

PROPOSED REGULATION OF THE SECRETARY OF STATE

LCB File No. R136-13

November 22, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: AB 74 Section 21, inclusive and NRS 240A.250.

Chapter 240A of the NAC is hereby amended by adding thereto a new section to read as follows

Section 1. *As used in sections 1 to 7, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 2 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 2. *Any person who intends to provide a document preparation service must complete the application prescribed by the Secretary of State pursuant to NRS 240A.100, subsection 3.*

1. The application shall require without limitation:

a) Legal Name of Registrant

b) Status of citizenship or legal residency in the United States

1. If yes, to legal residency, applicant shall provide the unique number assigned to a noncitizen by the Department of Homeland Security that is listed on the front of the Permanent Resident Card. May be known as USCIS Number, Alien Registration Number, Alien Number A Number or A# and

2. The name on the card if issued under a different name than provided on the registration form

c) Social Security Number

d) Date of Birth

e) Physical Street Address where the Business Operates

f) Primary Phone Number

g) Email Address

h) Website addresses used to market or solicit document preparation services

i) Names under which the Business Operates or intends to operate and evidence of fictitious firm name filing. Note: if a certificate of registration is granted, the registrant will be required to provide evidence those fictitious firm name filings has been issued by the county clerk.

j.) If more than one location, the registrant shall provide all the addresses where the document preparation services are conducted

k) State Business License Number and date of expiration

If the person is an employee and will be providing document preparation services from a place of business other than his or her own, he or she shall provide the business license of his or her employer.

l) Registrant shall respond to the following questions without limitation:

1. Are you or have you ever been authorized to practice law in this state or any other jurisdiction?

If yes, list the jurisdictions and proceed to next question:

Have you ever been suspended or disbarred from the practice of law in any jurisdiction:

If yes, specify the jurisdiction, the date, and describe in detail the circumstances and attach relevant documentation.

2. Within the 10 years immediately preceding the dates of this application have you:

(a) been convicted of a crime involving theft, fraud or dishonesty;

(b) been convicted of the unauthorized practice of law in the State of Nevada or in any other jurisdiction; or,

(c) been adjudged by final judgment of a court to have committed an act involving theft, fraud or dishonesty?

m.) Registrant shall provide affirmation that he or she if issued a certificate of registration understands the obligations and responsibilities of a document preparation service and will comply with all provisions of the law or otherwise be subject to the penalties for violation.

n) Signature of applicant under penalty of perjury and date.

2. The application shall be accompanied by:

1.) A signed form provided by the Secretary of State containing a statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520; and

2) A cash or surety bond in the penal sum of \$50,000;

a). The bond that a person applying for registration as a document preparation service must enter into pursuant to the provisions of NRS 240A.120 must be entered under the same form of the person's name that appears on the application for registration.

b). If registrant elects to put up a cash bond;

a) the registrant must complete the form prescribed by the Secretary of State to accompany the cash bond, and

b) make the cash bond payment in person at the Secretary of State's office; and

3) A release authorizing the Secretary of State to receive the report from the Central Repository pursuant to NRS 240A.110.

3. The application shall also provide for optional information including without limitation:

a.) Alternative Phone Number

b.) Mailing address, if different than physical address

1. If a mailing address is provided, this shall be the address used to mail any notices pursuant to this chapter.

4. The Secretary of State may request additional information pertinent to the information provided by the registrant necessary to determine if the applicant satisfies the requirements to be issued certificate of registration. If a registrant fails to provide the requested information, the Secretary of State may reject the application.

5. The Secretary of State may reject any application which does not comply with this section or which does not contain all of the information required by statute of an applicant.

Sec. 3. Notification and Updates to changes of Information on Registrant's Application

1. Any person who is granted a certificate of registration is required to keep all information provided on the registration application current. A person granted a certificate of registration shall within 30 days of any changes submit to the Secretary of State on the form prescribed, updates to:

- a) Change of Legal Name*
- b) Physical Street Address*
- c) Primary Phone*
- d) Existing or Additional Names under which the document preparation service is operation*
- e) Mailing Address*

f) New expiration date of state business license pursuant to NRS Chapter 76 if licensed expired in the period in which the document preparer's certificate of registration is valid.

2. Failure to maintain or update this information may result in a suspension of the certificate of registration until remedied. The Secretary of State may reinstate a certificate of registration once the registrant provides the updated information.

Sec. 4. Renewal Application

1. A person issued a certificate of registration shall submit a renewal application to maintain registration to the Secretary of State not later than 30 days prior to the date of expiration.

The renewal application shall require the registrant to provide:

- a) Legal Name of Registrant*
- b) Registration Number as issued by the Secretary of State*
- c) Date of expiration of current registration*
- d) Affirm that the information on file is current and if not, provide updates to most recent application as necessary*
- e) Current Business License expiration date*
- f) A signed form provided by the Secretary of State containing a statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.*

2. The Secretary of State may reject any renewal application which does not comply with this section or which does not contain all of the information required by statute of an applicant, or if the registrant fails to provide additional information requested by the Secretary of State in connection with the processing of the application.

3. Any registrant who continues to do business as a document preparation service but fails to renew his or her certificate on or before its expiration will be considered in violation of the provisions of this law and will be subject penalties provided in this chapter. No grace period will be permitted.

Sec. 5. Cash Bond Release

Pursuant to NRS 240A.120, Subsection 4, if after three years ceasing to do business or expiration or revocation of the registration, the person who filed the cash bond, shall submit in writing or on a form provided by the Secretary of State a request to release the bond.

The request must include any identifying number regarding the filing of the bond as well as the date filed if known.

Sec. 6. Filing a complaint

1. *In addition to the toll-free number, the Secretary of State shall make available on its Internet website, a complaint form that may be submitted in person, by mail or electronically.*
2. *The complaint to the extent practical must include:*
 - (a) *The name of the document preparer;*
 - (b) *The address of the business of the document preparer, including city or county;*
 - (c) *If known and if assigned, the number on the certificate of registration of the document preparer;*
 - (d) *An explanation of the reason for the complaint and, if known, the citation of each statutory provision which the document preparer is alleged to have violated;*
 - (e) *A copy of each document which is related to the matter; and*
 - (f) *Such other information as the person considers relevant to the matter.*
3. *The complaint may be filed in person, by any electronic means or by mail.*
4. *Within 15 days, excluding Saturdays, Sundays and legal holidays, after receiving a complaint, the Secretary of State will notify in writing the document preparer who is the subject of the complaint. In the notice, the Secretary of State will include a copy of the complaint. The notice must be sent by certified mail and must contain:*
 - (a) *A statement of the statutory provision which the document preparer is alleged to have violated;*
 - (b) *An explanation of the possible disciplinary actions that may be taken against the document preparer;*
 - (c) *Instructions for the document preparer to respond in writing to the complaint by; and*
 - (d) *A statement that the document preparer must respond to the complaint within 15 days after receiving the notice.*
5. *If, after receiving the response from the document preparer, the Secretary of State determines that a hearing is not warranted, he or she will provide notification of his or her determination and the reasons therefore to the document preparer and the person who filed the complaint.*

Sec.7. Advertisement for the Services of a Registrant

1. Conspicuously displayed defined:

Conspicuously displayed means the notice is placed in an area of the business that is readily accessible to the public and can be seen and easily be read by a person.

2. *The statement required pursuant to NRS 240A.150, subsection 2(b), in any advertisement made electronically or in written form shall be:*
 - a) *clear and conspicuous on any printed material, social media account or other Internet website or electronic media which contains promotion or advertisement of services related to the preparation of legal documents;*
 - b) *of a type size that is sufficient to be clearly readable;*
 - c) *printed in black or blue on a white background or if on a background of another color or with graphics, there must be reasonable degree of contrast of colors between the print of the statement and the background so as to be clearly readable; and*
 - d) *contain the registrant's number as it appears on the certificate of registration issued by the Secretary of State office.*

3. For advertisements made orally or verbally, the statement must be clearly articulated and modified to contain the following additional information: the name of the person registered in the State of Nevada and that person's registration number as it appears on the certificate of registration issued by the Secretary of State's office.