

AMENDED IN SENATE SEPTEMBER 11, 2013

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

Introduced by Assembly Member Gonzalez

(Principal coauthor: Senator De León)

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

(Coauthors: Senators Anderson, Block, and Hueso)

February 22, 2013

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, 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 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” or “to
10 literally translate” a word, title, or phrase from one language means
11 the translation of a word, title, or phrase without regard to the true
12 meaning of the word or phrase in the language that is being
13 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 expenditure
40 of funds for the preceding calendar year, as authorized by this

1 section, to the Assembly and Senate Committees on Judiciary. The
2 report required by this section may be included in the report
3 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 to be performed in
12 connection with payment of those funds were rendered, the attorney
13 shall promptly, but no later than 30 days after the effective date
14 of this section, provide the client with a statement of accounting
15 describing the services rendered.

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

20 (B) If an attorney deposits funds in a client trust account
21 pursuant to this paragraph, he or she shall provide a written notice,
22 in both English and the client's native language, informing the
23 client of the following:

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

32 (ii) That he or she may report complaints to the Executive Office
33 for Immigration Review of the United States Department of Justice,
34 to the State Bar of California, or to the bar of the court of any state,
35 possession, territory, or commonwealth of the United States or of
36 the District of Columbia where the attorney is admitted to practice
37 law. The notice shall include the toll-free telephone numbers and
38 Internet Web sites of those entities.

39 6243. (a) (1) When a contract for legal services is required in
40 writing pursuant to Section 6148, or is subject to Section 1632 of

1 the Civil Code, an attorney providing immigration reform act
2 services shall provide a written notice informing the client that he
3 or she may report complaints to the Executive Office for
4 Immigration Review of the United States Department of Justice,
5 to the State Bar of California, or to the bar of the court of any state,
6 possession, territory, or commonwealth of the United States or of
7 the District of Columbia where the attorney is admitted to practice
8 law. The notice shall include the toll-free telephone numbers and
9 Internet Web sites of those entities.

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

14 (3) The notice shall be attached or incorporated into any written
15 contract for immigration reform act services. If the notice is
16 attached to a written contract, it shall be signed by both the attorney
17 and the client.

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

26 (2) Notwithstanding paragraph (1), an attorney providing
27 immigration reform act services who meets the criteria of
28 subdivision (b) of Section ~~6141~~ 6241 shall be responsible for
29 adding and translating the name of, toll-free telephone number of,
30 and information on the Internet Web site for, the bar of the court
31 of any state, possession, territory, or commonwealth of the United
32 States or the District of Columbia in which he or she is admitted
33 to practice law.

34 (c) Failure to comply with any provision of this section renders
35 the contract voidable at the option of the client, and the attorney
36 shall, upon the contract being voided, be entitled to collect a
37 reasonable fee.

38 (d) This section shall become operative when the State Bar posts
39 on its Internet Web site the form and translations required by
40 paragraph (1) of subdivision (b). The State Bar shall post the form

1 and translations as soon as practicable, but no later than 45 days
2 after the effective date of this section.

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

5 22442. (a) Every person engaged in the business, or acting in
6 the capacity of, an immigration consultant who enters into a
7 contract or agreement with a client to provide services shall, prior
8 to providing any services, provide the client with a written contract,
9 the contents of which shall be prescribed by the Department of
10 Consumer Affairs in regulations.

11 (b) The written contract shall include all provisions relating to
12 the following:

13 (1) The services to be performed. Each service to be performed
14 shall be itemized with an explanation of the purpose and process
15 of each service.

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

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

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

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

31 (6) The written contract shall include a provision that informs
32 the client that he or she may report complaints relating to
33 immigration consultants to the Executive Office for Immigration
34 Review of the United States Department of Justice. The written
35 contract shall also include a provision stating that complaints
36 concerning the unauthorized practice of law may be reported to
37 the State Bar of California. These required provisions shall include
38 the toll-free telephone numbers and Internet Web sites of those
39 entities.

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

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

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

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

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

14 (f) The client shall have the right to rescind the contract within
15 72 hours of signing the contract. The contents of this subdivision
16 shall be conspicuously set forth in the written contract in both
17 English and the client's native language.

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

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

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

30 22442.3. (a) An immigration consultant shall not, with the
31 intent to mislead, literally translate, from English into another
32 language, any words or titles, including, but not limited to, "notary
33 public," "notary," "licensed," "attorney," or "lawyer," that imply
34 that the person is an attorney, in any document, including an
35 advertisement, stationery, letterhead, business card, or other
36 comparable written material describing the immigration consultant.
37 As provided in this subdivision, the literal translation of the phrase
38 "notary public" in to Spanish as "notario publico" or "notario," is
39 expressly prohibited.

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

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

10 (d) A violation of subdivision (a) or (c) by an immigration
11 consultant shall constitute a violation of subdivision (a) of Section
12 6126.

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

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

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

24 (B) The number of violations.

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

27 (D) The willfulness of the misconduct.

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

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

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

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

3 22442.5. (a) An immigration consultant who provides
4 immigration reform act services shall establish and deposit into a
5 client trust account any funds received from a client prior to
6 performing those services for that client.

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

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

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

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

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

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

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

34 22442.6. (a) It is unlawful for an immigration consultant to
35 demand or accept the advance payment of any funds from a person
36 for immigration reform act services before the enactment of an
37 immigration reform act, as defined in subdivision (b) of Section
38 22442.5.

39 (b) Any funds received after the effective date of this section,
40 but before the enactment of an immigration reform act, as defined

1 in subdivision (b) of Section 22442.5, shall be refunded to the
2 client promptly, but no later than 30 days after receipt of any funds.

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

10 (2) (A) Any funds received before the effective date of this
11 section, for which immigration reform act services were not
12 rendered prior to the effective date of this section, shall either be
13 refunded to the client or shall be deposited in a client trust account
14 pursuant to Section 22442.5.

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

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

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

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

38 (B) The number of violations.

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

1 (D) The willfulness of the misconduct.

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

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

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

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

16 22443.1. (a) (1) Prior to engaging in the business, or acting
17 in the capacity, of an immigration consultant, each person shall
18 file with the Secretary of State a bond of fifty thousand dollars
19 (\$50,000) executed by a corporate surety admitted to do business
20 in this state and conditioned upon compliance with this chapter.
21 The total aggregate liability on the bond shall be limited to fifty
22 thousand dollars (\$50,000).

23 (2) The bond may be terminated pursuant to Section 995.440
24 of, and Article 13 (commencing with Section 996.310) of Chapter
25 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

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

33 (c) An immigration consultant who is required to file a surety
34 bond with the Secretary of State shall also file a disclosure form
35 with the Secretary of State that contains all of the following
36 information:

37 (1) The immigration consultant’s name, date of birth, residence
38 address, business address, residence telephone number, and
39 business telephone number.

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

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

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

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

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

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

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

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

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

35 (2) A photograph of himself or herself with the dimensions and
36 in the style that would be acceptable to the U.S. Department of
37 State for obtaining a United States passport, as instructed by the
38 Secretary of State. An immigration consultant bonded on or before
39 December 31, 2006, shall submit the photograph on or before July
40 1, 2007.

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

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

5 (j) This section does not apply to employees of nonprofit,
6 tax-exempt corporations who help clients complete application
7 forms in an immigration matter free of charge or for a nominal
8 fee, including reasonable costs, consistent with that authorized by
9 the Board of Immigration Appeals under Section 292.2 of Title 8
10 of the Code of Federal Regulations.

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

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

15 22443.1. (a) (1) Prior to engaging in the business, or acting
16 in the capacity, of an immigration consultant, each person shall
17 file with the Secretary of State a bond of one hundred thousand
18 dollars (\$100,000) executed by a corporate surety admitted to do
19 business in this state and conditioned upon compliance with this
20 chapter. The total aggregate liability on the bond shall be limited
21 to one hundred thousand dollars (\$100,000).

22 (2) The bond may be terminated pursuant to Section 995.440
23 of, and Article 13 (commencing with Section 996.310) of Chapter
24 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

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

32 (c) An immigration consultant who is required to file a surety
33 bond with the Secretary of State shall also file a disclosure form
34 with the Secretary of State that contains all of the following
35 information:

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

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

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

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

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

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

12 (e) The Secretary of State shall post information on its Internet
13 Web site demonstrating that an immigration consultant is in
14 compliance with the bond required by this section and has
15 satisfactorily passed the background check required under Section
16 22441.1, and shall also post a copy of the immigration consultant's
17 photograph. The Secretary of State shall ensure that the information
18 is current and shall update the information at least every 30 days.
19 The Secretary of State shall only post this information and
20 photograph on its Internet Web site if the person has filed and
21 maintained the bond, filed the disclosure form and photograph
22 required to be filed with the Secretary of State, and passed the
23 background check required by Section 22441.1.

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

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

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

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

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

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

1 (j) This section does not apply to employees of nonprofit,
2 tax-exempt corporations who help clients complete application
3 forms in an immigration matter free of charge or for a nominal
4 fee, including reasonable costs, consistent with that authorized by
5 the Board of Immigration Appeals under Section 292.2 of Title 8
6 of the Code of Federal Regulations.

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

8 SEC. 9. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

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

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