

ASSEMBLY BILL

No. 2024

Introduced by Assembly Member Bonilla

February 20, 2014

An act to amend Sections 6531, 6538, 6580, and 6592 of, and to add Sections 6541.1 and 6542 to, the Business and Professions Code, relating to professional fiduciaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 2024, as introduced, Bonilla. Professional fiduciaries.

(1) Under the Professional Fiduciaries Act, the Professional Fiduciaries Bureau, until January 1, 2015, licenses and regulates professional fiduciaries. The act prohibits a professional fiduciary from operating with an expired, suspended, or revoked license.

This bill would also prohibit a professional fiduciary from operating with a retired or canceled license. The bill would provide that a license that is not renewed within 3 years following its expiration shall not be renewed, restored, or reinstated, and would require the license to be canceled immediately upon expiration of the 3-year period. The bill would authorize the bureau to establish by regulation a system for the placement of a license into retired status, as specified, for a professional fiduciary who is not actively engaged in the practice of a professional fiduciary or any activity that requires him or her to be licensed by the bureau.

(2) The act authorizes the bureau, upon its own, and requires the bureau, upon the receipt of a complaint from any person, to investigate the actions of any professional fiduciary.

This bill would expand the bureau's authority and obligation to investigate a person who holds a license that either restricts or prohibits

that person from practicing as a professional fiduciary, including, but not limited to, a license that is retired, inactive, canceled, or suspended.

(3) Under the act, the bureau sets licensing and renewal licensing fees by regulation at an amount necessary to recover the costs to the bureau in carrying out the provisions of the act, and all fees collected are paid into the Professional Fiduciary Fund.

This bill would require the bureau to set fees to designate a license status of retired or inactive, or to reinstate a license to active from retired or inactive status. The bill would require the bureau to set those fees by regulation at amounts necessary to recover the reasonable costs of the bureau in carrying out those functions.

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. Section 6531 of the Business and Professions
2 Code is amended to read:

3 6531. ~~No~~A professional fiduciary shall *not* operate with an
4 expired, suspended, *retired, canceled,* or revoked license.

5 SEC. 2. Section 6541.1 is added to the Business and Professions
6 Code, to read:

7 6541.1. A license that is not renewed within three years
8 following its expiration shall not be renewed, restored, or
9 reinstated, and the license shall be canceled immediately upon
10 expiration of the three-year period.

11 SEC. 3. Section 6538 of the Business and Professions Code is
12 amended to read:

13 6538. (a) To qualify for licensure, an applicant shall have
14 completed 30 hours of prelicensing education courses provided
15 by an educational program approved by the bureau.

16 (b) To renew a license, *or to restore a license from retired status*
17 *to active status,* a licensee shall complete 15 hours of approved
18 continuing education courses each year.

19 (c) The cost of any educational course required by this chapter
20 shall not be borne by any client served by a licensee.

21 SEC. 4. Section 6542 is added to the Business and Professions
22 Code, to read:

23 6542. (a) The bureau may establish, by regulation, a system
24 for the placement of a license into retired status, upon application

1 and submission to the bureau of a statement as required by Section
2 6561, for a professional fiduciary who is not actively engaged in
3 the practice of a professional fiduciary or any activity that requires
4 him or her to be licensed by the bureau.

5 (b) The bureau shall deny an applicant’s application to place a
6 license in retired status if the license is subject to an outstanding
7 order of the bureau, suspended, placed on probation, revoked, or
8 otherwise punitively restricted by the bureau, or subject to
9 disciplinary action under this chapter.

10 (c) The holder of a retired license shall not be required to renew
11 that license.

12 (d) The bureau shall establish minimum qualifications to place
13 a license in retired status.

14 (e) The bureau shall establish minimum qualifications for the
15 restoration of a license from retired status to active status. These
16 minimum qualifications shall include, but are not limited to,
17 completion of continuing education hours as provided in
18 subdivision (b) of Section 6538, submission of a statement as
19 provided in subdivision (a) of Section 6561, and payment of a fee
20 as provided in subdivision (e) of Section 6592.

21 SEC. 5. Section 6580 of the Business and Professions Code is
22 amended to read:

23 6580. (a) The bureau may upon its own, and shall, upon the
24 receipt of a complaint from any person, investigate the actions of
25 any professional fiduciary, *including a person with a license that*
26 *either restricts or prohibits the practice of that person as a*
27 *professional fiduciary, including, but not limited to, a license that*
28 *is retired, inactive, canceled, or suspended.* The bureau shall
29 review a professional fiduciary’s alleged violation of statute,
30 regulation, or the Professional Fiduciaries Code of Ethics and any
31 other complaint referred to it by the public, a public agency, or the
32 department, and may impose sanctions upon a finding of a violation
33 or a breach of fiduciary duty.

34 (b) Sanctions shall include any of the following:

35 (1) Administrative citations and fines as provided in Section
36 125.9 for a violation of this chapter, the Professional Fiduciaries
37 Code of Ethics, or any regulation adopted under this chapter.

38 (2) License suspension, probation, or revocation.

39 (c) The bureau shall provide on the Internet information
40 regarding any sanctions imposed by the bureau on licensees,

1 including, but not limited to, information regarding citations, fines,
2 suspensions, and revocations of licenses or other related
3 enforcement action taken by the bureau relative to the licensee.

4 SEC. 6. Section 6592 of the Business and Professions Code is
5 amended to read:

6 6592. (a) The fee for a professional fiduciary examination and
7 reexamination shall be set by the bureau through regulation at the
8 amount necessary to recover the actual costs to develop and
9 administer the examination.

10 (b) The license fee to obtain a professional fiduciary license
11 shall be set by the bureau.

12 (c) The renewal fee for a professional fiduciary license shall be
13 set by the bureau.

14 ~~(d) The license and renewal fees under subdivisions (b) and (e)~~
15 ~~shall be set by the bureau through regulation at an amount~~
16 ~~necessary to recover the costs to the bureau in carrying out the~~
17 ~~provisions of this chapter.~~

18 *(d) The bureau shall set the fee to designate a license status of*
19 *“retired.”*

20 *(e) The fee to designate a license status of “inactive” shall be*
21 *set by the bureau.*

22 *(f) The bureau shall set the fee to reinstate a license to “active”*
23 *from a status of “retired” or “inactive.”*

24 *(g) The bureau shall set the fees pursuant to subdivisions (b),*
25 *(c), (d), (e), and (f) by regulation at an amount necessary to recover*
26 *the reasonable costs to the bureau in carrying out those functions*
27 *pursuant to this chapter.*