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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2]** ( *Division 8 added by Stats. 1941, Ch. 44.*  )

**CHAPTER 16. Process Servers [22350 - 22360]** ( *Chapter 16 added by Stats. 1971, Ch. 1661.*  )

**22350.** (a) Any natural person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation of specific compensation, where that compensation is directly attributable to the service of process, shall file and maintain a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business. Any corporation or partnership that derives or expects to derive compensation from service of process within this state shall also file and maintain a verified certificate of registration as a process server with the county clerk of the county in which the corporation or partnership has its principal place of business.

(b) This chapter shall not apply to any of the following:

- (1) Any sheriff, marshal, or government employee who is acting within the course and scope of his or her employment.
- (2) An attorney or his or her employees, when serving process related to cases for which the attorney is providing legal services.
- (3) Any person who is specially appointed by a court to serve its process.
- (4) A licensed private investigator or his or her employees.
- (5) A professional photocopier registered under Section 22450, or an employee thereof, whose only service of process relates to subpoenas for the production of records, which subpoenas specify that the records be copied by that registered professional photocopier.

(Amended by Stats. 2005, Ch. 300, Sec. 1. Effective January 1, 2006.)

**22351.** (a) The certificate of registration of a registrant who is a natural person shall contain the following:

- (1) The name, age, address, email address, and telephone number of the registrant.
- (2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony, or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.
- (3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.
- (4) A statement that the registrant will perform their duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

- (1) The names, ages, addresses, email addresses, and telephone numbers of the general partners or officers.
- (2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.
- (3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or a responsible managing employee, partner, or officer has been previously

registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

(c) The county clerk shall retain the certificate of registration for a period of three years following the expiration date of the certificate, after which time the certificate may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the certificate is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

*(Amended by Stats. 2021, Ch. 376, Sec. 35. (AB 830) Effective January 1, 2022.)*

**22351.5.** (a) At the time of filing an initial certificate of registration or renewing a certificate of registration that has lapsed, the registrant shall also submit a completed Request for Live Scan form confirming fingerprint submission to the Department of Justice and the Federal Bureau of Investigation, in order to verify that the registrant has not been convicted of a felony. The clerk shall utilize the Subsequent Arrest Notification Contract provided by the Department of Justice for notifications subsequent to the initial certificate of registration.

(b) If, after receiving the results of the Request for Live Scan, the clerk is advised that the registrant has been convicted of a felony, the presiding judge of the superior court of the county in which the certificate of registration is maintained is authorized to review the criminal record and, unless the registrant is able to produce a copy of a certificate of rehabilitation, expungement, or pardon, as specified in paragraph (2) of subdivision (a) of Section 22351, notify the registrant that the registration is revoked. An order to show cause for contempt may be issued and served upon any person who fails to surrender a registered process server identification card after a notice of revocation.

*(Amended by Stats. 2009, Ch. 137, Sec. 1. (AB 1123) Effective January 1, 2010.)*

**22352.** At the time of filing the initial certificate of registration, a registrant shall pay the following fees to the county clerk:

(a) A fee of one hundred dollars (\$100).

(b) A fee to cover the actual costs of processing the completed request for live scan when submitted with the initial certificate of registration.

(c) A fee to cover the actual cost of issuing a registered process server identification card.

*(Amended by Stats. 2017, Ch. 573, Sec. 72. (SB 800) Effective January 1, 2018.)*

**22353.** (a) A certificate of registration shall be accompanied by a bond of two thousand dollars (\$2,000), executed by an admitted surety insurer and conditioned upon compliance with the provisions of this chapter and all laws governing the service of process in this state. The total aggregate liability on the bond is limited to two thousand dollars (\$2,000). As an alternative to the bond, the registrant may deposit with the clerk, cash or a money order in the amount of two thousand dollars (\$2,000).

(b) The county clerk shall, upon filing the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registered process server. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for the notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

*(Amended by Stats. 2002, Ch. 197, Sec. 1. Effective January 1, 2003.)*

**22354.** A certificate of registration shall be effective for a period of two years or until the date the bond expires, whichever occurs first. Thereafter, a registrant shall file a new certificate of registration or a renewal of the certificate of registration and pay the fee required by Section 22352. A certificate of registration may be renewed up to 60 days prior to its expiration date and the effective date of the renewal shall be the date the current registration expires. The renewal shall be effective for a period of two years from the effective date or until the expiration date of the bond, whichever occurs first.

*(Amended by Stats. 2001, Ch. 35, Sec. 3. Effective January 1, 2002.)*

**22355.** (a) The county clerk shall maintain a register of process servers and assign a number and issue an identification card to each process server. The county clerk shall issue a temporary identification card, for no additional fee, to applicants who are required to submit Request for Live Scan forms for background checks to the Federal Bureau of Investigation and the Department of

Justice. This card shall be valid for 120 days. If clearance is received from the Federal Bureau of Investigation and the Department of Justice within 120 days, the county clerk shall immediately issue a permanent identification card to the applicant. Upon request of the applicant, the permanent identification card shall be mailed to the applicant at his or her address of record. Upon renewal of a certificate of registration, the same number shall be assigned, provided that the applicant is renewing registration in the same county in which he or she was previously registered and there is no lapse of three or more years in the period of registration.

(b) The temporary and permanent identification cards shall be not less than 3<sup>1</sup>/<sub>4</sub> inches by 2 inches and shall contain at the top the title, "Registered Process Server," followed by the registrant's name, address, registration number, date of expiration, and county of registration. In the case of a natural person, it shall also contain a photograph of the registrant in the lower left corner. The identification card for a partnership or corporation registration shall be issued in the name of the partnership or corporation, and shall not contain a photograph.

*(Amended by Stats. 2015, Ch. 295, Sec. 14. (AB 285) Effective January 1, 2016.)*

**22356.** A registrant shall be responsible at all times for the good conduct of his or her employees acting within the course or scope of their employment, and any person acting as an independent contractor within the course or scope of the agency relationship with the registrant.

*(Amended by Stats. 1991, Ch. 598, Sec. 2.)*

**22356.5.** (a) In addition to the information required by subdivision (b) of Section 22360, any proof of service of any process which is signed by an independent contractor of a registrant under this chapter shall indicate that the proof of service was signed as an independent contractor of a registered process server. The proof of service shall indicate the county of registration and the number assigned pursuant to Section 22355 of both the independent contractor and the entity registered under this chapter.

(b) No registrant shall permit any individual to sign any proof of service of any process as an independent contractor unless all of the following conditions are met:

(1) The independent contractor is performing pursuant to a written independent contractor agreement with the registrant.

(2) The independent contractor supplies proof of bonding under Section 22353, if applicable.

(3) The registrant exercises minimal supervision or control over the means of accomplishing the service of any process assigned by the registrant. The registrant may communicate a deadline for the service of process and request notification that such service has been completed.

(4) The registrant imposes no restrictions on the independent contractor's ability to perform services for others registered under this chapter.

(5) The independent contractor supplies proof that any required business licenses have been obtained.

(c) Persons not meeting the criteria of subdivision (b) shall be treated as employees of the registrant while persons meeting the criteria of subdivision (b) shall be treated as independent contractors.

(d) This section shall not preclude an independent determination of employment under any other provision of law.

*(Amended by Stats. 1997, Ch. 442, Sec. 8. Effective January 1, 1998.)*

**22357.** (a) Any person who recovers damages in any action or proceeding for injuries caused by a service of process which was made by a registrant and did not comply with the provisions of law governing the service of process in this state may recover the amount of the damages from the bond required by Section 22353.

(b) Whenever there has been a recovery against a bond under subdivision (a), the registrant shall file a new bond or cash deposit within 30 days to reinstate the bond or cash deposit to the amount required by Section 22353. If the registrant does not file the bond within 30 days, the certificate of registration shall be revoked and the remainder of the bond forfeited to the county treasury.

*(Amended by Stats. 1999, Ch. 892, Sec. 10. Effective January 1, 2000.)*

**22358.** (a) A certificate of registration may be revoked or suspended whenever it has been determined that the registrant has made a service of process, including service completed by an employee or independent contractor of the registrant, which does not comply with the provisions of law governing the service of process in this state or constitutes an improper service of process not amounting to a violation of law.

(b) An investigation concerning the revocation or suspension of a certificate of registration may be commenced at any time at the option of the county clerk if the county clerk deems it to be appropriate. A complaint by any person who has alleged that he or she

has been injured by a service of process shall be investigated by the public prosecutor. The investigation shall determine if the registrant complied with the provisions of law governing the service of process or constituted improper service of process not amounting to a violation of the law.

(c) If the public prosecutor determines from the investigation that cause may exist for the suspension or revocation of the certificate of registration, he or she shall set the matter for hearing and give notice to the registrant. That hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code except that the decision of the administrative law judge shall be final. For the purposes of those provisions, the public prosecutor shall be deemed to be the agency.

(d) If, after the hearing, the county clerk is notified after the decision has become effective that the administrative law judge has directed that the registrant's certificate be suspended or revoked, the county clerk shall forthwith suspend or revoke the certificate. If the certificate is revoked, the bond or cash deposit required by Section 22353 shall be forfeited to the county treasury subject to the right of a person to recover against the bond or cash deposit under Section 22357.

*(Amended by Stats. 1991, Ch. 598, Sec. 4.)*

**22359.** Any person who violates any of the provisions of this chapter is guilty of a misdemeanor.

*(Added by Stats. 1971, Ch. 1661.)*

**22360.** Any proof of service of any process which is signed by a registrant under this chapter shall indicate the county in which he or she is registered and the number assigned to him or her by Section 22355.

*(Amended by Stats. 1997, Ch. 442, Sec. 9. Effective January 1, 1998.)*