

AMENDED IN ASSEMBLY APRIL 1, 2014  
AMENDED IN ASSEMBLY MARCH 20, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1859**

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**Introduced by Assembly Member Maienschein**

February 19, 2014

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An act to add Article 7 (commencing with Section 6600) to Chapter 6 of Division 3 of the Business and Professions Code, *and to add Sections 2104.5, 8406, and 15605 to the Probate Code*, relating to professional fiduciaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 1859, as amended, Maienschein. Professional fiduciaries: professional corporations.

Existing law, the Professional Fiduciaries Act, establishes the Professional Fiduciaries Bureau within the Department of Consumer Affairs and requires the bureau to license and regulate professional fiduciaries, as specified.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under specified provisions of law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act defines professional services as services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

This bill would provide for the formation of licensed professional fiduciary corporations pursuant to the act described above, as specified. The bill would provide that it is unprofessional conduct and a violation

of the Professional Fiduciaries Act to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate these provisions, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws. The bill would require the name of a licensed professional fiduciary corporation and any name or names under which it may render professional services to contain the words “professional fiduciary” and wording or abbreviations denoting corporate existence. The bill would require each director, shareholder, and officer of a licensed professional fiduciary corporation to be a licensed professional fiduciary. The bill would prohibit the income of a licensed professional fiduciary corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined, from accruing, in any manner, to the benefit of the shareholder or his or her shares in the licensed professional fiduciary corporation. The bill would authorize the bureau to adopt and enforce regulations to carry out these provisions.

*Existing law governing the administration of estates and trusts authorizes the appointment of a person as a personal representative of a decedent’s estate, a guardian or conservator of a person or an estate, or a trustee. Existing law defines “person” to include a corporation for these purposes.*

*This bill would provide that if a professional fiduciary corporation is appointed as a guardian, conservator, trustee, or personal representative, each shareholder, officer, director, or employee of the corporation who is a professional fiduciary may individually exercise the powers and duties of that appointment.*

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

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

1 SECTION 1. Article 7 (commencing with Section 6600) is  
2 added to Chapter 6 of Division 3 of the Business and Professions  
3 Code, to read:

4  
5 Article 7. Licensed Professional Fiduciary Corporations

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7 6600. (a) A licensed professional fiduciary corporation is a  
8 corporation that is authorized to render professional services, as  
9 defined in Section 13401 of the Corporations Code, if that

1 corporation and its shareholders, officers, directors, and employees  
2 rendering professional services who are licensed professional  
3 fiduciaries are in compliance with the Moscone-Knox Professional  
4 Corporation Act, the provisions of this article, and all other statutes  
5 and regulations pertaining to the corporation and the conduct of  
6 its affairs. With respect to a licensed professional fiduciary  
7 corporation, the governmental agency referred to in the  
8 Moscone-Knox Professional Corporation Act (Part 4 (commencing  
9 with Section 13400) of Division 3 of Title 1 of the Corporations  
10 Code) is the Professional Fiduciaries Bureau.

11 6601. It is unprofessional conduct and a violation of this chapter  
12 for any person licensed pursuant to this chapter to violate, attempt  
13 to violate, directly or indirectly, or assist in or abet the violation  
14 of, or conspire to violate any provision or term of this article, the  
15 Moscone-Knox Professional Corporation Act, or any regulations  
16 duly adopted under those provisions.

17 6602. A licensed professional fiduciary corporation shall not  
18 commit or omit any act that, if committed or omitted, would  
19 constitute unprofessional conduct under any statute or regulation.  
20 A licensed professional fiduciary corporation, in the conduct of  
21 its practice, shall observe and be bound by these statutes and  
22 regulations to the same extent as a person holding a license under  
23 this chapter.

24 6603. The name of a licensed professional fiduciary corporation  
25 and any name or names under which it may render professional  
26 services shall contain the words “professional fiduciary” and  
27 wording or abbreviations denoting corporate existence.

28 6604. Except as provided in Section 13403 of the Corporations  
29 Code, each director, shareholder, and officer of a licensed  
30 professional fiduciary corporation shall be a licensed professional  
31 fiduciary.

32 6605. The income of a licensed professional fiduciary  
33 corporation attributable to professional services rendered while a  
34 shareholder is a disqualified person, as defined in Section 13401  
35 of the Corporations Code, shall not in any manner accrue to the  
36 benefit of the shareholder or his or her shares in the licensed  
37 professional fiduciary corporation.

38 6606. The bureau may adopt and enforce regulations to carry  
39 out the purposes and objectives of this article, including the  
40 following:

1 (a) A regulation that requires the bylaws of a licensed  
2 professional fiduciary corporation to include a provision that  
3 requires the capital stock of the corporation owned by a disqualified  
4 person, as defined in Section 13401 of the Corporations Code, or  
5 a deceased person, to be sold to the corporation or to the remaining  
6 shareholders of the corporation within the timeframe provided by  
7 the regulation.

8 (b) A regulation that requires a licensed professional fiduciary  
9 corporation to provide adequate security by insurance or otherwise  
10 for claims against the corporation by its customers arising out of  
11 the rendering of professional services.

12 *SEC. 2. Section 2104.5 is added to the Probate Code, to read:*

13 *2104.5. If a professional fiduciary corporation is appointed*  
14 *as a guardian or conservator, each shareholder, officer, director,*  
15 *or employee of the corporation who is a professional fiduciary*  
16 *may individually exercise the powers and duties of the guardian*  
17 *or conservator.*

18 *SEC. 3. Section 8406 is added to the Probate Code, to read:*

19 *8406. If a professional fiduciary corporation is appointed as*  
20 *a personal representative, each shareholder, officer, director, or*  
21 *employee of the corporation who is a professional fiduciary may*  
22 *individually exercise the powers and duties of the personal*  
23 *representative.*

24 *SEC. 4. Section 15605 is added to the Probate Code, to read:*

25 *15605. If a professional fiduciary corporation is appointed as*  
26 *a trustee, each shareholder, officer, director, or employee of the*  
27 *corporation who is a professional fiduciary may individually*  
28 *exercise the powers and duties of the trustee.*