

ASSEMBLY BILL NO. 324—ASSEMBLYMAN FLORES

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to document preparation services. (BDR 19-1091)

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 document preparation services; revising the definition of a “document preparation service”; prohibiting a person providing a document preparation service from advertising or representing himself or herself as a paralegal or legal assistant; requiring certain fees to register or renew registration as a document preparation service; revising the period of time in which an application for registration as a document preparation service must be completed; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes requirements for the registration and practice of a person who provides a document preparation service, which includes: (1) defining a “document preparation service”; (2) requiring persons who provide a document preparation service to register with the Secretary of State; (3) exempting certain persons from registering as a document preparation service; and (4) prohibiting a person who provides a document preparation service from committing certain acts. (Chapter 240A of NRS) **Section 1.5** of this bill expands the definition of “document preparation service” to include: (1) a person who, for compensation, assists a client in preparing all or substantially all of a federal or state tax return or a claim for a tax refund; (2) certain paralegals; and (3) an enrolled agent who is authorized to practice before the Internal Revenue Service. **Section 1.5** further clarifies that a bankruptcy petition preparer is included in the definition of “document preparation service.” **Section 1.5** also excludes from the definition of “document preparation service”: (1) certain attorneys who are licensed to practice in other states and the District of Columbia; and (2) a certified public accountant



who is licensed in this State or a financial planner who is subject to certain state requirements.

Section 2 of this bill requires a person who registers as a document preparation service to pay a nonrefundable application fee of \$50. **Section 3** of this bill requires a person who wishes to renew his or her registration as a document preparation service to pay a renewal fee of \$25 every year upon the expiration of the registration. **Section 1** of this bill requires these fees to be accounted for separately and used to pay for expenses relating to administering the document preparation services program.

Section 2 provides that an application to register as a document preparation service must be completed within 120 days or the application must be denied.

Section 4 of this bill prohibits a person who provides document preparation services from advertising or representing himself or herself as a paralegal or legal assistant, which implies that the person is operating under the direction and supervision of an attorney.

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

Section 1. Chapter 240A of NRS is hereby amended by adding thereto a new section to read as follows:

The Secretary of State shall account for the fees received pursuant to NRS 240A.100 and 240A.110 separately, and use those fees, and any interest and income earned on those fees, solely to pay for expenses related to administering the document preparation services program pursuant to this chapter, including, without limitation, the cost of:

1. Materials and advertising to provide education and information about the program; and

2. Any technology necessary to process and maintain registration as a document preparation service.

Sec. 1.5. NRS 240A.030 is hereby amended to read as follows:

240A.030 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; ~~for~~

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



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1 ***(5) Preparing or assisting in the preparation of all or***
2 ***substantially all of a federal or state tax return or claim for a tax***
3 ***refund; or***

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

6 2. ***The term includes, without limitation:***

7 ***(a) A paralegal who performs one or more of the actions***
8 ***described in subsection 1 unless the paralegal works under the***
9 ***direction and supervision of an attorney authorized to practice law***
10 ***in this State;***

11 ***(b) A bankruptcy petition preparer as defined by section 110 of***
12 ***the United States Bankruptcy Code, 11 U.S.C. § 110; and***

13 ***(c) An enrolled agent authorized to practice before the***
14 ***Internal Revenue Service.***

15 3. The term does not include:

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

18 (b) An attorney ~~authorized~~ :

19 ***(1) Authorized*** to practice law in this State, or an employee
20 of such an attorney who is paid directly by the attorney or law firm
21 with whom the attorney is associated and who is acting in the course
22 and scope of that employment.

23 ***(2) Authorized to practice law in any other state or the***
24 ***District of Columbia who provides services related to the legal***
25 ***matters described in subsection 2 of NRS 240A.040.***

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

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

30 (e) A nonprofit organization formed pursuant to title 7 of NRS
31 which the Secretary of the Treasury has determined is a tax-exempt
32 organization pursuant to 26 U.S.C. § 501(c) and which provides
33 legal services to persons free of charge, or an employee of such an
34 organization who is acting in the course and scope of that
35 employment.

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

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



(h) ~~HA~~ *Except as otherwise provided in paragraphs (b) and (c) of subsection 2, 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.

(n) A collection agency that is licensed pursuant to chapter 649 of NRS.

(o) A certified public accountant that is licensed to practice in this State pursuant to the provisions of chapter 628 of NRS or a financial planner that is subject to the requirements of chapter 628A of NRS who is acting within the scope of the license or requirements, as applicable, to prepare or assist in preparing a federal or state tax return or claim for a tax refund for another person.

~~B-1~~ 4. 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. 2. NRS 240A.100 is hereby amended to read as follows:

240A.100 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 or hold a valid Employment Authorization Document issued by the United States Citizenship and Immigration Services of the Department of Homeland Security, and be 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 in this State or another state has previously been revoked for cause;

(c) Who has previously been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a gross misdemeanor pursuant to paragraph (b) of subsection 1 of NRS 240A.290; 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, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime involving theft, fraud or dishonesty;

(2) Convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, 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.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by ~~fee~~ :

(a) *A nonrefundable application fee of \$50; and*

(b) *A cash bond or surety bond meeting the requirements of NRS 240A.120.*

4. An applicant for registration must submit to the Secretary of State a declaration under penalty of perjury stating that the applicant has not had a certificate or license as a document preparation service revoked or suspended in this State or any other state or territory of the United States.

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

6. An application for registration as a document preparation service that is not completed within ~~6 months~~ *120 days* after the date on which the application was submitted must be denied. *If an*



application is denied pursuant to this subsection, the applicant may submit a new application.

Sec. 3. NRS 240A.110 is hereby amended to read as follows:

240A.110 1. The registration of a document preparation service is valid for 1 year after the date of issuance of the certificate of registration, unless the registration is suspended or revoked. Except as otherwise provided in this section, the registration may be renewed subject to the same conditions as the initial registration. An application for renewal must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by ~~fat~~:

(a) *A renewal fee of \$25; and*

(b) *A cash bond or surety bond meeting the requirements of NRS 240A.120, unless the bond previously filed by the registrant remains on file and in effect.*

2. The registration of a registrant who holds a valid Employment Authorization Document issued by the United States Citizenship and Immigration Services of the Department of Homeland Security must expire on the date on which that person's employment authorization expires.

3. The Secretary of State may:

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

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

4. After any investigation of the history of a registrant is completed, unless the Secretary of State elects or is required to deny renewal pursuant to this section or NRS 240A.270, the Secretary of State shall renew the registration if the registrant is qualified for registration and has complied with the requirements of this section.

Sec. 4. NRS 240A.240 is hereby amended to read as follows:

240A.240 A registrant shall not:

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

2. Make, orally or in writing:

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

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



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

3. In any advertisement or written description of the registrant or the services provided by the registrant, or on any letterhead or business card of the registrant, use the term “legal aid,” “legal services,” “law office,” “notario,” “notario publico,” “notary public,” “notary,” *“paralegal,” “legal assistant,”* “licensed,” “licenciado,” “attorney,” “lawyer” or any similar term, in English, Spanish or any other language, which implies that the registrant:

(a) Offers services without charge if the registrant does not do so; ~~for~~

(b) Is an attorney authorized to practice law in this State ~~for~~; or
(c) *Is acting under the direction and supervision of an attorney.*

4. *Represent himself or herself, orally or in writing, as a paralegal or legal assistant which implies that the registrant is acting under the direction and supervision of an attorney licensed to practice law in this State.*

5. Negotiate with another person concerning the rights or responsibilities of a client, communicate the position of a client to another person or convey the position of another person to a client.

~~for~~ 6. Appear on behalf of a client in a court proceeding or other formal adjudicative proceeding, unless the registrant is ordered to appear by the court or presiding officer.

~~for~~ 7. Provide any advice, explanation, opinion or recommendation to a client about possible legal rights, remedies, defenses, options or the selection of documents or strategies, except that a registrant may provide to a client published factual information, written or approved by an attorney, relating to legal procedures, rights or obligations.

~~for~~ 8. Seek or obtain from a client a waiver of any provision of this chapter. Any such waiver is contrary to public policy and void.

Sec. 5. This act becomes effective on July 1, 2017.

