

AMENDED IN SENATE JULY 10, 2013

California Legislature – 2013-2014 Regular Session

ASSEMBLY BILL

No. 1159

**Introduced by Assembly-
Gonzalez**

(Principal coauthor: Senator De León)

February 22, 2013

An act to amend Sections 22442 and 22443.1 of, to add Sections 22442.15 and 22442.20 to, and to add Article 16 (commencing with Section 6240) to Chapter 4 of Division 3 of, the Business and Professions Code, relating to immigration services.

Legislative Counsel's Digest

AB 1159, as amended, Gonzalez. Immigration services.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation.

This bill would require attorneys providing immigration reform act services, as defined, to ~~register~~file an annual written verification with the State Bar, as specified. The bill would require these attorneys to provide a client with a written contract containing specified information, including an itemized list, with costs, of each service to be performed when the cost of services will exceed \$1,000; to provide to the client, upon request, a statement of accounting for the services rendered and payments made ~~every 2 months~~; and to deliver to the client a copy of each document or form completed on behalf of the client. The bill would require these attorneys to comply with certain requirements relating to document retention and the return of original documents to clients and ~~to maintain an insurance policy or to file with the State Bar~~ a bond of \$100,000 in accordance with specified provisions. The bill would require when the costs of services will exceed \$1,000, these attorneys ~~to~~shall deposit in a client trust account any funds received from the client prior to performing those services for that client, and would impose certain requirements relating to the expenditure of funds from this trust account. The bill would authorize the State Bar to charge these attorneys certain fees for the reasonable regulatory costs of administering and enforcing these provisions and would require the State Bar to adopt rules and regulations for purposes of implementing these provisions. This bill would provide for civil penalties of \$1,000 per day for each day of violation.

Existing law prohibits the literal translation of the phrase "notary public" into Spanish as "notario publico" or "notario" in advertising specified services. This bill would also make it a violation of the laws prohibiting the unauthorized practice of law for any person who is not an attorney from advertising services using the term "notario public" or "notario" except as specified.

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 requires an immigration consultant to provide a client with a written contract containing specified information prior to providing services. Existing law requires an immigration consultant to file a bond of \$50,000 with the Secretary of State in accordance with specified provisions of law.

This bill would increase the amount of this bond to \$100,000. The bill would require that the written contract contain additional information relating to an explanation of the purpose of each service to be performed. The bill would require an immigration consultant to establish a client trust account and to deposit in this account any funds received from the client prior to performing immigration reform act services, as defined, for that client, and would impose certain requirements relating to the expenditure of funds from this trust account. The bill would prohibit an attorney or an immigration consultant from demanding or accepting the advance payment of any funds from a person before the enactment of a specified federal act, and would require any funds received after January 1, 2014, but before the enactment of the federal act, to be refunded to the client. Because a violation of these provisions by an immigration consultant would be a crime, this bill would impose a state-mandated local program.

~~This bill would provide that certain of its provisions would become operative only upon the enactment of a specified federal act relating to immigration reform.~~

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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1 Article 16 (commencing with Section 6240) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 16. Attorneys Providing Immigration Reform Act Services

6240. (a) An attorney who provides immigration reform act services, and who meets the criteria described in subdivision (c), shall register/file with the State Bar ~~as an attorney who provides immigration reform act services, and shall demonstrate~~ an annual statement, under penalty of perjury, verifying compliance with this article, as may be required by the rules and regulations of the State Bar. The State Bar shall post information on its Internet Web site on those attorneys providing immigration reform act services who have filed the annual statement required by this subdivision.

(b) For purposes of this article, the following definitions apply:

(1) "Immigration reform act" means any pending or future act of Congress, including but not limited to the federal act known as the "Border Security, Economic Opportunity, and

Immigration Modernization Act” (S. 744, 2013), that includes provisions for immigrants, currently undocumented and who either entered the United States without inspection or who did not depart after expiration of a nonimmigrant visa, to become documented.

(2) “Immigration reform act services” means ~~consultation or representation services related to immigration and citizenship status, benefits, or relief under the immigration reform act~~ the services of preparing the applications and other related initial processes for immigrants, currently undocumented and who either entered the United States without inspection or who did not depart after expiration of a nonimmigrant visa, to become documented, for example, in the status of a registered provisional immigrant or in blue card status for agricultural workers, as provided under Sections 2101 and 2211 of S. 744, 2013, or in other documented status in any pending or future immigration reform act.

~~(3) As used in this article, “immigration reform act” applies only to such pending or future acts that are enacted by Congress before January 1, 2017, unless a later enacted statute is enacted before January 1, 2017, which deletes or extends this date.~~

(c) Except as provided in subdivision (d), this article shall apply to the following:

(1) An attorney who is a member of the State Bar who provides immigration reform act services.

(2) An attorney who is not a member of the State Bar, but who meets both of the following:

(A) The attorney is authorized to practice law or authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(B) The attorney is providing immigration reform act services in an office or business in California

(d) This article does not apply to an attorney providing immigration reform act services ~~who is either of the following~~ to a client in any of the following ways:

~~(1) An employee of a qualified free legal service provider, that is on the current list maintained by the Office of the Chief Immigration Judge of the Executive Office for Immigration Review and that meets the qualifications under Section 1003.61 of Title 8 of the Code of Federal Regulations.~~

(1) For a qualified legal services project or support center under subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.

(2) An employee of a nonprofit, tax-exempt corporation who helps clients complete application forms in immigration matters free of charge, or for a *nominal* fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under Section 292.2 of Title 8 of the Code of Federal Regulations.

~~(3) For free, at no cost to the client, as pro bono legal services.~~

(4) As a certified specialist under California Rules of Court rule 9.35 who holds a current certificate as a legal specialist in immigration and nationality law issued by State Bar of California Board of Legal Specialization and who maintains a policy or policies of professional

liability in an amount not less than one hundred thousand dollars (\$100,000) per occurrence and a general aggregate limit of three hundred thousand dollars (\$300,000) or a bond of one hundred thousand dollars (\$100,000) executed by a corporate surety admitted to do business in this state, which is conditioned upon compliance with this article and where the total aggregate liability on the bond shall be limited to one hundred thousand dollars (\$100,000). Such a certified specialist shall file with the State Bar an annual statement, under penalty of perjury, verifying compliance with this subparagraph.

6241. (a) An attorney providing immigration reform act services, in which the total attorney fees will exceed one thousand dollars (\$1,000), shall, prior to providing these services, provide the client with a written contract ~~in a form approved by the State Bar~~. The written contract shall include, but is not limited to, all of the following provisions:

(1) An itemized list specifying and explaining each service ~~to be performed that the attorney anticipates will be performed, with an explanation of the purpose and process of each service.~~

(2) The cost ~~of each itemized or basis of compensation for each~~ service described in paragraph (1), including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to such service.

~~(3) An itemized list of the documents to be prepared by the attorney, with an explanation of the purpose and process of each document.~~

~~(4) The cost of preparation of each itemized document described in paragraph (3).~~

~~(5) A statement of the purpose for which the attorney has been hired and the actions to be taken by the attorney regarding each document described in paragraph (3), including the agency and office where each document will be filed and the approximate processing times according to applicable published agency guidelines.~~

~~(6)~~(3) A statement informing the client that he or she may report complaints to the Office of Immigrant Assistance of the Department of Justice and to the State Bar of California or the bar of the court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia where the attorney is admitted to practice law. This statement shall include the toll-free telephone numbers and Internet Web sites of those entities.

(b) An attorney providing immigration reform act services shall not, in writing or orally, make either of the following statements:

(1) A guarantee or promise regarding the results of the services.

(2) A statement that the attorney can or will obtain special favors from, or has special influence with, the United States Citizenship and Immigration Services or any other governmental agency, employee, or official that may have a bearing on a client's immigration matter.

~~(c) The provisions of the written contract shall be stated in English and in the client's native language. A written contract is void if it is not written pursuant to this subdivision. For clients who cannot read and understand the provisions of the written contract in English, the written contract shall be provided to the client in English and in a language that the client can understand. If there such written language is available, the written contract shall include a written verification that the provisions of the written contract has been orally translated to the client in a language the~~

client can understand. The verification shall state the language to which the written contract was orally translated; that the translator is competent to make such translation; and that such translation was true and accurate to the best of the translator's abilities. A written contract is void if it does not comply with this subdivision.

(d) The client shall have the right to rescind the contract within 72 hours of signing the contract, except that this right shall not apply to a contract for services that are rendered immediately in an emergency to avoid foreseeable prejudice to the rights or interests of the client. The written contract shall include and conspicuously state this right ~~in both English and the client's native language.~~

(e) An attorney providing immigration reform act services at an hourly rate shall not be subject to this section; however, when the reasonably foreseeable total attorney fees to a client will exceed one thousand dollars (\$1,000), the attorney shall comply with the requirements of subdivision (a) of section 6148.

(f) The State Bar may provide forms for contracts for use under this section.

~~6242. A statement of accounting for the immigration reform act services rendered and payments made shall be provided to the client every two months, shall be typed or computer-generated on the attorney's letterhead, and shall display the itemized charges and total charges for services and the client's payments offsetting those charges. The attorney shall provide the client a written translation of the statement in the client's native language, if applicable. Unless required under section 6068, subdivision (m), or section 6091, an attorney providing immigration reform act services shall provide to the client at least every six months the following:~~

(a) A letter or other written communication on the status or developments in the client's immigration matter.

(b) A statement of accounting of the funds received and disbursed and showing the itemized charges and total charges for services rendered.

Upon request of the client, the attorney shall provide a written or oral translation of the statement of accounting or letter or other written communications.

6243. An attorney providing immigration reform act services shall do all of the following:

(a) Deliver to the client a copy of each document or form completed on behalf of the client. ~~Each document and form~~ A copy of any application that is delivered shall include the name and address of the responsible attorney who prepared the ~~document or form~~ application.

~~(b) Retain copies of all documents and forms of a client for not less than three years from the date of the last service to the client.~~

~~(c)~~ (b) Return to a client all original documents that the client has provided to the attorney in support of the client's application, including, but not limited to, original birth certificates, rental agreements, utility bills, employment stubs, Department of Motor Vehicle licenses with dates of entry, and passports. An original document that does not need to be submitted to or made available to immigration authorities as an original document shall be returned by the attorney immediately promptly after making a copy or reproduction thereof.

6244. ~~(a) (1)~~ Prior to providing immigration reform act services, an attorney shall ~~file~~

~~with the State Bar maintain a policy or policies of professional liability in an amount not less than one hundred thousand dollars (\$100,000) per occurrence and a general aggregate limit of three hundred thousand dollars (\$300,000) or a bond of one hundred thousand dollars (\$100,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this article. The total aggregate liability on the bond shall be limited to one hundred thousand dollars (\$100,000).~~

~~(2) 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 bond required by this section shall be in favor of, and payable to, the State Bar of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the immigration reform act services of the attorney or the agents, representatives, or employees of the attorney, while acting within the scope of that employment or agency.~~

~~(c) An attorney shall notify the State Bar's office in writing within 30 days when the surety bond required by this section is renewed, and of any change of name, address, telephone number, or agent for service of process.~~

~~(d) The State Bar shall post information on its Internet Web site demonstrating that an attorney is registered to provide immigration reform act services and is in compliance with the requirements of this section. The State Bar shall update the information at least every 30 days. The State Bar shall remove this information if the attorney is out of compliance with the requirements of this section.~~

~~(e) The State Bar shall adopt rules and regulations specifying the process by which a person may make a claim to recover damages from the bond.~~

6244. Prior to providing immigration reform act services, an attorney shall obtain and maintain:

(a) A policy or policies of professional liability in an amount not less than one hundred thousand dollars (\$100,000) per occurrence and a general aggregate limit of three hundred thousand dollars (\$300,000); or

(b) A bond of one hundred thousand dollars (\$100,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this article. The total aggregate liability on the bond shall be limited to one hundred thousand dollars (\$100,000).

6245. (a) An attorney who ~~provides~~contracts to provide immigration reform act services in which total attorney fees are more than one thousand dollars (\$1,000), shall deposit in a client trust account any funds received from the client prior to performing those services for that client.

(b) The attorney providing the immigration reform act services for the client may withdraw funds received from that client and deposited into a client trust account, as required in subdivision (a), only after completing one or more of the itemized services described in paragraph (1) of subdivision (a) of Section 6241, and only in the amount identified as the cost of that service or those services pursuant to paragraph (2) of subdivision (a) of Section 6241, in compliance with either of the following:

~~(1) After completing one or more of the itemized services described in paragraph (1) of subdivision (a) of Section 6241, and only in the amount identified as the cost of that service or those services pursuant to paragraph (2) of subdivision (a) of Section 6241.~~

~~(2) After completing one or more of the itemized documents described in paragraph (3) of subdivision (a) of Section 6241, and only in the amount identified as the cost of the preparation of that document or those documents pursuant to paragraph (4) of subdivision (a) of Section 6241.~~

6246. (a) It is unlawful for an attorney to demand or accept the advance payment of any funds from a person for immigration reform act services before the enactment of ~~the any~~ immigration reform act.

(b) Any funds received after ~~January 1, 2014~~ the effective date of this section, but before the enactment of the immigration reform act, shall be refunded to the client.

~~(c) Any funds received before the effective date of this section, but before the enactment of the immigration reform act shall be deposited into a client trust account under subdivision (a) of section 6245 or refunded to the client. The attorney shall also provide:~~

~~(1) a written notice to the client, in both English and in the client's native language or verified in writing that the notice has been orally translated to the client, that there are no benefits or relief that are available and that no application for such benefits or relief may be processed until enactment of any federal immigration reform act and the related necessary and effective regulations and forms.~~

~~(2) a written contract, as required under section 6241, and~~

~~(3) an itemized statement of accounting for any funds expended and each service rendered by the attorney.~~

~~(d) This section does not prohibit fees for consultations and advice provided to clients on immigration reform act services in pending or future immigration reform acts introduced in Congress.~~

~~(c) This section shall become operative on January 1, 2014.~~

6246.1. It is unlawful for any attorney providing immigration reform act services to do any of the following acts:

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

(b) Make any statement that the attorney can or will obtain special favors from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on the adjustment of a client's immigration status.

(c) Charge a client a fee for immigration reform act services which the attorney cannot or will not provide to the client.

6246.2. (a) In a civil enforcement action brought by the State Bar, the court shall impose civil penalties to be paid to the State Bar, in an amount not to exceed one thousand dollars (\$1,000) per day for each day of violation. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(b) Any person claiming to be aggrieved by a violation of this article may bring a civil action for injunctive relief or damages, or both. If the court finds that the defendant has violated a provision of this article, it shall award actual damages, plus an amount equal to treble the amount of actual damages or one thousand dollars (\$1,000) per day, whichever is greater.

(c) The court shall grant a prevailing plaintiff reasonable attorneys' fees and costs.

(d) An action brought pursuant to this section shall be commenced within four years after discovery of the commission of the offense.

6246.3. It is cause for suspension, disbarment, or other discipline for any member of the State Bar providing immigration reform act services to do any of the following because the client has exercised any right in this chapter:

(a) To make any statement to threaten or to take action to report the immigration status of the client or his or her family member to any federal, state, or local agency, when such report would violate the attorney's duty to maintain the confidences and secrets of his client.

(b) To make any statement to the client that the exercise of such rights will adversely affect his or her immigration matter.

6247. The State Bar may charge and collect ~~registration, renewal, and~~ filing fees from attorneys providing immigration reform act services for the reasonable regulatory costs of administering and enforcing this article.

6248. ~~(a)~~ The State Bar shall adopt rules and regulations for purposes of implementing and enforcing this article.

~~(b) Except as provided in Section 6246, this article shall become operative only upon the enactment of the immigration reform act.~~

SEC. 2. Section 8219.5 of the Government Code is amended, to read:

8219.5. (a) Every notary public who is not an attorney who advertises the services of a notary public in a language other than English by signs or other means of written communication, with the exception of a single desk plaque, shall post with that advertisement a notice in English and in the other language which sets forth the following:

(1) This statement: I am not an attorney and, therefore, cannot give legal advice about immigration or any other legal matters.

(2) The fees set by statute which a notary public may charge.

(b) The notice required by subdivision (a) shall be printed and posted as prescribed by the Secretary of State.

(c) Literal translation of the phrase “notary public” into Spanish, hereby defined as “notario publico” or “notario,” is prohibited. For purposes of this subdivision, “literal translation” of a word or phrase from one language to another means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language which is being translated.

(d) The Secretary of State shall suspend for a period of not less than one year or revoke the commission of any notary public who fails to comply with subdivision (a) or (c). However, on the second offense the commission of such notary public shall be revoked permanently.

(e) A violation of subdivision (a) or (c) by a notary public or any other person who is not an attorney shall constitute a violation subdivision (a) of Section of 6126 of the Business and Professions Code.

SEC. 23. Section 22442 of the Business and Professions Code is amended to read:

22442. (a) Every person engaged in the business, or acting in the capacity of, an immigration consultant 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 the Department of Consumer Affairs in regulations.

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

(1) The services to be performed. Each service to be performed shall be itemized with an explanation of the purpose and process of each service.

(2) The cost of each itemized service to be performed.

(3) There shall be printed on the face of the contract in 10-point boldface type a statement that the immigration consultant is not an attorney and may not perform the legal services that an attorney performs.

(4) The written contract shall list the documents to be prepared by the immigration consultant, shall explain the purpose and process of each document, and shall list the cost for preparing each document.

(5) The written contract shall state the purpose for which the immigration consultant has been hired and the actions to be taken by the immigration consultant regarding each document, including the agency and office where each document will be filed and the approximate processing times according to current published agency guidelines.

(6) The written contract shall include a provision that informs the client that he or she may report complaints relating to immigration consultants to the Office of Immigrant Assistance of the Department of Justice. The written contract shall also include a provision stating that complaints concerning the unauthorized practice of law may be reported to the State Bar of California. These required provisions shall include the toll-free telephone numbers and Internet Web sites of those entities.

(c) An immigration consultant shall not include provisions in the written contract relating to either of the following:

(1) Any guarantee or promise, unless the immigration consultant has some basis in fact for making the guarantee or promise.

(2) Any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on a client's immigration matter.

(d) The provisions of the written contract shall be stated both in English and in the client's native language.

(e) A written contract is void if it is not written pursuant to subdivision (d).

(f) The client shall have the right to rescind the contract within 72 hours of signing the contract. The contents of this subdivision shall be conspicuously set forth in the written contract in both English and the client's native language.

(g) An immigration consultant shall not make the statements described in subdivision (c) orally to a client.

(h) This section does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in an immigration matter free of charge or for a fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under Section 292.2 of Title 8 of the Code of Federal Regulations.

SEC. 34. Section 22442.15 is added to the Business and Professions Code, to read:

22442.15. (a) An immigration consultant who provides immigration reform act services shall establish and deposit into a client trust account any funds received from a client prior to performing those services for that client.

(b) For purposes of this section, the following definitions apply:

(1) "Immigration reform act" means any pending or future act of Congress, including but not limited to the federal act known as the "Border Security, Economic Opportunity, and Immigration Modernization Act" (S.744, 2013), which includes provisions for immigrants, currently undocumented and who either entered the United States without inspection or who did not depart after expiration of a nonimmigrant visa, to become documented.

(2) "Immigration reform act services" means ~~consultation or representation services related to immigration and citizenship status, benefits, or relief~~ completing a form under the any immigration reform act; translating a person's answers to questions posed in those forms; securing for a person supporting documents, such as birth certificates, which may be necessary to complete those forms; or other non-legal advice or assistance, as defined in Section 22441.

(c) The immigration consultant providing immigration reform act services for the client may withdraw funds received from that client only in compliance with either of the following:

(1) After completing one or more of the itemized services described in paragraph (1) of subdivision (b) of Section 22442, and only in the amount identified as the cost of that service or those services pursuant to paragraph (2) of subdivision (b) of Section 22442.

(2) After completing one or more of the documents listed, and only in the amounts listed, pursuant to paragraph (4) of subdivision (b) of Section 22442.

~~(d) This section shall become operative only upon the enactment of the immigration reform act.~~

SEC. 45. Section 22442.20 is added to the Business and Professions Code, to read:

22442.20. (a) It is unlawful for an immigration consultant to demand or accept the advance payment of any funds from a person for immigration reform act services before the enactment of the immigration reform act, as defined in subdivision (b) of Section 22442.15.

(b) Any funds received after ~~January 1, 2014~~the effective date of this section, but before the enactment of the immigration reform act, as defined in subdivision (b) of Section 22442.15, shall be refunded to the client.

~~(c) Any funds received before the effective date of this section, but before the enactment of the immigration reform act shall be deposited into a client trust account under subdivision (a) of section 22442.15 or refunded to the client. The immigration consultant shall also provide:~~

~~(1) a written notice to the client, in both English and in the client's native language or verified in writing that the notice has been orally translated to the client, that there are no benefits or relief that are available and that no application for such benefits or relief may be processed until enactment of any federal immigration reform act and the related necessary and effective regulations and forms,~~

~~(2) a written contract, as required under section 22442, and~~

~~(3) an itemized statement of accounting for any funds expended and each service rendered.~~

~~SEC. 6. Section 22442.3 of the Business and Professions Code is amended to read:~~

~~(a) An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, the words or titles, including, but not limited to, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the person is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant.~~

~~(b) For purposes of this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.~~

~~(c) An immigration consultant may not make or authorize the making of any verbal or written references to his or her compliance with the bonding requirements of Section~~

22443.1 except as provided in this chapter.

(d) A violation of subdivisions (a) or (b) by an immigration consultant shall constitute a violation subdivision (a) of Section of 6126 of the Business and Professions Code.

SEC. 57. Section 22443.1 of the Business and Professions Code is amended to read:

22443.1. (a) (1) Prior to engaging in the business, or acting in the capacity, of an immigration consultant, each person shall file with the Secretary of State a bond of one hundred thousand dollars (\$100,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to one hundred thousand dollars (\$100,000).

(2) 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 bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the immigration consultant or the agents, representatives, or employees of the immigration consultant, while acting within the scope of that employment or agency.

(c) An immigration consultant who is required to file a surety bond with the Secretary of State shall also file a disclosure form with the Secretary of State that contains all of the following information:

(1) The immigration consultant's name, date of birth, residence address, business address, residence telephone number, and business telephone number.

(2) The name and address of the immigration consultant's agent for service of process if one is required to be or has been appointed.

(3) Whether the immigration consultant has ever been convicted of a violation of this chapter or of Section 6126.

(4) Whether the immigration consultant has ever been arrested or convicted of a crime.

(5) If applicable, the name, business address, business telephone number, and agent for service of process of the corporation or partnership employing the immigration consultant.

(d) An immigration consultant shall notify the Secretary of State's office in writing within 30 days when the surety bond required by this section is renewed, and of any change of name, address, telephone number, or agent for service of process.

(e) The Secretary of State shall post information on its Internet Web site demonstrating that an immigration consultant is in compliance with the bond required by this section and has satisfactorily passed the background check required under Section 22441.1, and shall also post a copy of the immigration consultant's photograph. The Secretary of State shall ensure that the information is current and shall update the information at least every 30 days. The Secretary of State shall only post this information and photograph on its Internet Web site if the person has filed and maintained the bond, filed the disclosure form and photograph required to be filed with the Secretary of State, and passed the background check required by Section

22441.1.

(f) The Secretary of State shall develop the disclosure form required to file a bond under this section and make it available to any immigration consultant filing a bond pursuant to this section.

(g) An immigration consultant shall submit all of the following with the disclosure form:

(1) A copy of valid and current photo identification to determine the immigration consultant's identity, such as a California driver's license or identification card, passport, or other identification acceptable to the Secretary of State.

(2) A photograph of himself or herself with the dimensions and in the style that would be acceptable to the U.S. Department of State for obtaining a United States passport, as instructed by the Secretary of State. An immigration consultant bonded on or before December 31, 2006, shall submit the photograph on or before July 1, 2007.

(h) The Secretary of State shall charge and collect a filing fee to cover the cost of filing the bond.

(i) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds.

(j) This section does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in an immigration matter free of charge or for a fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under Section 292.2 of Title 8 of the Code of Federal Regulations.

SEC. 68. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: _____

In order to implement measures as quickly as possible and as necessary to prevent fraud on immigrants by attorneys and other persons who would take advantage of immigrants with the promise of benefits and relief under pending and proposed federal immigration reform acts before their enactment, it is necessary that this act take effect immediately.