

Amendment No. 981

Senate Amendment to Assembly Bill No. 74 Second Reprint (BDR 19-84)

Proposed by: Senate Committee on Finance

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE all appropriations from A.B. 74 R2.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

JWP/TMC



Date: 6/3/2013

A.B. No. 74—Establishes provisions governing document preparation services.
(BDR 19-84)



ASSEMBLY BILL NO. 74—ASSEMBLYWOMAN FLORES

PREFILED JANUARY 31, 2013

Referred to Committee on Judiciary

SUMMARY—Establishes provisions governing document preparation services.
(BDR 19-84)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public affairs; requiring that document preparation services be registered with the Secretary of State; establishing qualifications for registration; requiring the filing of a bond; regulating the business practices of document preparation services; authorizing disciplinary action and other remedies in specified circumstances; providing civil and criminal penalties; ~~making an appropriation;~~ revising provisions relating to the Notary Public Training Account in the State General Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who is not an active member of the State Bar of Nevada or otherwise authorized to practice law in this State from engaging in the practice of law. (NRS 7.285) However, so long as he or she does not engage in the practice of law, there is currently no statutory provision governing a person who provides assistance in a legal matter, for compensation, to another person who is acting without the assistance of an attorney. This bill generally provides that any person engaged in the business of providing such assistance (a "document preparation service") must register with the Secretary of State and comply with various additional requirements set forth in this bill.

Section 4 of this bill defines a "document preparation service" as any person who, for compensation and at the direction of a client, provides assistance to the client in a legal matter, including, without limitation, preparing or completing a pleading or other document for the client or securing supporting documents. **Section 4** excludes from this definition, among others: (1) an attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment; (2) a governmental entity or an employee of such an entity; (3) a nonprofit, tax-exempt organization which provides legal services to persons free of charge; (4) certain legal aid offices and lawyer referral services; (5) a person who provides certain services regulated by federal law; (6) a corporation or other entity representing or acting for itself through an officer or employee, or any such officer or employee; (7) a commercial wedding chapel; (8) a person who provides legal forms or computer programs that enable another person to create legal documents; and (9) a commercial registered agent.

Section 5 of this bill broadly defines “legal matter” to mean the preparation of any will or trust, any immigration or citizenship proceeding, or any other proceeding, filing or action affecting the legal rights, duties, obligations or liabilities of a person.

Sections 7 and 8 of this bill provide that any person wishing to engage in the business of a document preparation service must register with the Secretary of State and renew that registration annually. **Section 7** establishes certain qualifications for registration and provides for the disqualification of any person who has been convicted of certain criminal offenses or has been adjudged to have engaged in certain kinds of misconduct.

Section 9 of this bill requires a document preparation service to file and maintain with the Secretary of State a cash bond or surety bond, to provide a means of indemnifying a client or other person for damage caused by fraud, incompetency or certain other misconduct, or providing payment to the Secretary of State for any civil penalty or award of attorney’s fees or costs made against the document preparation service.

Sections 12-15 of this bill impose various requirements relating to advertising and the establishment of the relationship between a document preparation service and a client. **Section 13.5** requires: (1) a registrant required to obtain a state business license to obtain and maintain a state business license; and (2) each registrant to conspicuously display at the registrant’s place of business a copy of any state and local business license issued to the registrant or the registrant’s employer. **Section 15** provides that: (1) there must be a written contract between the client and the document preparation service; and (2) the contract must contain certain terms and disclosures.

Sections 16-20 of this bill set forth various required and prohibited practices applicable to a document preparation service. **Section 17** provides for the return to the client of any original documents provided by the client. **Section 18** requires the release of a client’s file to any law enforcement agency on demand, with the authorization of the client. **Section 19** imposes certain requirements relating to payments made by a client for services rendered by a document preparation service.

Section 21 of this bill authorizes the Secretary of State to adopt regulations to carry out the provisions of this bill, and also requires the Secretary of State to take certain actions to facilitate the submission of complaints relating to a document preparation service.

Section 22 of this bill authorizes the Secretary of State to investigate any suspected violation of the provisions of the bill. If a violation is found, the Secretary of State may: (1) issue a cease-and-desist order; (2) initiate disciplinary proceedings; (3) refer the matter to the Attorney General or a district attorney for the commencement of a civil action or criminal prosecution; or (4) take any combination of these actions. Pursuant to **section 25** of this bill, a willful violation of any of the provisions of this bill, or of a regulation or order of the Secretary of State, is a misdemeanor except that a second or subsequent offense occurring within 5 years is a gross misdemeanor. In addition, **section 26** of this bill provides a private right of action to any person who suffers a pecuniary loss as the result of a violation.

~~[Section 28 of this bill makes an appropriation to the Office of the Secretary of State for certain purposes relating to carrying out the provisions of this bill.]~~ Existing law authorizes the Secretary of State to provide courses of study for notaries public, and to charge a fee for such instruction. The fees collected are deposited in the Notary Public Training Account in the State General Fund. (NRS 240.018) Section 27.5 of this bill requires the Secretary of State annually to reconcile the fees received and the expenses related to administering the training of notaries, and deposit any excess fees with the State Treasurer for credit to the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 19 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Client” means a person who:*

1. Represents or otherwise acts for himself or herself in a legal matter without the services of an attorney authorized to practice law in this State; and

2. Receives the services of a document preparation service in that legal matter or enters into a contract with a document preparation service to receive such services.

Sec. 4. *1. “Document preparation service” means a person who:*

(a) For compensation and at the direction of a client, provides assistance to the client in a legal matter, including, without limitation:

(1) Preparing or completing any pleading, application or other document for the client;

(2) Translating an answer to a question posed in such a document;

(3) Securing any supporting document, such as a birth certificate, required in connection with the legal matter; or

(4) Submitting a completed document on behalf of the client to a court or administrative agency; or

(b) Holds himself or herself out as a person who provides such services.

2. The term does not include:

(a) A person who provides only secretarial or receptionist services.

(b) An attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment.

(c) A law student certified by the State Bar of Nevada for training in the practice of law.

(d) A governmental entity or an employee of such an entity who is acting in the course and scope of that employment.

(e) A nonprofit organization which qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c) and which provides legal services to persons free of charge, or an employee of such an organization who is acting in the course and scope of that employment.

(f) A legal aid office or lawyer referral service operated, sponsored or approved by a duly accredited law school, a governmental entity, the State Bar of Nevada or any other bar association which is representative of the general bar of the geographical area in which the bar association exists, or an employee of such an office or service who is acting in the course and scope of that employment.

(g) A military legal assistance office or a person assigned to such an office who is acting in the course and scope of that assignment.

(h) A person licensed by or registered with an agency or entity of the United States Government acting within the scope of his or her license or registration, including, without limitation, an accredited immigration representative and an enrolled agent authorized to practice before the Internal Revenue Service, but not

including a bankruptcy petition preparer as defined by section 110 of the United States Bankruptcy Code, 11 U.S.C. § 110.

(i) A corporation, limited-liability company or other entity representing or acting for itself through an officer, manager, member or employee of the entity, or any such officer, manager, member or employee who is acting in the course and scope of that employment.

(j) A commercial wedding chapel.

(k) A person who provides legal forms or computer programs that enable another person to create legal documents.

(l) A commercial registered agent.

(m) A person who holds a license, permit, certificate, registration or any other type of authorization required by chapter 645 or 692A of NRS, or any regulation adopted pursuant thereto, and is acting within the scope of that authorization.

3. As used in this section:

(a) "Commercial registered agent" has the meaning ascribed to it in NRS 77.040.

(b) "Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.

Sec. 5. "Legal matter" means:

1. The preparation of any will or trust;

2. Any proceeding, filing or action affecting the immigration or citizenship status of a person and arising under:

(a) Immigration and naturalization law;

(b) An executive order or presidential proclamation; or

(c) An action of the United States Citizenship and Immigration Services of the Department of Homeland Security, the United States Department of State or the United States Department of Labor; or

3. Any proceeding, filing or action otherwise affecting the legal rights, duties, obligations or liabilities of a person.

Sec. 6. "Registrant" means a document preparation service registered pursuant to this chapter.

Sec. 7. 1. A person who wishes to engage in the business of a document preparation service must be registered by the Secretary of State pursuant to this chapter. An applicant for registration must be a citizen or legal resident of the United States and at least 18 years of age.

2. The Secretary of State shall not register as a document preparation service any person:

(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service has previously been revoked by the Secretary of State;

(c) Who has previously been convicted of a gross misdemeanor pursuant to paragraph (b) of subsection 1 of section 25 of this act; or

(d) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of a crime involving theft, fraud or dishonesty;

(2) Convicted of the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

1 3. *An application for registration as a document preparation service must*
2 *be made under penalty of perjury on a form prescribed by regulation of the*
3 *Secretary of State and must be accompanied by a cash bond or surety bond*
4 *meeting the requirements of section 9 of this act.*

5 4. *After the investigation of the history of the applicant is completed, the*
6 *Secretary of State shall issue a certificate of registration if the applicant is*
7 *qualified for registration and has complied with the requirements of this section.*
8 *Each certificate of registration must bear the name of the registrant and a*
9 *registration number unique to that registrant. The Secretary of State shall*
10 *maintain a record of the name and registration number of each registrant.*

11 Sec. 8. 1. *The registration of a document preparation service is valid for 1*
12 *year after the date of issuance of the certificate of registration, unless the*
13 *registration is suspended or revoked. Except as otherwise provided in this section,*
14 *the registration may be renewed subject to the same conditions as the initial*
15 *registration. An application for renewal must be made under penalty of perjury*
16 *on a form prescribed by regulation of the Secretary of State and must be*
17 *accompanied by a cash bond or surety bond meeting the requirements of section*
18 *9 of this act, unless the bond previously filed by the registrant remains on file and*
19 *in effect.*

20 2. *The Secretary of State may:*

21 (a) *Conduct any investigation of a registrant that the Secretary of State*
22 *deems appropriate.*

23 (b) *Require a registrant to submit a complete set of fingerprints and written*
24 *permission authorizing the Secretary of State to forward the fingerprints to the*
25 *Central Repository for Nevada Records of Criminal History for submission to the*
26 *Federal Bureau of Investigation for its report.*

27 3. *After any investigation of the history of a registrant is completed, unless*
28 *the Secretary of State elects or is required to deny renewal pursuant to this*
29 *section or section 23 of this act, the Secretary of State shall renew the registration*
30 *if the registrant is qualified for registration and has complied with the*
31 *requirements of this section.*

32 Sec. 9. 1. *A registrant shall file with the Secretary of State a cash bond or*
33 *surety bond in the penal sum of \$50,000 which is approved as to form by the*
34 *Attorney General and conditioned to provide:*

35 (a) *Indemnification to a client or any other person who is determined in an*
36 *action or proceeding to have suffered damage as a result of:*

37 (1) *An act or omission of the registrant, or an agent or employee of the*
38 *registrant, which violates a provision of this chapter or a regulation or order*
39 *adopted or issued pursuant thereto;*

40 (2) *A wrongful failure or refusal by the registrant, or an agent or*
41 *employee of the registrant, to provide services in accordance with a contract*
42 *entered into pursuant to section 15 of this act;*

43 (3) *The fraud, dishonesty, negligence or other wrongful conduct of the*
44 *registrant or an agent or employee of the registrant; or*

45 (4) *An act or omission of the registrant in violation of any other federal*
46 *or state law for which the return of fees, an award of damages or the imposition*
47 *of sanctions have been awarded by a court of competent jurisdiction in this State;*
48 *or*

49 (b) *Payment to the Secretary of State for any civil penalty or award of*
50 *attorney's fees or costs of suit owing and unpaid by the registrant to the Secretary*
51 *of State pursuant to this chapter.*

2. No part of the bond may be withdrawn while the registration of the registrant remains in effect, or while a proceeding to suspend or revoke the registration is pending.

3. If a surety bond is filed pursuant to subsection 1:

(a) The bond must be executed by the registrant as principal and by a surety company qualified and authorized to do business in this State.

(b) The bond must cover the period of the registration of the registrant, except when the surety is released in accordance with this section.

(c) The surety shall pay any final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice that the judgment is final.

(d) The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

(e) If the penal sum of the bond is exhausted, the surety shall give written notice to the Secretary of State and the registrant within 30 days after its exhaustion.

(f) The surety may be released after giving 30 days' written notice to the Secretary of State and the registrant, but the release does not discharge or otherwise affect any claim resulting from an act or omission which is alleged to have occurred while the bond was in effect.

4. Except as otherwise provided in this subsection, if a cash bond is filed pursuant to subsection 1, the Secretary of State may retain the bond until the expiration of 3 years after the date the registrant has ceased to do business, or 3 years after the date of the expiration or revocation of the registration, to ensure that there are no outstanding claims against the bond. A court of competent jurisdiction may order the return of the bond, or any part of the bond, at an earlier date upon evidence satisfactory to the court that there are no outstanding claims against the bond or that the part of the bond retained by the Secretary of State is sufficient to satisfy any outstanding claims. Interest on a cash bond filed pursuant to subsection 1 must accrue to the account of the depositor.

5. The registration of a registrant is suspended by operation of law when the registrant is no longer covered by a bond or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 3 that the penal sum of a surety bond is exhausted or that the surety is being released, the Secretary of State shall immediately notify the registrant in writing that his or her registration is suspended by operation of law until another bond is filed in the same manner and amount as the former bond.

6. The Secretary of State may reinstate the registration of a registrant whose registration has been suspended pursuant to subsection 5 if, before the current term of the registration expires, the registrant files with the Secretary of State a new bond meeting the requirements of this section.

7. Except as specifically authorized or required by this chapter, a registrant shall not make or cause to be made any oral or written reference to the registrant's compliance with the requirements of this section.

Sec. 10. 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for registration or the renewal of registration as a document preparation service pursuant to section 7 or 8 of this act must include the social security number of the applicant in the application submitted to the Secretary of State.

(b) An applicant described in paragraph (a) shall submit to the Secretary of State the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. *The Secretary of State shall include the statement required pursuant to subsection 1 in:*

(a) *The application or any other forms that must be submitted for registration or the renewal of registration; or*

(b) *A separate form prescribed by the Secretary of State.*

3. *Registration as a document preparation service may not be issued or renewed by the Secretary of State if the applicant:*

(a) *Fails to submit the statement required pursuant to subsection 1; or*

(b) *Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Secretary of State shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 11. 1. *If the Secretary of State receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is registered as a document preparation service, the Secretary of State shall deem the registration to be suspended at the end of the 30th day after the date on which the court order was issued unless the Secretary of State receives a letter issued to the registrant by the district attorney or other public agency pursuant to NRS 425.550 stating that the registrant has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Secretary of State shall reinstate a registration as a document preparation service that has been suspended by a district court pursuant to NRS 425.540 if the Secretary of State receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the natural person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 12. 1. *Any advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated must include a clear and conspicuous statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

2. *The statement required by subsection 1 to be included in an advertisement must:*

(a) *Be in the same language as the rest of the advertisement; and*

(b) *Be in the form prescribed by regulation of the Secretary of State.*

3. *A person shall not disseminate or cause to be disseminated any advertisement or other statement that he or she is engaged in the business of a document preparation service in this State unless he or she has complied with all the applicable requirements of this chapter.*

Sec. 13. 1. *Each registrant shall display conspicuously in his or her place of business a copy of his or her certificate of registration and a written notice meeting the requirements of this section.*

2. *The notice must:*

(a) *Be not less than 12 by 20 inches in size, and each character of text in the notice must be not less than 1 inch in height and 1 inch in width.*

(b) *Be written in English and in each other language in which the registrant transacts business with the registrant's clients.*

(c) *Contain a statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

(d) *Contain the full name of the registrant or, if more than one registrant is providing services at that place of business, the full name of each such registrant.*

(e) *Contain a list of the services provided by the registrant and the fee charged for each such service.*

(f) *Contain a statement that the registrant has filed with the Secretary of State a cash bond or surety bond, stating the amount and any identifying number of the bond.*

Sec. 13.5. 1. *A registrant required to obtain a state business license issued by the Secretary of State pursuant to chapter 76 of NRS shall:*

(a) *Obtain a state business license before offering a document preparation service; and*

(b) *Maintain a state business license during the period of the registrant's registration as a document preparation service.*

2. *Each registrant shall display conspicuously in the registrant's place of business a copy of:*

(a) *The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and*

(b) *Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.*

Sec. 14. 1. *Before providing any services to a client or presenting a client with the contract required by section 15 of this act, a registrant must:*

(a) *Furnish the client with a written form of disclosure meeting the requirements of this section, with a copy for the client to retain; and*

(b) *Require the client to read and sign the disclosure, acknowledging that the client has read and understands it.*

2. *The disclosure must be written in English and, if different, the language in which the registrant transacts business with the client and must include:*

(a) *The full name, business address and telephone number and registration number of the registrant.*

(b) *The name and business address of the registrant's agent for service of process, if any, in this State.*

(c) *A statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

(d) *Unless the registrant is an attorney licensed to practice in another state or other jurisdiction, a statement that any communication between the client and the registrant is not protected from disclosure by any privilege.*

(e) *A statement that the registrant has posted or filed with the Secretary of State a cash bond or surety bond, stating the amount of the bond and any identifying number of the bond.*

(f) *The expiration date of:*

(1) *The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and*

1 (2) Any business license issued to the registrant or the registrant's
2 employer, as applicable, by a local government in this State.

3 **Sec. 15.** 1. Before a registrant provides any services to a client, the
4 registrant and the client must enter into a written contract meeting the
5 requirements of this section. The registrant shall provide the client with a copy of
6 the contract.

7 2. The contract must:

8 (a) Be written in English and, if different, in the language in which the
9 registrant transacts business with the client, and be printed or typewritten in not
10 less than 12-point type.

11 (b) Explain the services to be performed by the registrant and state the total
12 price to be paid by the client for all such services.

13 (c) With respect to any document to be prepared by the registrant:

14 (1) State the estimated date by which the document is to be completed;

15 (2) Identify the court or agency with which the document is to be filed or
16 submitted; and

17 (3) If applicable, identify any associated deadlines or hearing dates of the
18 court or agency with which the document is to be filed or submitted.

19 (d) Include on the first page of the contract a statement in boldface type that
20 the registrant is not an attorney authorized to practice in this State and is
21 prohibited from providing legal advice or legal representation to any person.

22 (e) Include a statement that any complaint concerning the registrant may be
23 directed to:

24 (1) If the complaint involves an alleged violation of this chapter, the
25 Secretary of State; or

26 (2) If the complaint involves an allegation that the registrant is engaged
27 in the unauthorized practice of law, the office of Bar Counsel of the State Bar of
28 Nevada,

29 ↳ with the toll-free telephone number and Internet address for making the
30 complaint.

31 (f) State the date of the client's signature on the contract, if the client agrees
32 to the terms of the contract.

33 3. A contract between a registrant and a client that does not comply with
34 any requirement of this section is voidable by the client.

35 **Sec. 16.** Any document prepared for a client by a registrant must include,
36 below any required signature of the client, the name, business address and
37 telephone number and registration number of the registrant.

38 **Sec. 17.** 1. A registrant shall take reasonable measures to safeguard from
39 loss or damage any document provided to the registrant by a client in connection
40 with services rendered by the registrant.

41 2. Except as otherwise provided in subsection 3, a registrant shall
42 immediately return to a client any original document provided by the client:

43 (a) Upon the request of the client;

44 (b) If the contract required by section 15 of this act is not signed or is
45 cancelled for any reason; or

46 (c) If the document is no longer needed for the services rendered by the
47 registrant.

48 3. If a copy of any original document provided by a client is sufficient for
49 the purposes of a legal matter, the registrant shall make or cause to be made a
50 copy of the original document and immediately return the original to the client.

51 4. The duties of a registrant pursuant to this section are not affected by a
52 dispute existing between the registrant and the client over the registrant's fees or
53 costs.

1 **Sec. 18. 1.** *Upon the presentation to a registrant of a written form of*
2 *authorization signed by a client, the registrant shall provide a complete copy of*
3 *the client's file to an agent or employee of the Secretary of State or the Attorney*
4 *General, or to an agent or employee of a law enforcement agency, without the*
5 *necessity of a warrant or subpoena.*

6 2. *A registrant shall retain a copy of any document prepared for a client for*
7 *not less than 3 years after the date of the last service performed for the client. At*
8 *the end of that period, unless the client requests that the document be given to the*
9 *client, the document may be destroyed by the registrant. Any method of*
10 *destruction used by a registrant must ensure the complete and confidential*
11 *destruction of the document.*

12 **Sec. 19.** *A registrant shall provide a signed receipt to a client for each*
13 *payment made to the registrant by the client. The receipt must be printed or*
14 *typewritten on the letterhead of the registrant and must include the name,*
15 *business address and telephone number, registration number and taxpayer*
16 *identification number of the registrant.*

17 **Sec. 20.** *A registrant shall not:*

18 1. *After the date of the last service performed for a client, retain any fees or*
19 *costs for services not performed or costs not incurred.*

20 2. *Make, orally or in writing:*

21 (a) *A promise of the result to be obtained by the filing or submission of any*
22 *document, unless the registrant has some basis in fact for making the promise;*

23 (b) *A statement that the registrant has some special influence with or is able*
24 *to obtain special treatment from the court or agency with which a document is to*
25 *be filed or submitted; or*

26 (c) *A false or misleading statement to a client if the registrant knows that the*
27 *statement is false or misleading or knows that the registrant lacks a sufficient*
28 *basis for making the statement.*

29 3. *In any advertisement or written description of the registrant or the*
30 *services provided by the registrant, or on any letterhead or business card of the*
31 *registrant, use the term "legal aid," "legal services," "law office," "notary*
32 *public," "notary," "licensed," "attorney," "lawyer" or any similar term, in*
33 *English or in any other language, which implies that the registrant:*

34 (a) *Offers services without charge if the registrant does not do so; or*

35 (b) *Is an attorney authorized to practice law in this State.*

36 4. *Negotiate with another person concerning the rights or responsibilities of*
37 *a client, communicate the position of a client to another person or convey the*
38 *position of another person to a client.*

39 5. *Appear on behalf of a client in a court proceeding or other formal*
40 *adjudicative proceeding, unless the registrant is ordered to appear by the court or*
41 *presiding officer.*

42 6. *Provide any advice, explanation, opinion or recommendation to a client*
43 *about possible legal rights, remedies, defenses, options or the selection of*
44 *documents or strategies, except that a registrant may provide to a client published*
45 *factual information, written or approved by an attorney, relating to legal*
46 *procedures, rights or obligations.*

47 7. *Seek or obtain from a client a waiver of any provision of this chapter.*
48 *Any such waiver is contrary to public policy and void.*

49 **Sec. 21. 1.** *In addition to the regulations which the Secretary of State is*
50 *required to adopt pursuant to this chapter, the Secretary of State may adopt any*
51 *other regulations necessary to carry out the provisions of this chapter.*

52 2. *The Secretary of State shall:*

1 (a) Establish a toll-free telephone number which may be used by any person
2 to make a complaint about a registrant or an alleged violation of this chapter.

3 (b) Post on the Internet website of the Secretary of State information
4 concerning making such a complaint, which must include the telephone number
5 established pursuant to paragraph (a).

6 Sec. 22. 1. If the Secretary of State obtains information that a provision
7 of this chapter or a regulation or order adopted or issued pursuant thereto has
8 been violated by a registrant or another person, the Secretary of State may
9 conduct or cause to be conducted an investigation of the alleged violation.

10 2. If, after investigation, the Secretary of State determines that a violation
11 has occurred, the Secretary of State may:

12 (a) Serve, by certified mail addressed to the person who has committed the
13 violation, a written order directing the person to cease and desist from the
14 conduct constituting the violation. The order must notify the person that any
15 willful violation of the order may subject the person to prosecution and criminal
16 penalties pursuant to section 25 of this act.

17 (b) If a registrant has committed the violation, begin proceedings pursuant to
18 section 23 of this act to revoke or suspend the registration of the registrant.

19 (c) Refer the alleged violation to the Attorney General or a district attorney
20 for commencement of a civil action against the person pursuant to section 24 of
21 this act.

22 (d) Refer the alleged violation to the Attorney General or a district attorney
23 for prosecution of the person pursuant to section 25 of this act.

24 (e) Take any combination of the actions described in this subsection.

25 Sec. 23. 1. The Secretary of State may deny, suspend, revoke or refuse to
26 renew the registration of any person who violates a provision of this chapter or a
27 regulation or order adopted or issued pursuant thereto. Except as otherwise
28 provided in subsection 2, a suspension or revocation may be imposed only after a
29 hearing.

30 2. The Secretary of State shall immediately revoke the registration of a
31 registrant upon the receipt of an official document or record showing:

32 (a) The entry of a judgment or conviction; or

33 (b) The occurrence of any other event,

34 ↳ that would disqualify the registrant from registration pursuant to subsection 2
35 of section 7 of this act.

36 Sec. 24. 1. Upon referral by the Secretary of State, the Attorney General
37 or the district attorney of the county in which the defendant resides or maintains
38 a place of business may bring an action in the name of the State of Nevada in a
39 court of competent jurisdiction:

40 (a) For injunctive relief against any person who violates or threatens to
41 violate a provision of this chapter or a regulation or order adopted or issued
42 pursuant thereto;

43 (b) For the recovery of a civil penalty against the defendant of not less than
44 \$100 or more than \$5,000 for each such violation;

45 (c) For an order directing restitution to be made by the defendant to any
46 person who suffers pecuniary loss as a result of such a violation; or

47 (d) For any combination of the remedies described in this subsection.

48 2. Any civil penalty recovered pursuant to this section must be paid to the
49 Secretary of State and deposited in the State General Fund.

50 3. If the court determines that the State of Nevada is the prevailing party in
51 an action brought pursuant to this section, the court shall award the State the
52 costs of suit and reasonable attorney's fees incurred in the action.

1 **Sec. 25. 1. A person who willfully violates a provision of this chapter or a**
2 **regulation or order adopted or issued pursuant thereto:**

3 (a) *For the first offense within the immediately preceding 5 years, is guilty of*
4 *a misdemeanor.*

5 (b) *For a second or subsequent offense within the immediately preceding 5*
6 *years, is guilty of a gross misdemeanor and shall be punished by imprisonment in*
7 *the county jail for not more than 1 year, or by a fine of not more than \$10,000, or*
8 *by both fine and imprisonment.*

9 2. *In addition to the penalties prescribed by subsection 1, the court may*
10 *order a person described in that subsection to pay restitution to any person who*
11 *has suffered a pecuniary loss as a result of the violation.*

12 3. *For the purposes of subsections 1 and 2, evidence that a person has been*
13 *served with an order by the Secretary of State pursuant to section 22 of this act*
14 *before the date of the alleged violation is evidence that the alleged violation is*
15 *intentional if it involves a repetition or a continuation of conduct of the kind*
16 *described in the order.*

17 **Sec. 26. Notwithstanding the provisions of sections 22 to 25, inclusive, of**
18 **this act, any person who suffers a pecuniary loss as a result of a violation of this**
19 **chapter or a regulation or order adopted or issued pursuant thereto by a**
20 **registrant or other person may bring an action against that person in any court of**
21 **competent jurisdiction and may recover the sum of \$500 or twice the amount of**
22 **the pecuniary loss sustained, whichever is greater. If the court determines that**
23 **the plaintiff is the prevailing party in an action brought pursuant to this section,**
24 **the court shall award the plaintiff the costs of suit and reasonable attorney's fees**
25 **incurred in the action.**

26 **Sec. 27. The provisions of this chapter do not:**

27 1. *Authorize the practice of law by any person who is not an active member*
28 *of the State Bar of Nevada or otherwise authorized to practice law in this State;*
29 *or*

30 2. *Prohibit a person from representing or otherwise acting for himself or*
31 *herself in a legal matter without the services of an attorney.*

32 **Sec. 27.5. NRS 240.018 is hereby amended to read as follows:**

33 240.018 1. The Secretary of State may:

34 (a) Provide courses of study for the mandatory training of notaries public. Such
35 courses of study must include at least 4 hours of instruction relating to the functions
36 and duties of notaries public.

37 (b) Charge a reasonable fee to each person who enrolls in a course of study for
38 the mandatory training of notaries public.

39 2. A course of study provided pursuant to this section must comply with the
40 regulations adopted pursuant to subsection 1 of NRS 240.017.

41 3. The following persons are required to enroll in and successfully complete a
42 course of study provided pursuant to this section:

43 (a) A person applying for appointment as a notary public for the first time.

44 (b) A person renewing his or her appointment as a notary public, if the
45 appointment has expired for a period greater than 1 year.

46 (c) A person renewing his or her appointment as a notary public, if during the
47 immediately preceding 4 years the person has been fined for failing to comply with
48 a statute or regulation of this State relating to notaries public.

49 ➤ A person who holds a current appointment as a notary public is not required to
50 enroll in and successfully complete a course of study provided pursuant to this
51 section if the person is in compliance with all of the statutes and regulations of this
52 State relating to notaries public.

4. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 1 in the ~~following manner:~~

~~(a) Seventy five percent of the fees collected must be deposited in the State General Fund.~~

~~(b) Twenty five percent of the fees collected must be deposited in the~~ Notary Public Training Account which is hereby created in the State General Fund. The Account must be administered by the Secretary of State. Any interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward. All claims against the Account must be paid as other claims against the State are paid. The money in the Account may be expended:

~~(1)~~ (a) To pay for expenses related to providing courses of study for the mandatory training of notaries public, including, without limitation, the rental of rooms and other facilities, advertising, travel and the printing and preparation of course materials; or

~~(2)~~ (b) For any other purpose authorized by the Legislature.

5. At the end of each fiscal year, the Secretary of State shall reconcile the amount of the fees collected pursuant to paragraph (b) of subsection 1 and the expenses related to administering the training of notaries public pursuant to this chapter and deposit any excess fees received with the State Treasurer for credit to the State General Fund.

~~Sec. 28. 1. There is hereby appropriated from the State General Fund to the Office of the Secretary of State the sum of \$150,000 for the development of internal and external applications on the Internet website of the Office of the Secretary of State to carry out the provisions of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the Office of the Secretary of State or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the Office of the Secretary of State or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2015.~~ (Deleted by amendment.)

~~Sec. 29. 1. This section and section 28 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 27, inclusive, of this act become~~ act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On ~~January~~ March 1, 2014, for all other purposes.

~~2.~~ 2. Sections 10 and 11 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
➤ are repealed by the Congress of the United States.