously set forth in the written contract in both  
21 English and the client's native language.

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

24 (h) Except if required pursuant to subparagraph (B) of paragraph  
25 (2) of subdivision (c) of Section 22442.6, this section does not  
26 apply to employees of nonprofit, tax-exempt corporations who  
27 help clients complete application forms in an immigration matter  
28 free of charge or for a nominal fee, including reasonable costs,  
29 consistent with that authorized by the Board of Immigration  
30 Appeals under Section 292.2 of Title 8 of the Code of Federal  
31 Regulations.

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

34 22442.3. (a) An immigration consultant shall not, with the  
35 intent to mislead, literally translate, from English into another  
36 language, any words or titles, including, but not limited to, "notary  
37 public," "notary," "licensed," "attorney," or "lawyer," that imply  
38 that the person is an attorney, in any document, including an  
39 advertisement, stationery, letterhead, business card, or other  
40 comparable written material describing the immigration consultant.

1 *As provided in this subdivision, the literal translation of the phrase*  
2 *“notary public” into Spanish as “notario publico” or “notario,”*  
3 *is expressly prohibited.*

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

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

13 (d) A violation of subdivision (a) or (c) by an immigration  
14 consultant shall constitute a violation of subdivision (a) of Section  
15 6126.

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

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

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

27 (B) The number of violations.

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

30 (D) The willfulness of the misconduct.

31 (E) The defendant’s assets, liabilities, and net worth.

32 (3) If the Attorney General brings the action, one-half of the  
33 civil penalty collected shall be paid to the treasurer of the county  
34 in which the judgment was entered, and one-half to the General  
35 Fund. If a district attorney brings the action, the civil penalty  
36 collected shall be paid to the treasurer of the county in which the  
37 judgment was entered. If a city attorney brings the action, one-half  
38 of the civil penalty collected shall be paid to the treasurer of the  
39 city in which the judgment was entered, and one-half to the  
40 treasurer of the county in which the judgment was entered.

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

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

5 22442.5. (a) An immigration consultant who provides  
6 immigration reform act services shall establish and deposit into a  
7 client trust account any funds received from a client prior to  
8 performing those services for that client.

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

10 (1) "Immigration reform act" means any pending or future act  
11 of Congress that is enacted after the effective date of this section  
12 but before January 1, 2017, including, but not limited to, the federal  
13 act known as the "Border Security, Economic Opportunity, and  
14 Immigration Modernization Act" (S. 744, 2013), that authorizes  
15 an undocumented immigrant who either entered the United States  
16 without inspection or who did not depart after expiration of a  
17 nonimmigrant visa, to attain a lawful status under federal law. *The*  
18 *State Bar shall announce and post on its Internet Web site when*  
19 *an immigration reform act has been enacted.*

20 (2) "Immigration reform act services" means services described  
21 in Section 22441 that are provided in connection with an  
22 immigration reform act.

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

26 (1) After completing one or more of the itemized services  
27 described in paragraph (1) of subdivision (b) of Section 22442,  
28 and only in the amount identified as the cost of that service or  
29 those services pursuant to paragraph (2) of subdivision (b) of  
30 Section 22442.

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

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

36 22442.6. (a) It is unlawful for an immigration consultant to  
37 demand or accept the advance payment of any funds from a person  
38 for immigration reform act services before the enactment of an  
39 immigration reform act, as defined in subdivision (b) of Section  
40 22442.5.

1 (b) Any funds received after the effective date of this section,  
2 but before the enactment of an immigration reform act, as defined  
3 in subdivision (b) of Section 22442.5, shall be refunded to the  
4 client *promptly, but no later than 30 days after receipt of any funds.*

5 (c) (1) If an immigration consultant providing immigration  
6 reform act services accepted funds prior to the effective date of  
7 this section, and the services provided in connection with payment  
8 of those funds were rendered, the consultant shall *promptly, but*  
9 *no later than 30 days after the effective date of this section,* provide  
10 the client with a statement of accounting describing the services  
11 rendered.

12 (2) (A) Any funds received before the effective date of this  
13 section ~~and before the enactment of an immigration reform act,~~  
14 for which immigration reform act services ~~have not yet been~~ *were*  
15 *not rendered prior to the effective date of this section,* shall either  
16 be refunded to the client or shall be deposited in a client trust  
17 account pursuant to Section 22442.5.

18 (B) If an immigration consultant deposits funds in a client trust  
19 account pursuant to this paragraph, he or she shall comply with  
20 all applicable provisions of this chapter, including Section 22442,  
21 and shall provide to the client a written notice, in both English and  
22 in the client's native language, that there are no benefits or relief  
23 ~~that are available and~~ *available,* that no application for such  
24 benefits or relief may be processed until enactment of an  
25 immigration reform act and the related necessary federal  
26 regulations and forms, *and that commencing with the effective date*  
27 *of this section, it is unlawful for an immigration consultant to*  
28 *demand or accept the advance payment of any funds from a person*  
29 *for immigration reform act services before the enactment of an*  
30 *immigration reform act.*

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

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

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

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

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

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

20 22443.1. (a) (1) Prior to engaging in the business, or acting  
21 in the capacity, of an immigration consultant, each person shall  
22 file with the Secretary of State a bond of fifty thousand dollars  
23 (\$50,000) executed by a corporate surety admitted to do business  
24 in this state and conditioned upon compliance with this chapter.  
25 The total aggregate liability on the bond shall be limited to fifty  
26 thousand dollars (\$50,000).

27 (2) The bond may be terminated pursuant to Section 995.440  
28 of, and Article 13 (commencing with Section 996.310) of Chapter  
29 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

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

37 (c) An immigration consultant who is required to file a surety  
38 bond with the Secretary of State shall also file a disclosure form  
39 with the Secretary of State that contains all of the following  
40 information:

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

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

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

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

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

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

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

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

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

34 (1) A copy of valid and current photo identification to determine  
35 the immigration consultant's identity, such as a California driver's  
36 license or identification card, passport, or other identification  
37 acceptable to the Secretary of State.

38 (2) A photograph of himself or herself with the dimensions and  
39 in the style that would be acceptable to the U.S. Department of  
40 State for obtaining a United States passport, as instructed by the

1 Secretary of State. An immigration consultant bonded on or before  
2 December 31, 2006, shall submit the photograph on or before July  
3 1, 2007.

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

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

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

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

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

20 22443.1. (a) (1) Prior to engaging in the business, or acting  
21 in the capacity, of an immigration consultant, each person shall  
22 file with the Secretary of State a bond of one hundred thousand  
23 dollars (\$100,000) executed by a corporate surety admitted to do  
24 business in this state and conditioned upon compliance with this  
25 chapter. The total aggregate liability on the bond shall be limited  
26 to one hundred thousand dollars (\$100,000).

27 (2) The bond may be terminated pursuant to Section 995.440  
28 of, and Article 13 (commencing with Section 996.310) of Chapter  
29 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

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

37 (c) An immigration consultant who is required to file a surety  
38 bond with the Secretary of State shall also file a disclosure form  
39 with the Secretary of State that contains all of the following  
40 information:

- 1 (1) The immigration consultant’s name, date of birth, residence  
2 address, business address, residence telephone number, and  
3 business telephone number.
- 4 (2) The name and address of the immigration consultant’s agent  
5 for service of process if one is required to be or has been appointed.
- 6 (3) Whether the immigration consultant has ever been convicted  
7 of a violation of this chapter or of Section 6126.
- 8 (4) Whether the immigration consultant has ever been arrested  
9 or convicted of a crime.
- 10 (5) If applicable, the name, business address, business telephone  
11 number, and agent for service of process of the corporation or  
12 partnership employing the immigration consultant.
- 13 (d) An immigration consultant shall notify the Secretary of  
14 State’s office in writing within 30 days when the surety bond  
15 required by this section is renewed, and of any change of name,  
16 address, telephone number, or agent for service of process.
- 17 (e) The Secretary of State shall post information on its Internet  
18 Web site demonstrating that an immigration consultant is in  
19 compliance with the bond required by this section and has  
20 satisfactorily passed the background check required under Section  
21 22441.1, and shall also post a copy of the immigration consultant’s  
22 photograph. The Secretary of State shall ensure that the information  
23 is current and shall update the information at least every 30 days.  
24 The Secretary of State shall only post this information and  
25 photograph on its Internet Web site if the person has filed and  
26 maintained the bond, filed the disclosure form and photograph  
27 required to be filed with the Secretary of State, and passed the  
28 background check required by Section 22441.1.
- 29 (f) The Secretary of State shall develop the disclosure form  
30 required to file a bond under this section and make it available to  
31 any immigration consultant filing a bond pursuant to this section.
- 32 (g) An immigration consultant shall submit all of the following  
33 with the disclosure form:
- 34 (1) A copy of valid and current photo identification to determine  
35 the immigration consultant’s identity, such as a California driver’s  
36 license or identification card, passport, or other identification  
37 acceptable to the Secretary of State.
- 38 (2) A photograph of himself or herself with the dimensions and  
39 in the style that would be acceptable to the United States



1 Department of State for obtaining a United States passport, as  
2 instructed by the Secretary of State.

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

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

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9 not apply to employees of nonprofit, tax-exempt corporations who  
10 help clients complete application forms in an immigration matter  
11 free of charge or for a nominal fee, including reasonable costs,  
12 consistent with that authorized by the Board of Immigration  
13 Appeals under Section 292.2 of Title 8 of the Code of Federal  
14 Regulations.

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

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

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

29 In order to implement measures as quickly as possible and as  
30 necessary to prevent fraud on immigrants by attorneys and other  
31 persons by making promises of benefits and relief under pending  
32 and proposed federal immigration reform acts before their  
33 enactment, it is necessary that this act take effect immediately.