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DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 4. Attorneys [6000 - 6243] (*Chapter 4 added by Stats. 1939, Ch. 34.)*

ARTICLE 16. Attorneys Providing Immigration Reform Act Services [6240 - 6243] (*Article 16 added by Stats. 2013, Ch. 574, Sec. 2.)*

6240. For purposes of this article, the following definitions apply:

(a) "Immigration reform act" means either of the following:

(1) Any pending or future act of Congress that is enacted after October 5, 2013, that authorizes an undocumented immigrant who entered the United States without inspection, who did not depart after the expiration of a nonimmigrant visa, or who stayed beyond an authorized period, to attain a lawful status under federal law or to otherwise remain in the country. The State Bar shall announce and post on its Internet Web site when an immigration reform act has been enacted.

(2) The President's executive actions on immigration announced on November 20, 2014, or any future executive action or order that authorizes an undocumented immigrant who entered the United States without inspection, who did not depart after the expiration of a nonimmigrant visa, or who stayed beyond an approved period pursuant to a visa, to attain a lawful status under federal law or to otherwise remain in the country. The State Bar shall announce and post on its Internet Web site when an executive action or order has been issued.

(b) (1) "Immigration reform act services" means services offered in connection with an immigration reform act that are exclusively for the purpose of preparing an application and other related initial processes in order for an undocumented immigrant, who entered the United States without inspection, who did not depart after the expiration of a nonimmigrant visa, or who stayed beyond an approved period pursuant to a visa, to attain a lawful status under federal law or to otherwise remain in the country.

(2) Immigration reform act services do not include services that have an independent value apart from the preparation of an application pursuant to an immigration reform act and other related initial processes, including, but not limited to, assisting a client in preventing removal from the United States, preventing any other adverse action related to the ability to remain in the United States, including pending legal action, and achieving postconviction relief from prior criminal convictions.

(Amended by Stats. 2015, Ch. 6, Sec. 1. (AB 60) Effective June 17, 2015.)

6241. This article shall apply to the following:

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

(b) An attorney who is not an active licensee 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.

(Amended by Stats. 2018, Ch. 659, Sec. 146. (AB 3249) Effective January 1, 2019.)

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 in connection with any of the following:

(1) An immigration reform act as defined in paragraph (1) of subdivision (a) of Section 6240, before the enactment of that act, when the relevant form or application is released or announced and is not subject to any pending legal action, or when the acceptance date of the relevant form or application has been announced, whichever is sooner.

(2) (A) Requests for expanded Deferred Action for Childhood Arrivals (DACA) under an immigration reform act as defined in paragraph (2) of subdivision (a) of Section 6240, before the date the United States Citizenship and Immigration Services begins accepting those requests.

(B) Requests for Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) under an immigration reform act as defined in paragraph (2) of subdivision (a) of Section 6240, before the date the United States Citizenship and Immigration Services begins accepting those requests.

(C) Any relief offered under any executive action announced or executive order issued, on or after the effective date of the act adding this subparagraph, 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, before the executive action or order has been implemented and the relief is available.

(b) Any advance payment of funds for immigration reform act services that was received after October 5, 2013, but before the enactment or implementation of the immigration reform act for which the services were sought, shall be refunded to the client promptly, but no later than 30 days after the receipt of the funds or placed into a client trust account, which must be returned or utilized under the provisions of the act amending this subdivision no later than January 20, 2017.

(c) (1) If an attorney providing immigration reform act services accepted funds for immigration reform act services prior to the effective date of this amendment to 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 amendment to 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 amendment to this section for which immigration reform act services were not rendered prior to the effective date of this amendment to 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 or implementation of an immigration reform act and the related necessary federal regulations or forms, and that, commencing with the effective date of this amendment to 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 or implementation 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.

(Amended by Stats. 2015, Ch. 6, Sec. 2. (AB 60) Effective June 17, 2015.)

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.

(Added by Stats. 2013, Ch. 574, Sec. 2. (AB 1159) Effective October 5, 2013. Section operative on date prescribed by its own provisions.)