

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Title 16, California Code of Regulations (CCR), Sections 3900 and 3950

Legal Document Assistant Registration Form and Contract

Section 100 CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the CCR, the Department of Consumer Affairs (Department) submits this written statement explaining why the proposed amendments to section 3900 of Article 1, Chapter 5, Division 38, of Title 16, CCR, and 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:

Section 3900 – Legal Document Assistant Registration Form - Individual

1. “s” and “ss” throughout to “section” or “sections”

This is a change without regulatory effect because it only spells out the word “section” or “sections” in lieu of an abbreviation for clarity.

2. Add New Registration Box and Renewal Box.

This is a change without regulatory effect because it only adds boxes for the applicant to check to indicate whether they seek a new or renewal registration.

This change is necessary because the boxes would inform the form processor whether the application is for an initial registration or for renewal. The addition of these boxes enables the form processor to verify if the renewal applicant has met the BPC section 6402.2 continuing legal education requirements. Without these two boxes, the processor would not know if the continuing legal education requirement applies to the applicant, and confusion may result.

3. Insert “Personal Identification Number (such as California driver's license or birth certificate),” delete “California Driver's License Number,” and insert “The application for registration shall be accompanied by the display of personal identification, or attach a copy for other than in-person registration.”

This is a change without regulatory effect because BPC section 6403 requires that an application be accompanied by a “display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.” (Bus. & Prof., § 6403, subd. (b).) These amendments refer to the statutorily permissible documents and state the “display” may be effectuated by the display or provision of a copy of the identification.

4. Insert “5. For renewal of registration only” and “I have completed 15 hours of continuing legal education courses during the preceding two-year period as required by Business and Professions Code section 6402.2.”

This is a change without regulatory effect because it makes a regulation consistent with a changed California statute, the regulatory provision is inconsistent with and superseded by the changed statute, and 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).)

This amendment is necessary to comply with BPC section 6403(a)(7), which became effective January 1, 2016, and requires the renewal applicant to state on the form that he or she has completed the continuing legal education courses required by BPC section 6402.2.

5. Add “or found liable under section 6126.5” to D.2.

This is a change without regulatory effect because BPC section 6403(a)(2) requires that the application of a natural person contain a statement as to whether the applicant has been convicted of a felony, or of a misdemeanor under BPC section 6126 or 6127, or found liable under section 6126.5.

Section 3900 – Legal Document Assistant Registration Form - Corporation/Partnership

1. “s” and “ss” throughout to “section” or “sections”

This is a change without regulatory effect because it only spells out the word “section” or “sections” in lieu of an abbreviation for clarity.

2. Add New Registration Box and Renewal Box.

This is a change without regulatory effect because it only adds boxes for the applicant to check to indicate whether they seek a new or renewal registration.

This change is necessary because the boxes would inform the form processor whether the application is for an initial registration or for renewal. The addition of these boxes enables the form processor to verify if the renewal applicant has met the BPC section 6402.2 continuing legal education requirements. Without these two boxes, the processor would not know if the continuing legal education requirement applies to the applicant, and confusion may result.

3. Insert “Address for each listed Corporate Officer or General Partner” and “Telephone number for each listed Corporate Officer or General Partner[.]”

This is a change without regulatory effect because it makes a regulation consistent with a changed California statute and the Department has no discretion in altering the requirements. (Cal. Code Regs, tit. 1, § 100, subd. (a)(6).)

BPC section 6403(c)(1) requires the applicant to provide the addresses and telephone numbers of the general partners or officers of the corporation. However, the current regulation does not require the disclosure of such information. Therefore, the regulation needs to include this information to be consistent with the statutory requirement.

4. Add “The individual(s) performing legal document assistant services has/have completed the 15 hours of legal continuing education courses during the preceding two-year period as required by Business and Professions Code section 6402.2.”

This is a change without regulatory effect because it makes a regulation consistent with a changed California statute, the regulatory provision is inconsistent with and superseded by the changed statute, and 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).)

For renewal applications, BPC section 6403(c)(7), which became effective January 1, 2016, and requires a statement by the applicant that the individual(s)

performing the LDA services has completed the continuing legal education courses required by BPC 6402.2. However, the current regulation does not require this statement. Therefore, the regulation needs to include this statement to be consistent with the statutory requirement.

5. Add “or found liable under section 6126.5” to E.2.

This is a change without regulatory effect because BPC section 6403(c)(2) requires that the application of a registration of a partnership or corporation contain a statement as to whether the general partners or officers have been convicted of a felony, or of a misdemeanor under BPC section 6126 or 6127, or found liable under section 6126.5.

Section 3950 – Legal Document Assistant Standard Contract

1. Add “County where Registrant is registered, Name of County Clerk Office for the county of registration, Address, Phone Number, Web Site (if available).”

This is a change without regulatory effect because it makes a regulation consistent with a changed California statute, the regulatory provision is inconsistent with and superseded by the changed statute, and 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).)

BPC section 6410(b)(3), which became effective on January 1, 2016, requires the contract to include the county clerk’s office information for the county in which the LDA is registered, including the address, telephone number and internet website (if available). However, the current regulation does not require the disclosure of this information in the contract. Therefore, this amendment must be made for the regulation to be consistent with existing law.

2. Add “V. VENUE. The venue for any action arising out of a dispute between you and me is the California county in which you have your primary residence.”

This is a change without regulatory effect because it makes a regulation consistent with a changed California statute, the regulatory provision is inconsistent with and superseded by the changed statute, and 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).)

BPC section 6410(d) requires a post-January 1, 2016 contract to contain a statement that the venue for a dispute arising between a LDA and his or her client is the county of the client's primary residence. The current regulation does not require this language in the contract. Therefore, the amendment needs to be made for the regulation to be consistent with existing law.

3. Renumber "V." to "VI." and "VI." to "VII."

This change is without regulatory effect because it renumbers a regulatory provision. (Cal. Code Regs, tit. 1, § 100, subd. (a)(1).)

These amendments re-number the heading numbers for "DESCRIPTION OF THE PARTIES" and "SIGNATURES" and the reference in section III. since the Venue provision was inserted as V.