

Introduced by Senator JacksonFebruary 18, 2016

An act to amend Section 22441 of the Business and Professions Code, and to amend Section 8223 of the Government Code, relating to immigration consultants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as introduced, Jackson. Immigration consultants: employment eligibility and verification forms.

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 provides that a person engages in the business or acts in the capacity of an immigration consultant when he or she gives nonlegal assistance or advice on an immigration matter, as specified.

This bill would provide that a person who gives nonlegal assistance completing a form provided by a federal or state agency for the purposes of employment eligibility and verification is not engaging in the business of acting in the capacity of an immigration consultant.

Existing law authorizes the Secretary of State to appoint and commission notaries public in such number as the secretary deems necessary for the public convenience. Existing law prohibits a notary public who holds himself or herself out as being an immigration specialist, immigration consultant, or any other title that reflects an expertise in immigration matters from advertising in any manner that he or she is a notary public and authorizes a notary public who is qualified and bonded as an immigration consultant, as specified, to enter data, provided by his or her client, on immigration forms provided by a federal or state agency.

This bill would specify that a form provided by a federal or state agency for the purpose of employment eligibility and verification is not an immigration form.

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 22441 of the Business and Professions
2 Code is amended to read:

3 22441. (a) A person engages in the business or acts in the
4 capacity of an immigration consultant when that person gives
5 nonlegal assistance or advice on an immigration matter. That
6 assistance or advice includes, but is not limited to, the following:

7 (1) Completing a form provided by a federal or state agency
8 but not advising a person as to their answers on those forms.

9 (2) Translating a person’s answers to questions posed in those
10 forms.

11 (3) Securing for a person supporting documents, such as birth
12 certificates, which may be necessary to complete those forms.

13 (4) Submitting completed forms on a person’s behalf and at
14 their request to the United States Citizenship and Immigration
15 Services.

16 (5) Making referrals to persons who could undertake legal
17 representation activities for a person in an immigration matter.

18 (b) “Immigration matter” means any proceeding, filing, or action
19 affecting the immigration or citizenship status of any person ~~which~~
20 *that* arises under immigration and naturalization law, executive
21 order or presidential proclamation, or action of the United States
22 Citizenship and Immigration Services, the United States
23 Department of State, or the United States Department of Labor.

24 (c) “Compensation” means money, property, or anything else
25 of value.

26 (d) Every person engaged in the business or acting in the
27 capacity of an immigration consultant shall only offer nonlegal
28 assistance or advice in an immigration matter as defined in
29 subdivision (a). Any act in violation of subdivision (a) is a violation
30 of this chapter.

31 (e) *A person does not engage in the business or act in the*
32 *capacity of an immigration consultant when that person gives*

1 *nonlegal assistance completing a form provided by a federal or*
2 *state agency for the purpose of employment eligibility and*
3 *verification.*

4 SEC. 2. Section 8223 of the Government Code is amended to
5 read:

6 8223. (a) ~~No~~A notary public who holds himself or herself out
7 as being an immigration specialist, immigration—consultant
8 *consultant*, or any other title or description reflecting an expertise
9 in immigration matters shall *not* advertise in any manner
10 whatsoever that he or she is a notary public.

11 (b) A notary public qualified and bonded as an immigration
12 consultant under Chapter 19.5 (commencing with Section 22440)
13 of Division 8 of the Business and Professions Code may enter data,
14 provided by the client, on immigration forms provided by a federal
15 or state agency. The fee for this service shall not exceed ten dollars
16 (\$10) per individual for each set of forms. If notary services are
17 performed in relation to the set of immigration forms, additional
18 fees may be collected pursuant to Section 8211. This fee limitation
19 shall not apply to an attorney, who is also a notary public, who is
20 rendering professional services regarding immigration matters.

21 (c) ~~Nothing in this~~ This section shall *not* be construed to exempt
22 a notary public who enters data on an immigration form at the
23 direction of a client, or otherwise performs the services of an
24 immigration consultant, as defined by Section 22441 of the
25 Business and Professions Code, from the requirements of Chapter
26 19.5 (commencing with Section 22440) of Division 8 of the
27 Business and Professions Code. A notary public who is not
28 qualified and bonded as an immigration consultant under Chapter
29 19.5 (commencing with Section 22440) of Division 8 of the
30 Business and Professions Code may not enter data provided by a
31 client on immigration forms nor otherwise perform the services
32 of an immigration consultant.

33 (d) *A form provided by a federal or state agency for the purpose*
34 *of employment eligibility and verification shall not be considered*
35 *an immigration form.*