

Senate Bill No. 1418

Passed the Senate August 26, 1998

Secretary of the Senate

Passed the Assembly August 21, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 6405 of, to amend the heading of Chapter 5.5 (commencing with Section 6400) of Division 3 of, to amend, repeal, and add Sections 6401, 6402, 6403, 6406, 6407, 6408, 6409, 6410, 6411, 6412, 6413, and 6415 of, to add and repeal Sections 6401.6, 6402.1, 6412.1, and 6416 of, and to repeal and add Section 6400 of, the Business and Professions Code, relating to legal document assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1418, Rosenthal. Legal document assistants.

Existing law generally regulates unlawful detainer assistants, as defined, and, among other things, requires an unlawful detainer assistant, by the filing of an application, to register with the county clerk of the county in which he or she performs acts for which registration is required.

This bill would revise and recast these provisions to, in addition, apply to legal document assistants, as defined, so as to prohibit any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which the services are provided. This bill would prohibit a legal document assistant from providing service to a client who requires assistance that exceeds "self-help service" as defined. The bill would require the application for registration to be made under penalty of perjury, thereby expanding the scope of the crime of perjury and, consequently, imposing a state-mandated local program. The bill would require the denial of a certificate of registration for specified reasons and would provide for an appeal to the Director of Consumer Affairs. It would also require certain disclosures to consumers. This bill would repeal these changes on January 1, 2003, or upon a determination by the Director of Consumer Affairs that fewer than 200 legal document assistants have registered, whichever first occurs, and at that time would restore current law



applicable exclusively to unlawful detainer assistants, with certain changes.

Existing law provides that the failure of a person who engages in acts of an unlawful detainer assistant to comply with certain provisions of existing law is a misdemeanor.

Since this bill would make the current penal provisions applicable to persons registered as legal document assistants, this bill would impose a state-mandated local program by increasing the scope of an existing crime. The bill would also impose a state-mandated local program by expanding the duties of the county clerk.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

SECTION 1. The heading of Chapter 5.5 (commencing with Section 6400) of Division 3 of the Business and Professions Code is amended to read:

CHAPTER 5.5. LEGAL DOCUMENT ASSISTANTS AND
UNLAWFUL DETAINER ASSISTANTS

SEC. 2. Section 6400 of the Business and Professions Code is repealed.



SEC. 3. Section 6400 is added to the Business and Professions Code, to read:

6400. (a) “Unlawful detainer assistant” means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

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

(c) “Legal document assistant” means:

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

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

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

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



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

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

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

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

(f) A legal document assistant shall not provide any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which the services are being provided.

(g) A legal document assistant shall not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (3) of subdivision (d).

(h) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 4. Section 6400 is added to the Business and Professions Code, to read:

6400. (a) “Unlawful detainer assistant” means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.



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

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

(d) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 5. Section 6401 of the Business and Professions Code is amended to read:

6401. This chapter does not apply to any of the following:

(a) Any government employee who is acting in the course of his or her employment.

(b) A member of the State Bar of California, or his or her employee, paralegal, or agent, or an independent contractor while acting on behalf of a member of the State Bar.

(c) Any employee of a nonprofit, tax-exempt corporation who assists clients free of charge.

(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.

(e) An immigration consultant, as defined in Chapter 19.5 (commencing with Section 22441) of Division 8.

(f) A person registered as a process server under Chapter 16 (commencing with Section 22350) or a person registered as a professional photocopier under Chapter 20 (commencing with Section 22450) of Division 8.

(g) A person who provides services relative to the preparation of security instruments or conveyance documents as an integral part of the provision of title or escrow service.



(h) A person who provides services that are regulated by federal law.

(i) A person who is employed by, and provides services to, a supervised financial institution, holding company, subsidiary or affiliate.

(j) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 6. Section 6401 is added to the Business and Professions Code, to read:

6401. This chapter does not apply to any of the following:

(a) Any government employee who is acting in the course of his or her employment.

(b) An active member of the State Bar of California, or his or her employee or agent, acting under the member's supervision, or an independent contractor while acting on behalf of, and under the supervision of, the member.

(c) Any employee of a nonprofit, tax-exempt corporation who assists clients free of charge.

(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.

(e) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 7. Section 6401.6 is added to the Business and Professions Code, to read:

6401.6. A legal document assistant shall not provide service to a client who requires assistance that exceeds the definition of self-help service in subdivision (b) of



Section 6400, and shall inform the client that the client requires the services of an attorney.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 8. Section 6402 of the Business and Professions Code is amended to read:

6402. A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk of each county in which he or she performs acts for which registration is required. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant. The Department of Consumer Affairs shall, by July 1, 1999, develop the application that shall be completed by a person for purposes of registration as a legal document assistant. The application shall specify the types of proof that the applicant shall provide to the county clerk in order to demonstrate the qualification and requirements of Section 6402.1.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 9. Section 6402 is added to the Business and Professions Code, to read:

6402. An unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk of each county in which he or she performs acts for which registration is required. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as an unlawful detainer assistant.



This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 9.5. Section 6402.1 is added to the Business and Professions Code, to read:

6402.1. To be eligible to apply for registration under this chapter as a legal document assistant, the applicant shall possess at least one of the following:

(a) A high school diploma or general equivalency diploma, and either a minimum of two years of law-related experience under the supervision of a licensed attorney, or a minimum of two years experience, prior to January 1, 1999, providing self-help service.

(b) A baccalaureate degree in any field and either a minimum of one year of law-related experience under the supervision of a licensed attorney, or a minimum of one year of experience, prior to January 1, 1999, providing self-help service.

(c) A certificate of completion from a paralegal program that is institutionally accredited but not approved by the American Bar Association, that requires successful completion of a minimum of 24 semester units, or the equivalent, in legal specialization courses.

(d) A certificate of completion from a paralegal program approved by the American Bar Association.

(e) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 10. Section 6403 of the Business and Professions Code is amended to read:

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

(1) Name, age, address, and telephone number.



(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

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

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

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

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

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

(2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127.

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

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



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

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

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

(e) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 11. Section 6403 is added to the Business and Professions Code, to read:

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

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment, if the action alleged fraud, or the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

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

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

(2) Whether the general partners or officers have ever been convicted of a felony.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or have consented to the entry of a stipulated judgment. If the action alleged fraud, whether it involved the use of



untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 12. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) An application for a certificate of registration shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

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

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

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

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) in cash with the county clerk.



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

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

SEC. 12.5. Section 6406 of the Business and Professions Code is amended to read:

6406. (a) If granted, a certificate of registration shall be effective for a period of two years. Thereafter, a registrant shall file an application for renewal of registration and pay the fee required by Section 6404.

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

(1) Convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

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

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

(4) Had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.

(5) Had his or her registration revoked pursuant to Section 6413.



(c) If the county clerk finds that the applicant has failed to demonstrate having met the requisite requirements of Section 6402 or 6402.1, or that any of the paragraphs of subdivision (b) apply, the county clerk, within three business days of submission of the application and fee, shall return the application and fee to the applicant with a notice to the applicant indicating the reason for the denial and the method of appeal.

(d) The denial of an application may be appealed by the applicant by submitting, to the director, the following:

(1) The completed application and notice from the county clerk specifying the reasons for the denial of the application.

(2) A copy of any final judgment or order that resulted from any conviction or civil judgment listed on the application.

(3) Any relevant information the applicant wishes to include for the record.

(e) The director shall order the applicant's certificate of registration to be granted if the director determines that the issuance of a certificate of registration is not likely to expose consumers to a significant risk of harm based on a review of the application and any other information relating to the applicant's unlawful act or unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall order the applicant's certificate of registration to be denied if the director determines that issuance of a certificate of registration is likely to expose consumers to a significant risk of harm based on a review of the application and any other information relating to the applicant's unlawful act or unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall send to the applicant and the county clerk a written decision listing the reasons registration shall be granted or denied within 30 days of the submission of the matter.

(f) If the director orders that the certificate of registration be granted, the applicant may resubmit the application, with the appropriate application fee and the



written decision of the director. The county clerk shall grant the certificate of registration to the applicant within three business days of being supplied this information.

(g) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 12.6. Section 6406 is added to the Business and Professions Code, to read:

6406. (a) A certificate of registration shall be effective for a period of two years. Thereafter, a registrant shall file an application for renewal of registration and pay the fee required by Section 6404.

(b) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 13. Section 6407 of the Business and Professions Code is amended to read:

6407. (a) The county clerk shall maintain a register of legal document assistants, and a register of unlawful detainer assistants, assign a unique number to each legal document assistant, or unlawful detainer assistant, and issue an identification card to each one. Additional cards for employees of legal document assistants or unlawful detainer assistants shall be issued upon the payment of ten dollars (\$10) for each card. Upon renewal of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

(b) The identification card shall be a card 3 1/2 inches by 2 1/4 inches, and shall contain at the top, the title "Legal Document Assistant" or "Unlawful Detainer Assistant," as appropriate, followed by the registrant's name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner. The



front of the card, above the title, shall also contain the following statement in 12-point boldface type: “This person is not a lawyer.” The front of the card, at the bottom, shall also contain the following statement in 12-point boldface type: “The county clerk has not evaluated this person’s knowledge, experience, or services.”

(c) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 14. Section 6407 is added to the Business and Professions Code, to read:

6407. (a) The county clerk shall maintain a register of unlawful detainer assistants, assign a unique number to each unlawful detainer assistant, and issue an identification card to each one. Additional cards for employees of unlawful detainer assistants shall be issued upon the payment of ten dollars (\$10) for each card. Upon renewal of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

(b) The identification card shall be a card 3 1/2 inches by 2 1/4 inches, and shall contain at the top, the title “Unlawful Detainer Assistant” followed by the registrant’s name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 15. Section 6408 of the Business and Professions Code is amended to read:

6408. The registrant’s name, business address, telephone number, registration number, and county of registration shall appear on any solicitation or



advertisement, and on any appropriate papers or documents prepared or used by the registrant, including, but not limited to, contracts, letterhead, business cards, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, and pleadings.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 16. Section 6408 is added to the Business and Professions Code, to read:

6408. The registrant's registration number and county of registration shall appear on any solicitation or advertisement, and on the registrant's work product, including, but not limited to, letterhead, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, pleadings, and other papers relating to unlawful detainer claims or actions.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 17. Section 6409 of the Business and Professions Code is amended to read:

6409. No legal document assistant or unlawful detainer assistant shall retain in his or her possession original documents of a client. A legal document assistant or an unlawful detainer assistant shall immediately return all of a client's original documents to the client in any one or more of the following circumstances: if the client so requests at any time; if the written contract required by Section 6410 is not executed or is rescinded, canceled, or voided for any reason; or when the services described pursuant to paragraph (1) of subdivision (b) of Section 6410 have been completed.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants



pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 18. Section 6409 is added to the Business and Professions Code, to read:

6409. No unlawful detainer assistant shall retain in his or her possession original documents of a client.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 19. Section 6410 of the Business and Professions Code is amended to read:

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

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

(1) The services to be performed.

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

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

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

(5) The contract shall contain a statement in 12-point boldface type that the consumer may obtain information regarding free or low-cost representation through a local bar association or legal aid foundation and that the consumer may contact local law enforcement, a district attorney, or a legal aid foundation if the consumer



believes that he or she has been a victim of fraud, the unauthorized practice of law, or any other injury.

(6) The contract shall contain a statement in 12-point boldface type that a legal document assistant or unlawful detainer assistant is not permitted to engage in the practice of law, including providing any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies.

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

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

(e) In addition to any other right to rescind, the client shall have the right to rescind the contract within 24 hours of the signing of the contract. The client may cancel the contract by giving the legal document assistant or the unlawful detainer assistant any written statement to the effect that the contract is canceled. If the client gives notice of cancellation by mail addressed to the legal document assistant or unlawful detainer assistant, with first-class postage prepaid, cancellation is effective upon the date indicated on the postmark. Upon the voiding or rescinding of the contract or agreement for services, the legal document assistant or unlawful detainer assistant shall immediately return to the client any fees paid by the client, except fees for services that were actually, necessarily, and reasonably performed on the client's



behalf by the legal document assistant or unlawful detainer assistant with the client's knowing and express written consent. The requirements of this subdivision shall be conspicuously set forth in the written contract.

(f) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 20. Section 6410 is added to the Business and Professions Code, to read:

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

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

(1) The services to be performed.

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

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

(c) The provisions of the written contract shall be stated both in English and, if the client is non-English speaking, in the language of the client.

(d) Failure of an unlawful detainer assistant to comply with the provisions of subdivisions (a), (b), and (c) shall make the contract or agreement for services voidable at the option of the client. Upon the voiding of the contract, the unlawful detainer assistant shall immediately return in full any fees paid by the client.

(e) The client shall have the right to rescind the contract within 24 hours of the signing of the contract. Upon the voiding or rescinding of the contract or agreement for services, the unlawful detainer assistant



shall immediately return to the client any fees paid by the client, except fees for services that were actually, necessarily, and reasonably performed on the client's behalf by the unlawful detainer assistant. The requirements of this subdivision shall be conspicuously set forth in the written contract in both English and, if the client is non-English speaking, in the language of the client.

(f) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 21. Section 6411 of the Business and Professions Code is amended to read:

6411. It is unlawful for any person engaged in the business or acting in the capacity of a legal document assistant or unlawful detainer assistant to do any of the following:

(a) Make false or misleading statements to the consumer concerning the subject matter, legal issues, or self-help service being provided by the legal document assistant or unlawful detainer assistant.

(b) Make any guarantee or promise to a client or prospective client, unless the guarantee or promise is in writing and the legal document assistant or unlawful detainer assistant has a reasonable factual basis for making the guarantee or promise.

(c) Make any statement that the legal document assistant or unlawful detainer assistant can or will obtain favors or has special influence with a court, or a state or federal agency.

(d) Provide assistance or advice which constitutes the unlawful practice of law pursuant to Section 6125, 6126, or 6127.

(e) Engage in the unauthorized practice of law, including, but not limited to, giving any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner



prescribed by paragraph (3) of subdivision (d) of Section 6400.

(f) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 22. Section 6411 is added to the Business and Professions Code, to read:

6411. It is unlawful for any person engaged in the business or acting in the capacity of an unlawful detainer assistant to do any of the following:

(a) Make false or misleading statements to a client while providing services to that client.

(b) Make any guarantee or promise to a client, unless the guarantee or promise is in writing and the unlawful detainer assistant has some basis for making the guarantee or promise.

(c) Make any statement that the unlawful detainer assistant can or will obtain special favors or has special influence with a court, or a state or federal agency.

(d) Provide assistance or advice which constitutes the unlawful practice of law pursuant to Section 6125, 6126, or 6127.

(e) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 23. Section 6412 of the Business and Professions Code is amended to read:

6412. (a) Any owner or manager of residential or commercial rental property, tenant, or other person who is awarded damages in any action or proceeding for injuries caused by the acts of a registrant while in the performance of his or her duties as a legal document assistant or unlawful detainer assistant may recover damages from the bond or cash deposit required by Section 6405.



(b) Whenever there has been a recovery against a bond or cash deposit under subdivision (a) and the registration has not been revoked pursuant to Section 6413, the registrant shall file a new bond or deposit an additional amount of cash within 30 days to reinstate the bond or cash deposit to the amount required by Section 6405. If the registrant does not file a bond, or deposit this amount within 30 days, his or her certificate of registration shall be revoked.

(c) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 24. Section 6412 is added to the Business and Professions Code, to read:

6412. (a) Any owner or manager of residential or commercial rental property, tenant, or other person who is awarded damages in any action or proceeding for injuries caused by the acts of a registrant while in the performance of his or her duties as an unlawful detainer assistant may recover damages from the bond or cash deposit required by Section 6405.

(b) Whenever there has been a recovery against a bond or cash deposit under subdivision (a) and the registration has not been revoked pursuant to Section 6413, the registrant shall file a new bond or deposit an additional amount of cash within 30 days to reinstate the bond or cash deposit to the amount required by Section 6405. If the registrant does not file a bond, or deposit this amount within 30 days, his or her certificate of registration shall be revoked.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 25. Section 6412.1 is added to the Business and Professions Code, to read:

6412.1. (a) Any person injured by the unlawful act of a legal document assistant or unlawful detainer assistant shall retain all rights and remedies cognizable under law. The penalties, relief, and remedies provided in this chapter are not exclusive, and do not affect any other penalties, relief, and remedies provided by law.

(b) Any person injured by a violation of this chapter by a legal document assistant or unlawful detainer assistant may file a complaint and seek redress in any municipal or superior court for injunctive relief, restitution, and damages. Attorney's fees shall be awarded to the prevailing plaintiff.

(c) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 26. Section 6413 of the Business and Professions Code is amended to read:

6413. The county clerk shall revoke the registration of a legal document assistant or unlawful detainer assistant upon receipt of an official document or record stating that the registrant has been found guilty of the unauthorized practice of law pursuant to Section 6125, 6126, or 6127, has been found guilty of a misdemeanor violation of this chapter, or that a civil judgment has been entered against the registrant in an action arising out of the registrant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant. The county clerk shall be given notice of the disposition in any court action by the city attorney, district attorney, or plaintiff, as applicable. A registrant whose registration is revoked pursuant to this section may reapply for registration after three years.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of



that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 27. Section 6413 is added to the Business and Professions Code, to read:

6413. The county clerk shall revoke the registration of an unlawful detainer assistant upon receipt of an official document or record stating that the registrant has been found guilty of the unauthorized practice of law pursuant to Section 6125, 6126, or 6127, has been found guilty of a misdemeanor violation of this chapter, or that a civil judgment has been entered against the registrant in an action arising out of the registrant's failure to properly perform his or her obligation as an unlawful detainer assistant. The county clerk shall be given notice of the disposition in any court action by the city attorney, district attorney, or plaintiff, as applicable. A registrant whose registration is revoked pursuant to this section may reapply for registration after one year.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 28. Section 6415 of the Business and Professions Code is amended to read:

6415. A failure, by a person who engages in acts of a legal document assistant or unlawful detainer assistant, to comply with any of the requirements of Section 6401.6, 6402, 6408, or 6410, or subdivision (a), (b), or (c) of Section 6411 is punishable as a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000), as to each client with respect to whom a violation occurs, or imprisonment for not more than one year, or by both that fine and imprisonment. Payment of restitution to a client shall take precedence over payment of a fine.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of



that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 29. Section 6415 is added to the Business and Professions Code, to read:

6415. A failure, by a person who engages in acts of an unlawful detainer assistant, to comply with any of the requirements of Section 6402 or 6408, or subdivision (a), (b), or (c) of Section 6411 is punishable as a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) or more than two thousand dollars (\$2,000), as to each client with respect to whom a violation occurs, or imprisonment for not more than one year, or by both that fine and imprisonment. Payment of restitution to a client shall take precedence over payment of a fine.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 29.5. Section 6416 is added to the Business and Professions Code, to read:

6416. The director may conduct an audit of all counties to determine the number of legal document assistants registered pursuant to this chapter. The director may suspend the requirements of this chapter applicable to legal document assistants if the director finds that fewer than 200 legal document assistants have registered with all county clerks by December 31, 2000. Upon suspension of this chapter by the director, unlawful detainer assistants shall be subject to the remaining provisions of this chapter.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 30. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or



infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

