

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Title 16, California Code of Regulations (CCR), Sections 3950

Legal Document Assistant Standard Contract

Section 100 CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(a), of the CCR, the Department of Consumer Affairs (Department) submits this written statement explaining why the proposed amendments section 3950 of Article 3, Chapter 5, Division 38, of Title 16, CCR, do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Department would add to, revise, or delete text in the CCR as follows:

The Department proposes to amend paragraph 7 of section 3950 as follows:

7. As required by law, I have filed a bond or made a cash deposit and have registered as a legal document assistant in each county in which my principal place of business is located and in which I maintain a branch office ~~where I will perform services on your behalf.~~

Paragraph 7 of the regulation conflicts with the requirements set forth in Business and Professions Code (BPC) section 6402. Section 6402 requires a legal document assistant to “be registered pursuant to this chapter by the county clerk in the county in which their principal place of business is located, and in which they maintain a branch office.” The current version of 6402 superseded the version of section 6402 that existed when the regulation became operative on August 16, 1999. (See, Bus. & Prof. Code, § 6402, effective January 1, 1999 [“A legal document assistant unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk of each county in which he or she performs acts for which registration is required.”].)

Assembly Bill (AB) 285 (Gallagher, Chapter 296, Statutes of 2015), effective January 1, 2016, amended section 6402 to provide: “A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in the county in which his or her principal place of business is located, and in which he or she maintains a branch office, and provide proof that the registrant has satisfied the bonding requirement of Section 6405.” AB 1213 (Chen, Chapter 128, Statutes of 2019), effective January 1, 2020, amended section 6402 to provide: “A legal document assistant or unlawful detainer

assistant shall be registered pursuant to this chapter by the county clerk in the county in which their principal place of business is located, and in which they maintain a branch office, and provide proof that the registrant has satisfied the bonding requirement of Section 6405.”

To accurately reflect the requirements of section 6402, the Department amends paragraph 7 to strike “where I will perform services on your behalf” and add “in which my principal place of business is located and in which I maintain a branch office.” These are changes without regulatory effect because they amend the regulation to be consistent with the amended BPC section 6402, (1) the regulatory provision is inconsistent with and superseded by section 6402, effective January 1, 2016 and January 1, 2020, and (2) the Department has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)