

Assembly Bill No. 1159

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 12, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22442 and 22442.3 of, to amend, repeal, and add Section 22443.1 of, to add Sections 6126.7, 22442.5, and 22442.6 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, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1159, 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 make it a violation of specified provisions of law relating to the unauthorized practice of law for any person who is not an attorney to literally translate from English into another language the phrases “notary public,” “notary,” “licensed,” “attorney,” “lawyer,” or any other terms that imply that the person is an attorney. The bill would prescribe penalties, not to exceed \$1,000 per day for each violation, for a person who violates these provisions. The bill would authorize these penalties to be allocated to a specified fund for purposes of providing free legal services related to immigration reform act services to clients of limited means, or to a fund for the purposes of mitigating unpaid claims of injured immigrant clients, as specified, as directed by the Board of Trustees of the State Bar. The bill would require the Board of Trustees of the State Bar to annually report any collection and expenditure of these moneys to the Assembly and Senate Committees on Judiciary.

This bill would require, when a contract for legal services is required in writing pursuant to specified provisions of law, that an attorney providing immigration reform act services, as defined, provide a written notice informing the client that he or she may report complaints to specified entities. The bill would make these provisions operative when the State Bar posts the form and specified translations of the form on its Internet Web site, but no later than 45 days after the effective date of the bill.

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, commencing July 1, 2014, 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 an immigration reform act, as defined, and would require any funds received after the effective date of this bill, but before the enactment of an immigration reform act, to be refunded to the client promptly, but no later than 30 days after the receipt of any funds. The bill would require any funds that were received before the effective date of the bill for services not rendered before the effective date of the bill to be either refunded to the client or deposited in a client trust fund in accordance with specified provisions. The bill would prescribe penalties, not to exceed \$1,000 per day for each violation, for immigration consultants who violate these provisions.

Existing law prohibits an immigration consultant from literally translating the phrase “notary public” into Spanish.

This bill would provide that a violation of these provisions constitutes a violation of specified provisions of law relating to the unauthorized practice of law. The bill also would prescribe penalties, not to exceed \$1,000 per day for each violation, for immigration consultants who violate these provisions.

Because a violation of these provisions by an immigration consultant would be a crime, this bill would impose a state-mandated local program.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 6126.7 is added to the Business and Professions Code, to read:

6126.7. (a) It is a violation of subdivision (a) of Section 6126 for any person who is not an attorney to literally translate from English into another language, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material, any words or titles, including, but not limited to, “notary public,” “notary,” “licensed,” “attorney,” or “lawyer,” that imply that the person is an attorney. As provided in this subdivision, the literal translation of the phrase “notary public” into Spanish as “notario publico” or “notario,” is expressly prohibited.

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

(c) (1) In addition to any other remedies and penalties prescribed in this article, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by the State Bar.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The wilfulness of the misconduct.

(E) The defendant’s assets, liabilities, and net worth.

(3) The court shall grant a prevailing plaintiff reasonable attorneys’ fees and costs.

(4) A civil action brought under this section shall be commenced within four years after the cause of action accrues.

(5) In a civil action brought by the State Bar under this section, the civil penalty collected shall be paid to the State Bar and allocated to the fund established pursuant to Section 6033 to provide free legal services related to immigration reform act services to clients of limited means or to a fund for the purposes of mitigating unpaid claims of injured immigrant clients under Section 22447, as directed by the Board of Trustees of the State Bar. The board shall annually report any collection and expenditure of funds for the preceding calendar year, as authorized by this section, to the Assembly and Senate Committees on Judiciary. The report required by this section may be included in the report described in Section 6086.15.

SEC. 2. 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. For purposes of this article, the following definitions apply:

(a) “Immigration reform act” means any pending or future act of Congress that is enacted after the effective date of this section but before January 1, 2017, including, but not limited to, the federal act known as the “Border Security, Economic Opportunity, and Immigration Modernization Act” (S. 744, 2013), that authorizes an undocumented immigrant who either entered the United States without inspection or who did not depart after the expiration of a nonimmigrant visa, to attain a lawful status under federal law. The State Bar shall announce and post on its Internet Web site when an immigration reform act has been enacted.

(b) “Immigration reform act services” means services offered in connection with an immigration reform act that are necessary in the preparation of an application and other related initial

processes in order for an undocumented immigrant, who either entered the United States without inspection or who did not depart after the expiration of a nonimmigrant visa, to attain a lawful status under an immigration reform act.

6241. This article shall apply to the following:

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

(b) An attorney who is not an active member of the State Bar, but who meets both of the following:

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

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

6242. (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 an immigration reform act.

(b) Any funds received after the effective date of this section, but before the enactment of an immigration reform act, shall be refunded to the client promptly, but no later than 30 days after the receipt of the funds.

(c) (1) If an attorney providing immigration reform act services accepted funds for immigration reform act services prior to the effective date of this section, and the services to be performed in connection with payment of those funds were rendered, the attorney shall promptly, but no later than 30 days after the effective date of this section, provide the client with a statement of accounting describing the services rendered.

(2) (A) Any funds received before the effective date of this section for which immigration reform act services were not rendered prior to the effective date of this section, shall be either refunded to the client or deposited in a client trust account.

(B) If an attorney deposits funds in a client trust account pursuant to this paragraph, he or she shall provide a written notice, in both English and the client's native language, informing the client of the following:

(i) That there are no benefits or relief available, and that no application for such benefits or relief may be processed, until enactment of an immigration reform act and the related necessary

federal regulations or forms, and that, commencing with the effective date of this section, 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 an immigration reform act.

(ii) That he or she may report complaints to the Executive Office for Immigration Review of the United States Department of Justice, to the State Bar of California, or to 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. The notice shall include the toll-free telephone numbers and Internet Web sites of those entities.

6243. (a) (1) When a contract for legal services is required in writing pursuant to Section 6148, or is subject to Section 1632 of the Civil Code, an attorney providing immigration reform act services shall provide a written notice informing the client that he or she may report complaints to the Executive Office for Immigration Review of the United States Department of Justice, to the State Bar of California, or to 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. The notice shall include the toll-free telephone numbers and Internet Web sites of those entities.

(2) The notice shall be in English and in one of the languages of the forms translated by the State Bar pursuant to paragraph (1) of subdivision (b), if the contract for immigration reform act services was negotiated in one of those languages.

(3) The notice shall be attached or incorporated into any written contract for immigration reform act services. If the notice is attached to a written contract, it shall be signed by both the attorney and the client.

(b) (1) The State Bar shall provide the form of the notice required in subdivision (a) and shall post the form and translations on its Internet Web site. The State Bar shall translate the form into the following languages: Spanish, Chinese, Tagalog, Vietnamese, Korean, Armenian, Persian, Japanese, Russian, Hindi, Arabic, French, Punjabi, Portuguese, Mon-Khmer, Hmong, Thai, Gujarati. The State Bar, upon request, may translate the forms into other languages.

(2) Notwithstanding paragraph (1), an attorney providing immigration reform act services who meets the criteria of subdivision (b) of Section 6241 shall be responsible for adding and translating the name of, toll-free telephone number of, and information on the Internet Web site for, the bar of the court of any state, possession, territory, or commonwealth of the United States or the District of Columbia in which he or she is admitted to practice law.

(c) Failure to comply with any provision of this section renders the contract voidable at the option of the client, and the attorney shall, upon the contract being voided, be entitled to collect a reasonable fee.

(d) This section shall become operative when the State Bar posts on its Internet Web site the form and translations required by paragraph (1) of subdivision (b). The State Bar shall post the form and translations as soon as practicable, but no later than 45 days after the effective date of this section.

SEC. 3. 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 Executive Office for Immigration Review of the United States 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) Except if required pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 22442.6, 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 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.

SEC. 4. Section 22442.3 of the Business and Professions Code is amended to read:

22442.3. (a) An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, any words or titles, including, but not limited to, “notary public,” “notary,” “licensed,” “attorney,” or “lawyer,” 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. As provided in this subdivision, the literal translation of the phrase “notary public” into Spanish as “notario publico” or “notario,” is expressly prohibited.

(b) For purposes of this section, “literal translation of” or “to literally translate” a word, title, or phrase from one language means the translation of a word, title, 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 subdivision (a) or (c) by an immigration consultant shall constitute a violation of subdivision (a) of Section 6126.

(e) (1) In addition to the remedies and penalties prescribed in this chapter, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The willfulness of the misconduct.

(E) The defendant's assets, liabilities, and net worth.

(3) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

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

SEC. 5. Section 22442.5 is added to the Business and Professions Code, to read:

22442.5. (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 that is enacted after the effective date of this section but before January 1, 2017, including, but not limited to, the federal act known as the "Border Security, Economic Opportunity, and Immigration Modernization Act" (S. 744, 2013), that authorizes an undocumented immigrant who either entered the United States without inspection or who did not depart after expiration of a nonimmigrant visa, to attain a lawful status under federal law. The State Bar shall announce and post on its Internet Web site when an immigration reform act has been enacted.

(2) "Immigration reform act services" means services described in Section 22441 that are provided in connection with an immigration reform act.

(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.

SEC. 6. Section 22442.6 is added to the Business and Professions Code, to read:

22442.6. (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 an immigration reform act, as defined in subdivision (b) of Section 22442.5.

(b) Any funds received after the effective date of this section, but before the enactment of an immigration reform act, as defined in subdivision (b) of Section 22442.5, shall be refunded to the client promptly, but no later than 30 days after receipt of any funds.

(c) (1) If an immigration consultant providing immigration reform act services accepted funds prior to the effective date of this section, and the services provided in connection with payment of those funds were rendered, the consultant shall promptly, but no later than 30 days after the effective date of this section, provide the client with a statement of accounting describing the services rendered.

(2) (A) Any funds received before the effective date of this section, for which immigration reform act services were not rendered prior to the effective date of this section, shall either be refunded to the client or shall be deposited in a client trust account pursuant to Section 22442.5.

(B) If an immigration consultant deposits funds in a client trust account pursuant to this paragraph, he or she shall comply with all applicable provisions of this chapter, including Section 22442, and shall provide to the client a written notice, in both English and in the client's native language, that there are no benefits or relief available, that no application for such benefits or relief may be processed until enactment of an immigration reform act and the related necessary federal regulations and forms, and that commencing with the effective date of this section, 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 an immigration reform act.

(d) (1) In addition to the remedies and penalties prescribed in this chapter, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The willfulness of the misconduct.

(E) The defendant's assets, liabilities, and net worth.

(3) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

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

SEC. 7. 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 fifty thousand dollars (\$50,000) 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 fifty thousand dollars (\$50,000).

(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 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.

(k) This section shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed.

SEC. 8. Section 22443.1 is added to the Business and Professions Code, 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 United States Department of State for obtaining a United States passport, as instructed by the Secretary of State.

(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 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.

(k) This section shall become operative on July 1, 2014.

SEC. 9. 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. 10. 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 by making promises of benefits and relief under pending

and proposed federal immigration reform acts before their enactment, it is necessary that this act take effect immediately.

Approved _____, 2013

Governor