

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 285

Introduced by Assembly Member Gallagher

February 11, 2015

An act to amend Sections ~~6407 and 6408~~ of 6400, 6402, 6403, 6404, 6405, 6406, 6407, 6408, 6410, 6410.5, 22355, and 22457 of, and to add Sections 6402.2 and 6409.1 to, the Business and Professions Code, relating to ~~legal assistants~~. *professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 285, as amended, Gallagher. ~~Legal assistants. Professions and vocations: registration.~~

(1) Existing law defines and regulates the activities of legal document assistants and unlawful detainer assistants, as those terms are ~~defined, including requiring a legal document assistant or unlawful detainer assistant to be registered, as specified. Existing defined.~~ Existing law requires a legal document assistant or unlawful detainer assistant to be registered in the county in which his or her principal place of business is located, which is deemed the primary place of registration, and in any other county in which he or she performs acts for which registration is required, which is deemed a secondary place of registration. A violation of this requirement is a misdemeanor. Existing law prohibits a legal document assistant from providing self-help service, as defined, for compensation unless he or she is registered in the county in which his or her principal place of business is located

and in any other county in which he or she performs acts for which registration is required. Existing law requires a county clerk to, among other things, issue an identification card to each registered legal document assistant and unlawful detainer assistant.

This bill would delete the requirement that a legal document assistant or an unlawful detainer assistant be registered in any other county in which he or she performs acts for which registration is required. The bill would also specify that a legal document assistant registered in the county in which his or her principal place of business is located and in which he or she maintains a branch office may provide self-help services in any part of this state. The bill would also delete references to primary and secondary places of registration. The bill would require a legal document assistant or unlawful detainer assistant to provide his or her identification card when filing documents in a county other than the county of his or her registration.

(2) Existing law requires an applicant for registration as a legal document assistant to meet specified educational requirements. Existing law requires the county clerk to, among other things, return an application and fee to an applicant, along with notice indicating the reason for the denial and the method of appeal, if the clerk finds that the applicant has not complied with the educational requirements for registration as a legal document assistant.

This bill would additionally require an applicant for renewal of registration as a legal document assistant or unlawful detainer assistant to complete 15 hours of continuing legal education courses during the 2-year period preceding renewal from a provider approved by the State Bar. The bill would require the applicant to state on his or her application for renewal, under penalty of perjury, that the applicant has completed the required continuing legal education courses. The bill would require the county clerk to return an application and fee to an applicant for renewal who fails to comply with this requirement.

By revising the duties of county clerks with respect to the renewal of registration of legal document assistants and unlawful detainer assistants, and by expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

(3) Existing law provides for the renewal of registration ~~under these provisions~~ of a legal document assistant or unlawful detainer assistant and requires the county clerk to assign the same registration number to a legal document assistant or an unlawful detainer assistant renewing

his or her registration provided that there is no lapse in the period of registration.

Existing law defines and regulates the activities of process servers and professional photocopiers, as those terms are defined, including requiring a process server or professional photocopier to be registered, as specified. Existing law provides for the renewal of registration under these provisions and requires the county clerk to assign the same registration number to a process server or professional photocopier renewing his or her registration provided that there is no lapse in the period of registration.

This bill would instead require the county clerk to assign the same registration number ~~regardless of whether the period of registration has lapsed~~ to a registrant in any of the above-described professions, provided that there is no lapse of three years or more in the period of registration.

By changing the process by which county clerks renew registration of legal document ~~assistants~~ and assistants, unlawful detainer assistants, process servers, and professional photocopiers, this bill would impose a state-mandated local program.

(2)

(4) Existing law requires a registered legal document assistant or unlawful detainer assistant to include his or her name, business address, telephone number, registration number, expiration date of the registration, and county of registration in any solicitation or advertisement, and on any papers or documents prepared or used by the registrant. A violation of this requirement is a misdemeanor.

This bill would delete the requirement that the expiration date of the registration appear on any papers or documents prepared or used by the registrant. The bill would also require the legal document assistant or unlawful detainer assistant to include his or her name, business address, telephone number, registration number, expiration date of the registration, and county of registration on a written contract for services required to be provided to a client, on any Internet Web site maintained by the registrant, and in any solicitation, advertisement, document, or correspondence prepared or used by the registrant in electronic form.

By changing the scope of a crime, this bill would impose a state-mandated local program.

(5) *Existing law prescribes the proper county of venue in civil actions.*

This bill, notwithstanding any other law, would provide that the proper venue in an action between a legal document assistant or unlawful

detainer assistant and his or her client is the county in which the client has his or her primary residence. The bill would require a written contract entered into on or after January 1, 2016, between the legal document assistant or unlawful detainer assistant and his or her client to include a statement to this effect and would make a contract voidable at the clients option for failure to comply with this requirement.

(6) Existing law requires a legal document assistant or unlawful detainer assistant to make specified statements to a prospective client indicating that he or she is not a lawyer and authorizes the legal document assistant or unlawful detainer assistant to have the prospective client read and sign a “Notice to Consumer” indicating that the legal document assistant or unlawful detainer assistant has provided this information.

This bill would additionally require the legal document assistant or unlawful detainer assistant to inform the prospective client of the county in which he or she, or the partnership or corporation, is registered, the registration number assigned by the county, and the expiration date of his or her, or of the partnership’s or corporation’s, current registration period. The bill would require the “Notice to Consumer” to include this information.

~~(3)~~

(7) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. 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 6400 of the Business and Professions
- 2 Code is amended to read:
- 3 6400. (a) “Unlawful detainer assistant” means any individual
- 4 who for compensation renders assistance or advice in the
- 5 prosecution or defense of an unlawful detainer claim or action,

1 including any bankruptcy petition that may affect the unlawful
2 detainer claim or action.

3 (b) “Unlawful detainer claim” means a proceeding, filing, or
4 action affecting rights or liabilities of any person that arises under
5 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
6 the Code of Civil Procedure and that contemplates an adjudication
7 by a court.

8 (c) “Legal document assistant” means:

9 (1) Any person who is not exempted under Section 6401 and
10 who provides, or assists in providing, or offers to provide, or offers
11 to assist in providing, for compensation, any self-help service to
12 a member of the public who is representing himself or herself in
13 a legal matter, or who holds himself or herself out as someone who
14 offers that service or has that authority. This paragraph does not
15 apply to any individual whose assistance consists merely of
16 secretarial or receptionist services.

17 (2) A corporation, partnership, association, or other entity that
18 employs or contracts with any person not exempted under Section
19 6401 who, as part of his or her responsibilities, provides, or assists
20 in providing, or offers to provide, or offers to assist in providing,
21 for compensation, any self-help service to a member of the public
22 who is representing himself or herself in a legal matter or holds
23 himself or herself out as someone who offers that service or has
24 that authority. This paragraph does not apply to an individual
25 whose assistance consists merely of secretarial or receptionist
26 services.

27 (d) “Self-help service” means all of the following:

28 (1) Completing legal documents in a ministerial manner, selected
29 by a person who is representing himself or herself in a legal matter,
30 by typing or otherwise completing the documents at the person’s
31 specific direction.

32 (2) Providing general published factual information that has
33 been written or approved by an attorney, pertaining to legal
34 procedures, rights, or obligations to a person who is representing
35 himself or herself in a legal matter, to assist the person in
36 representing himself or herself. This service in and of itself, shall
37 not require registration as a legal document assistant.

38 (3) Making published legal documents available to a person
39 who is representing himself or herself in a legal matter.

1 (4) Filing and serving legal forms and documents at the specific
 2 direction of a person who is representing himself or herself in a
 3 legal matter.

4 (e) “Compensation” means money, property, or anything else
 5 of value.

6 (f) A legal document assistant, including any legal document
 7 assistant employed by a partnership or corporation, ~~may shall~~ not
 8 provide any self-help service for compensation, unless the legal
 9 document assistant is registered ~~in the county in which his or her~~
 10 ~~principal place of business is located and in any other county in~~
 11 ~~which he or she performs acts for which registration is required.~~
 12 *pursuant to Section 6402.*

13 (g) A legal document assistant may not provide any kind of
 14 advice, explanation, opinion, or recommendation to a consumer
 15 about possible legal rights, remedies, defenses, options, selection
 16 of forms, or strategies. A legal document assistant shall complete
 17 documents only in the manner prescribed by paragraph (1) of
 18 subdivision (d).

19 *SEC. 2. Section 6402 of the Business and Professions Code is*
 20 *amended to read:*

21 6402. A legal document assistant or unlawful detainer assistant
 22 shall be registered pursuant to this chapter by the county clerk in
 23 the county in which his or her principal place of business is located
 24 ~~(deemed primary registration), and in any other county in which~~
 25 ~~he or she performs acts for which registration is required (deemed~~
 26 ~~secondary registration). Any registration in a county, other than~~
 27 ~~the county of the person’s place of business, shall state the person’s~~
 28 ~~principal place of business located, and in which he or she~~
 29 ~~maintains a branch office, and provide proof that the registrant~~
 30 has satisfied the bonding requirement of Section 6405. No person
 31 who has been disbarred or suspended from the practice of law
 32 pursuant to Article 6 (commencing with Section 6100) of Chapter
 33 4 may, during the period of any disbarment or suspension, register
 34 as a legal document assistant or unlawful detainer assistant. The
 35 Department of Consumer Affairs shall develop the application
 36 required to be completed by a person for purposes of registration
 37 as a legal document assistant. The application shall specify the
 38 types of proof that the applicant shall provide to the county clerk
 39 in order to demonstrate the qualifications and requirements of
 40 Section 6402.1.

1 SEC. 3. Section 6402.2 is added to the Business and Professions
2 Code, to read:

3 6402.2. To be eligible to renew registration under this chapter,
4 the registrant shall complete 15 hours of continuing legal education
5 courses during the two-year period preceding renewal from a
6 provider approved by the State Bar.

7 SEC. 4. Section 6403 of the Business and Professions Code is
8 amended to read:

9 6403. (a) The application for registration of a natural person
10 shall contain all of the following statements about the applicant:

- 11 (1) Name, age, address, and telephone number.
- 12 (2) Whether he or she has been convicted of a felony, or of a
13 misdemeanor under Section 6126 or 6127, or found liable under
14 Section 6126.5.
- 15 (3) Whether he or she has been held liable in a civil action by
16 final judgment or entry of a stipulated judgment, if the action
17 alleged fraud, the use of an untrue or misleading representation,
18 or the use of an unfair, unlawful, or deceptive business practice.
- 19 (4) Whether he or she has ever been convicted of a misdemeanor
20 violation of this chapter.

21 (5) Whether he or she has had a civil judgment entered against
22 him or her in an action arising out of the applicant's negligent,
23 reckless, or willful failure to properly perform his or her obligation
24 as a legal document assistant or unlawful detainer assistant.

25 (6) Whether he or she has had a registration revoked pursuant
26 to Section 6413.

27 ~~(7) Whether this is a primary or secondary registration. If it is
28 a secondary registration, the county in which the primary
29 registration is filed.~~

30 (7) *If the application is for a renewal of registration, a statement
31 by the applicant that he or she has completed the legal education
32 courses required by Section 6402.2.*

33 (b) The application for registration of a natural person shall be
34 accompanied by the display of personal identification, such as a
35 California driver's license, birth certificate, or other identification
36 acceptable to the county clerk to adequately determine the identity
37 of the applicant.

38 (c) The application for registration of a partnership or
39 corporation shall contain all of the following statements about the
40 applicant:

1 (1) The names, ages, addresses, and telephone numbers of the
2 general partners or officers.

3 (2) Whether the general partners or officers have ever been
4 convicted of a felony, or a misdemeanor under Section 6126 or
5 6127, or found liable under Section 6126.5.

6 (3) Whether the general partners or officers have ever been held
7 liable in a civil action by final judgment or entry of a stipulated
8 judgment, if the action alleged fraud, the use of an untrue or
9 misleading representation, or the use of an unfair, unlawful, or
10 deceptive business practice.

11 (4) Whether the general partners or officers have ever been
12 convicted of a misdemeanor violation of this chapter.

13 (5) Whether the general partners or officers have had a civil
14 judgment entered against them in an action arising out of a
15 negligent, reckless, or willful failure to properly perform the
16 obligations of a legal document assistant or unlawful detainer
17 assistant.

18 (6) Whether the general partners or officers have ever had a
19 registration revoked pursuant to Section 6413.

20 ~~(7) Whether this is a primary or secondary registration. If it is~~
21 ~~a secondary registration, the county in which the primary~~
22 ~~registration is filed.~~

23 *(7) If the application is for a renewal of registration, a statement*
24 *by the applicant that the individuals performing legal document*
25 *assistant or unlawful detainer assistant services have completed*
26 *the legal education courses required by Section 6402.2.*

27 (d) The applications made under this section shall be made under
28 penalty of perjury.

29 (e) The county clerk shall retain the application for registration
30 for a period of three years following the expiration date of the
31 application, after which time the application may be destroyed if
32 it is scanned or if the conditions specified in Section 26205.1 of
33 the Government Code are met. If the application is scanned, the
34 scanned image shall be retained for a period of 10 years, after
35 which time that image may be destroyed and, notwithstanding
36 Section 26205.1 of the Government Code, no reproduction thereof
37 need be made or preserved.

38 *SEC. 5. Section 6404 of the Business and Professions Code is*
39 *amended to read:*

1 6404. An applicant shall pay a fee of one hundred seventy-five
2 dollars (\$175) to the county clerk at the time he or she files an
3 application for initial registration, including a primary or secondary
4 registration, registration or renewal of registration. An additional
5 fee of ten dollars (\$10) shall be paid to the county clerk for each
6 additional identification card.

7 *SEC. 6. Section 6405 of the Business and Professions Code is*
8 *amended to read:*

9 6405. (a) (1) An application for a certificate of registration
10 by an individual shall be accompanied by a bond of twenty-five
11 thousand dollars (\$25,000) executed by a corporate surety qualified
12 to do business in this state and conditioned upon compliance with
13 this chapter. The total aggregate liability on the bond shall be
14 limited to twenty-five thousand dollars (\$25,000). ~~An application~~
15 ~~for secondary registration shall meet all of the requirements of this~~
16 ~~subdivision, except that in place of posting another original bond~~
17 ~~or cash deposit, the applicant shall include a certified copy of the~~
18 ~~bond or cash deposit posted in the county in which the applicant~~
19 ~~filed the primary registration.~~

20 (2) An application for a certificate of registration by a
21 partnership or corporation shall be accompanied by a bond executed
22 by a corporate surety qualified to do business in this state and
23 conditioned upon compliance with this chapter in the following
24 amount, based on the total number of legal document assistants
25 and unlawful detainer assistants employed by the partnership or
26 corporation:

27 (A) Twenty-five thousand dollars (\$25,000) for one to four
28 assistants.

29 (B) Fifty thousand dollars (\$50,000) for five to nine assistants.

30 (C) One hundred thousand dollars (\$100,000) for 10 or more
31 assistants. An application for a certificate of registration by a
32 person employed by a partnership or corporation shall be
33 accompanied by a bond of twenty-five thousand dollars (\$25,000)
34 only if the partnership or corporation has not posted a bond in the
35 amount required by this subdivision. ~~An application for secondary~~
36 ~~registration shall meet all of the requirements of this subdivision,~~
37 ~~except that in place of posting another original bond or cash~~
38 ~~deposit, the applicant shall include a certified copy of the bond or~~
39 ~~cash deposit posted in the county in which the applicant filed the~~
40 ~~primary registration.~~

1 (3) If a partnership or corporation increases the number of
 2 assistants it employs above the number stated in its application for
 3 a certificate of registration, the partnership or corporation shall
 4 promptly increase the bond to the applicable amount in
 5 subparagraphs (B) or (C) of paragraph (2) based on the actual
 6 number of assistants it employs, and shall promptly submit the
 7 increased bond to the county clerk. ~~The partnership or corporation~~
 8 ~~shall promptly send a certified copy of the increased bond to the~~
 9 ~~county clerk in any county of secondary registration.~~

10 (4) The bond may be terminated pursuant to Section 995.440
 11 of, and Article 13 (commencing with Section 996.310) of Chapter
 12 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

13 (b) The county clerk shall, upon filing of the bond, deliver the
 14 bond forthwith to the county recorder for recording. The recording
 15 fee specified in Section 27361 of the Government Code shall be
 16 paid by the registrant. The fee may be paid to the county clerk who
 17 shall transmit it to the recorder.

18 (c) The fee for filing, canceling, revoking, or withdrawing the
 19 bond is seven dollars (\$7).

20 (d) The county recorder shall record the bond and any notice
 21 of cancellation, revocation, or withdrawal of the bond, and shall
 22 thereafter mail the instrument, unless specified to the contrary, to
 23 the person named in the instrument and, if no person is named, to
 24 the party leaving it for recording. The recording fee specified in
 25 Section 27361 of the Government Code for notice of cancellation,
 26 revocation, or withdrawal of the bond shall be paid to the county
 27 clerk, who shall transmit it to the county recorder.

28 (e) In lieu of the bond required by subdivision (a), a registrant
 29 may deposit the amount required by subdivision (a) in cash with
 30 the county clerk.

31 (f) If the certificate is revoked, the bond or cash deposit shall
 32 be returned to the bonding party or depositor subject to subdivision
 33 (g) and the right of a person to recover against the bond or cash
 34 deposit under Section 6412.

35 (g) The county clerk may retain a cash deposit until the
 36 expiration of three years from the date the registrant has ceased to
 37 do business, or three years from the expiration or revocation date
 38 of the registration, in order to ensure there are no outstanding
 39 claims against the deposit. A judge may order the return of the
 40 deposit prior to the expiration of three years upon evidence

1 satisfactory to the judge that there are no outstanding claims against
2 the deposit.

3 (h) The bond required by this section shall be in favor of the
4 State of California for the benefit of any person who is damaged
5 as a result of the violation of this chapter or by the fraud,
6 dishonesty, or incompetency of an individual, partnership, or
7 corporation registered under this chapter. The bond required by
8 this section shall also indicate the name of the county in which it
9 will be filed.

10 *SEC. 7. Section 6406 of the Business and Professions Code is*
11 *amended to read:*

12 6406. (a) If granted, a certificate of registration shall be
13 effective for a period of two years, until the date the bond expires,
14 or until the total number of legal document assistants and unlawful
15 detainer assistants employed by a partnership or corporation
16 exceeds the number allowed for the amount of the bond in effect,
17 whichever occurs first. Thereafter, a registrant shall file a new
18 certificate of registration or a renewal of the certificate of
19 registration and pay the fee required by Section 6404, and increase
20 the amount of the bond if required to comply with subdivision (a)
21 of Section 6405. A certificate of registration that is currently
22 effective may be renewed up to 60 days prior to its expiration date
23 and the effective date of the renewal shall be the date the current
24 registration expires. The renewal shall be effective for a period of
25 two years from the effective date or until the expiration date of the
26 bond, or until the total number of legal document assistants and
27 unlawful detainer assistants employed by a partnership or
28 corporation exceeds the number allowed for the dollar amount of
29 the bond in effect, whichever occurs first.

30 (b) Except as provided in subdivisions (d) to (f), inclusive, an
31 applicant shall be denied registration or renewal of registration if
32 the applicant has been any of the following:

33 (1) Convicted of a felony, or of a misdemeanor under Section
34 6126 or 6127, or found liable under Section 6126.5.

35 (2) Held liable in a civil action by final judgment or entry of a
36 stipulated judgment, if the action alleged fraud, or the use of an
37 untrue or misleading representation, or the use of an unfair,
38 unlawful, or deceptive business practice.

39 (3) Convicted of a misdemeanor violation of this chapter.

- 1 (4) Had a civil judgment entered against him or her in an action
2 arising out of the applicant’s negligent, reckless, or willful failure
3 to properly perform his or her obligation as a legal document
4 assistant or unlawful detainer assistant.
- 5 (5) Had his or her registration revoked pursuant to Section 6413.
- 6 (c) If the county clerk finds that the applicant has failed to
7 demonstrate having met the requisite requirements of Section ~~6402~~
8 ~~or 6402.1, 6402, 6402.1, or 6402.2~~, or that any of the paragraphs
9 of subdivision (b) apply, the county clerk, within three business
10 days of submission of the application and fee, shall return the
11 application and fee to the applicant with a notice to the applicant
12 indicating the reason for the denial and the method of appeal.
- 13 (d) The denial of an application may be appealed by the
14 applicant by submitting, to the director, the following:
- 15 (1) The completed application and notice from the county clerk
16 specifying the reasons for the denial of the application.
- 17 (2) A copy of any final judgment or order that resulted from
18 any conviction or civil judgment listed on the application.
- 19 (3) Any relevant information the applicant wishes to include
20 for the record.
- 21 (e) The director shall order the applicant’s certificate of
22 registration to be granted if the director determines that the issuance
23 of a certificate of registration is not likely to expose consumers to
24 a significant risk of harm based on a review of the application and
25 any other information relating to the applicant’s unlawful act or
26 unfair practice described in paragraphs (1) to (5), inclusive, of
27 subdivision (b). The director shall order the applicant’s certificate
28 of registration to be denied if the director determines that issuance
29 of a certificate of registration is likely to expose consumers to a
30 significant risk of harm based on a review of the application and
31 any other information relating to the applicant’s unlawful act or
32 unfair practice described in paragraphs (1) to (5), inclusive, of
33 subdivision (b). The director shall send to the applicant and the
34 county clerk a written decision listing the reasons registration shall
35 be granted or denied within 30 days of the submission of the matter.
- 36 (f) If the director orders that the certificate of registration be
37 granted, the applicant may resubmit the application, with the
38 appropriate application fee and the written decision of the director.
39 The county clerk shall grant the certificate of registration to the

1 applicant within three business days of being supplied this
2 information.

3 ~~SECTION 1.~~

4 *SEC. 8.* Section 6407 of the Business and Professions Code is
5 amended to read:

6 6407. (a) The county clerk shall maintain a register of legal
7 document assistants, and a register of unlawful detainer assistants,
8 assign a unique number to each legal document assistant, or
9 unlawful detainer assistant, and issue an identification card to each
10 one. Upon renewal of registration, the same number shall be
11 ~~assigned.~~ *assigned, provided there is no lapse of three or more*
12 *years in the period of registration.*

13 (b) The identification card shall be a card not less than 3 ¼ by
14 2 inches, and shall contain at the top, the title “Legal Document
15 Assistant” or “Unlawful Detainer Assistant,” as appropriate,
16 followed by the registrant’s name, address, registration number,
17 date of expiration, and county of registration. It shall also contain
18 a photograph of the registrant in the lower left corner. The
19 identification card for a partnership or corporation registration
20 shall be issued in the name of the partnership or corporation, and
21 shall not contain a photograph. The front of the card, above the
22 title, shall also contain the following statement in 12-point boldface
23 type: “This person is not a lawyer.” The front of the card, at the
24 bottom, shall also contain the following statement in 12-point
25 boldface type: “The county clerk has not evaluated this person’s
26 knowledge, experience, or services.”

27 (c) *A legal document assistant or unlawful detainer assistant*
28 *shall present his or her identification card when filing documents*
29 *in a county other than his or her county of registration.*

30 ~~SEC. 2.~~

31 *SEC. 9.* Section 6408 of the Business and Professions Code is
32 amended to read:

33 6408. The registrant’s name, business address, telephone
34 number, registration number, and county of registration shall appear
35 in any solicitation or advertisement, and on any printed papers or
36 documents prepared or used by the registrant, including, but not
37 limited to, contracts, letterhead, business cards, correspondence,
38 documents, forms, claims, petitions, checks, receipts, and
39 pleadings. The registrant’s name, business address, telephone
40 number, registration number, expiration date of the registration,

1 and county of registration shall appear on the written contract
2 required to be provided to a client pursuant to Section 6410, as
3 well as on any Internet Web site maintained by the registrant, and
4 in any solicitation, advertisement, document, or correspondence
5 prepared or used by the registrant in electronic form.

6 *SEC. 10. Section 6409.1 is added to the Business and*
7 *Professions Code, to read:*

8 *6409.1. Notwithstanding any other law, the venue for an action*
9 *arising out of a dispute between a legal document assistant or*
10 *unlawful detainer assistant and his or her client shall be the county*
11 *in which the client has his or her primary residence.*

12 *SEC. 11. Section 6410 of the Business and Professions Code*
13 *is amended to read:*

14 6410. (a) Every legal document assistant or unlawful detainer
15 assistant who enters into a contract or agreement with a client to
16 provide services shall, prior to providing any services, provide the
17 client with a written contract, the contents of which shall be
18 prescribed by regulations adopted by the Department of Consumer
19 Affairs.

20 (b) The written contract shall include all of the following
21 provisions:

22 (1) The services to be performed.

23 (2) The costs of the services to be performed.

24 (3) There shall be printed on the face of the contract in 12-point
25 boldface type a statement that the legal document assistant or
26 unlawful detainer assistant is not an attorney and may not perform
27 the legal services that an attorney performs.

28 (4) The contract shall contain a statement in 12-point boldface
29 type that the county clerk has not evaluated or approved the
30 registrant's knowledge or experience, or the quality of the
31 registrant's services.

32 (5) The contract shall contain a statement in 12-point boldface
33 type that the consumer may obtain information regarding free or
34 low-cost representation through a local bar association or legal aid
35 foundation and that the consumer may contact local law
36 enforcement, a district attorney, or a legal aid foundation if the
37 consumer believes that he or she has been a victim of fraud, the
38 unauthorized practice of law, or any other injury.

39 (6) The contract shall contain a statement in 12-point boldface
40 type that a legal document assistant or unlawful detainer assistant

1 is not permitted to engage in the practice of law, including
2 providing any kind of advice, explanation, opinion, or
3 recommendation to a consumer about possible legal rights,
4 remedies, defenses, options, selection of forms, or strategies.

5 (c) The contract shall be written both in English and in any other
6 language comprehended by the client and principally used in any
7 oral sales presentation or negotiation leading to execution of the
8 contract. The legal document assistant or the unlawful detainer
9 assistant is responsible for translating the contract into the language
10 principally used in any oral sales presentation or negotiation
11 leading to the execution of the contract.

12 (d) *A written contract entered into on or after January 1, 2016,*
13 *shall contain a statement that, pursuant to Section 6409.1, the*
14 *venue for an action arising out of a dispute between a legal*
15 *document assistant or unlawful detainer assistant and his or her*
16 *client shall be the county in which the client has his or her primary*
17 *residence.*

18 ~~(e)~~

19 (e) Failure of a legal document assistant or unlawful detainer
20 assistant to comply with subdivisions (a), (b), ~~and (e)~~ (c), and (d)
21 shall make the contract or agreement for services voidable at the
22 option of the client. Upon the voiding of the contract, the legal
23 document assistant or unlawful detainer assistant shall immediately
24 return in full any fees paid by the client.

25 ~~(e)~~

26 (f) In addition to any other right to rescind, the client shall have
27 the right to rescind the contract within 24 hours of the signing of
28 the contract. The client may cancel the contract by giving the legal
29 document assistant or the unlawful detainer assistant any written
30 statement to the effect that the contract is canceled. If the client
31 gives notice of cancellation by mail addressed to the legal
32 document assistant or unlawful detainer assistant, with first-class
33 postage prepaid, cancellation is effective upon the date indicated
34 on the postmark. Upon the voiding or rescinding of the contract
35 or agreement for services, the legal document assistant or unlawful
36 detainer assistant shall immediately return to the client any fees
37 paid by the client, except fees for services that were actually,
38 necessarily, and reasonably performed on the client's behalf by
39 the legal document assistant or unlawful detainer assistant with
40 the client's knowing and express written consent. The requirements

1 of this subdivision shall be conspicuously set forth in the written
2 contract.

3 *SEC. 12. Section 6410.5 of the Business and Professions Code*
4 *is amended to read:*

5 6410.5. (a) It is unlawful for any legal document assistant or
6 unlawful detainer assistant, in the first in-person or telephonic
7 solicitation of a prospective client of legal document or unlawful
8 detainer assistant services, to enter into a contract or agreement
9 for services or accept any compensation unless the legal document
10 assistant or the unlawful detainer assistant states orally, clearly,
11 affirmatively and expressly all of the following, before making
12 any other statement, except statements required by law in
13 telephonic or home solicitations, and a greeting, or asking the
14 prospective client any questions:

15 (1) The identity of the person making the solicitation.

16 (2) The trade name of the person represented by the person
17 making the solicitation, if any.

18 (3) The kind of services being offered for sale.

19 (4) The statement: “I am not an attorney” and, if the person
20 offering legal document assistant or unlawful detainer assistant
21 services is a partnership or a corporation, or uses a fictitious
22 business name, “[name] is not a law firm. I/we cannot represent
23 you in court, advise you about your legal rights or the law, or select
24 legal forms for you.”

25 (5) *The county in which the legal document assistant or unlawful*
26 *detainer assistant is registered and his or her registration number.*

27 (6) *The expiration date of the legal document assistant’s or*
28 *unlawful detainer assistant’s current registration period.*

29 (b) If the first contact between a legal document assistant or an
30 unlawful detainer assistant and a prospective client is initiated by
31 the prospective client, it is unlawful for the legal document assistant
32 or unlawful detainer assistant to enter into a contract or agreement
33 for services or accept any compensation unless the legal document
34 assistant or the unlawful detainer assistant states orally, clearly,
35 affirmatively and expressly, during that first contact, and before
36 offering any contract or agreement for services to the prospective
37 client, the following: “I am not an attorney [and, if the person
38 offering legal document assistant or unlawful detainer assistant
39 services is a partnership or a corporation, or uses a fictitious
40 business name, “[name] is not a law firm.”] [I/We] cannot (1)

1 represent you in court, (2) advise you about your legal rights or
 2 the law, or (3) select legal forms for you.” *The legal document*
 3 *assistant or the unlawful detainer assistant shall also inform the*
 4 *prospective client of the county in which he or she, or the*
 5 *partnership or corporation, is registered, the registration number*
 6 *assigned by the county, and the expiration date of his or her, or*
 7 *of the partnership’s or corporation’s, current registration period.*
 8 After making this statement, and before offering the prospective
 9 client a contract or agreement for services, a legal document
 10 assistant or unlawful detainer assistant who has made the statement
 11 in accordance with this ~~subsection~~ *subdivision* may ask the
 12 prospective client to read the “Notice to Consumer” set forth below,
 13 and after allowing the prospective client time to read the notice,
 14 may ask the prospective client to sign and date the notice. The
 15 notice shall be set forth in black, bold, 14-point type on a separate,
 16 white, 8 ½ by 11 inch sheet of paper which contains no other print
 17 or graphics, and shall be in the following form. The notice shall
 18 contain only the appropriate name or other designation from those
 19 indicated in brackets below. At the time a prospective client signs
 20 the notice and before that prospective client is offered any contract
 21 or agreement for signature, the legal document assistant or unlawful
 22 detainer assistant shall give the prospective client a clearly legible
 23 copy of the signed notice. A legal document assistant or unlawful
 24 detainer assistant shall not ask or require a prospective client or a
 25 client to sign any other form of acknowledgment regarding this
 26 notice.

27
28 NOTICE TO CONSUMER

29
30 DO NOT SIGN ANYTHING BEFORE YOU READ THIS PAGE

31
32 In the first conversation when you contacted [the unlawful detainer
33 assistant or the legal document assistant], did [he or she] explain
34

35
36 [Name of unlawful detainer assistant or legal document assistant]
37 is not an attorney.
38

1 [Name of corporation or partnership, if any, that is offering legal
2 document assistant services or unlawful detainer assistant services]
3 is not a law firm.

4
5 [He/she/name of the business] cannot represent you in court.

6
7 [He/she/name of the business] cannot advise you about your legal
8 rights or the law.

9
10 [He/she/name of the business] cannot select legal forms for you.

11
12 *[He/she/name if business] is registered in [county name] and the*
13 *registration number is [registration number].*

14
15 *[He/she/name of business]'s registration is valid until [date of*
16 *expiration of registration], after which it must be renewed.*

17
18 Choose one:

19 Yes, [he/she] explained.

20 No, [he/she] did not explain.

21
22
23 Date:

24
25 Signature:

26
27 *SEC. 13. Section 22355 of the Business and Professions Code*
28 *is amended to read:*

29 22355. (a) The county clerk shall maintain a register of process
30 servers and assign a number and issue an identification card to
31 each process server. The county clerk shall issue a temporary
32 identification card, for no additional fee, to applicants who are
33 required to submit Request for Live Scan forms for background
34 checks to the Federal Bureau of Investigation and the Department
35 of Justice. This card shall be valid for 120 days. If clearance is
36 received from the Federal Bureau of Investigation and the
37 Department of Justice within 120 days, the county clerk shall
38 immediately issue a permanent identification card to the applicant.
39 Upon request of the applicant, the permanent identification card
40 shall be mailed to the applicant at his or her address of record.

1 Upon renewal of a certificate of registration, the same number
2 shall be assigned, provided there is no lapse of *three or more years*
3 in the period of registration.

4 (b) The temporary and permanent identification cards shall be
5 not less than 3¼ inches by 2 inches and shall contain at the top
6 the title, “Registered Process Server,” followed by the registrant’s
7 name, address, registration number, date of expiration, and county
8 of registration. In the case of a natural person, it shall also contain
9 a photograph of the registrant in the lower left corner. The
10 identification card for a partnership or corporation registration
11 shall be issued in the name of the partnership or corporation, and
12 shall not contain a photograph.

13 *SEC. 14. Section 22457 of the Business and Professions Code*
14 *is amended to read:*

15 22457. (a) The county clerk shall maintain a register of
16 professional photocopiers, assign a number to each professional
17 photocopier, and issue an identification card to each one.
18 Additional cards for employees of professional photocopiers shall
19 be issued upon the payment of a fee for each card in an amount
20 sufficient to cover the reasonable regulatory costs associated with
21 the issuance of additional cards, as determined by the county clerk.
22 Upon renewal of registration, the same number shall be assigned,
23 provided there is no lapse of *three or more years* in the period of
24 registration.

25 (b) The identification card shall be a card not less than 3¼
26 inches by 2 inches, and shall contain at the top the title,
27 “Professional Photocopier” followed by the registrant’s name,
28 address, registration number, date of expiration, and county of
29 registration. It shall also contain a photograph of the registrant in
30 the lower left corner. The identification card for a partnership or
31 corporation registration shall be issued in the name of the
32 partnership or corporation, and shall not contain a photograph.
33 The identification card for an employee of a professional
34 photocopier or a partnership or corporation shall contain a
35 photograph of the employee in the lower left corner.

36 (c) The identification card for an employee of a professional
37 photocopier or a partnership or corporation shall be issued in the
38 name of the employee and include “Employee of: [insert name of
39 the professional photocopier or the partnership or corporation].”

1 ~~SEC. 3.~~

2 *SEC. 15.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution for certain
4 costs that may be incurred by a local agency or school district
5 because, in that regard, this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty for a crime
7 or infraction, within the meaning of Section 17556 of the
8 Government Code, or changes the definition of a crime within the
9 meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 However, if the Commission on State Mandates determines that
12 this act contains other costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.