

ASSEMBLY BILL NO. 324—ASSEMBLYMAN FLORES

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to document preparation services. (BDR 19-1091)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to document preparation services; revising the definition of a “document preparation service”; prohibiting a person providing a document preparation service from advertising or representing himself or herself as a paralegal or legal assistant; requiring certain fees to register or renew registration as a document preparation service; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes requirements for the registration and practice of a
2 person who provides a document preparation service, which includes: (1) defining a
3 “document preparation service”; (2) requiring persons who provide a document
4 preparation service to register with the Secretary of State; (3) exempting certain
5 persons from registering as a document preparation service; and (4) prohibiting a
6 person who provides a document preparation service from committing certain acts.
7 (Chapter 240A of NRS) **Section 1** of this bill expands the definition of “document
8 preparation service” to include a person who, for compensation, assists a client in
9 preparing all or substantially all of a federal or state tax return or a claim for a tax
10 refund, excluding a certified public accountant who is licensed in this State or a
11 financial planner who is subject to certain state requirements. **Section 1** further
12 provides that paralegals are included, under certain circumstances, in the definition
13 of “document preparation service.” **Section 1** also removes the exemption from the
14 registration requirements for an enrolled agent who is authorized to practice before
15 the Internal Revenue Service.
16 **Section 2** of this bill requires a person who registers as a document preparation
17 service to pay an application fee of \$50. **Section 3** of this bill requires a person who



* A B 3 2 4 *

18 wishes to renew his or her registration as a document preparation service to pay a
19 renewal fee of \$25 every year upon the expiration of the registration.

20 **Section 4** of this bill prohibits a person who provides document preparation
21 services from advertising or representing himself or herself as a paralegal or legal
22 assistant, which implies that the person is operating under the direction and
23 supervision of an attorney.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 240A.030 is hereby amended to read as
2 follows:

3 240A.030 1. "Document preparation service" means a person
4 who:

5 (a) For compensation and at the direction of a client, provides
6 assistance to the client in a legal matter, including, without
7 limitation:

8 (1) Preparing or completing any pleading, application or
9 other document for the client;

10 (2) Translating an answer to a question posed in such a
11 document;

12 (3) Securing any supporting document, such as a birth
13 certificate, required in connection with the legal matter; ~~for~~

14 (4) Submitting a completed document on behalf of the client
15 to a court or administrative agency; or

16 *(5) Preparing or assisting in the preparation of all or*
17 *substantially all of a federal or state tax return or claim for a tax*
18 *refund; or*

19 (b) Holds himself or herself out as a person who provides such
20 services.

21 2. *The term includes, without limitation, a paralegal who*
22 *performs one or more of the actions described in subsection 1*
23 *unless the paralegal works under the direction and supervision of*
24 *an attorney authorized to practice law in this State.*

25 3. The term does not include:

26 (a) A person who provides only secretarial or receptionist
27 services.

28 (b) An attorney authorized to practice law in this State, or an
29 employee of such an attorney who is paid directly by the attorney or
30 law firm with whom the attorney is associated and who is acting in
31 the course and scope of that employment.

32 (c) A law student certified by the State Bar of Nevada for
33 training in the practice of law.

34 (d) A governmental entity or an employee of such an entity who
35 is acting in the course and scope of that employment.



1 (e) A nonprofit organization formed pursuant to title 7 of NRS
2 which the Secretary of the Treasury has determined is a tax-exempt
3 organization pursuant to 26 U.S.C. § 501(c) and which provides
4 legal services to persons free of charge, or an employee of such an
5 organization who is acting in the course and scope of that
6 employment.

7 (f) A legal aid office or lawyer referral service operated,
8 sponsored or approved by a duly accredited law school, a
9 governmental entity, the State Bar of Nevada or any other bar
10 association which is representative of the general bar of the
11 geographical area in which the bar association exists, or an
12 employee of such an office or service who is acting in the course
13 and scope of that employment.

14 (g) A military legal assistance office or a person assigned to
15 such an office who is acting in the course and scope of that
16 assignment.

17 (h) A person licensed by or registered with an agency or entity
18 of the United States Government acting within the scope of his or
19 her license or registration, including, without limitation, an
20 accredited immigration representative , ~~and an enrolled agent~~
21 ~~authorized to practice before the Internal Revenue Service,~~ but not
22 including a bankruptcy petition preparer as defined by section 110
23 of the United States Bankruptcy Code, 11 U.S.C. § 110 ~~f~~ , *or an*
24 *enrolled agent authorized to practice before the Internal Revenue*
25 *Service.*

26 (i) A corporation, limited-liability company or other entity
27 representing or acting for itself through an officer, manager,
28 member or employee of the entity, or any such officer, manager,
29 member or employee who is acting in the course and scope of that
30 employment.

31 (j) A commercial wedding chapel.

32 (k) A person who provides legal forms or computer programs
33 that enable another person to create legal documents.

34 (l) A commercial registered agent.

35 (m) A person who holds a license, permit, certificate,
36 registration or any other type of authorization required by chapter
37 645 or 692A of NRS, or any regulation adopted pursuant thereto,
38 and is acting within the scope of that authorization.

39 (n) A collection agency that is licensed pursuant to chapter 649
40 of NRS.

41 *(o) A certified public accountant that is licensed to practice in*
42 *this State pursuant to the provisions of chapter 628 of NRS or a*
43 *financial planner that is subject to the requirements of chapter*
44 *628A of NRS who is acting within the scope of the license or*
45 *requirements, as applicable, to prepare or assist in preparing a*



1 *federal or state tax return or claim for a tax refund for another*
2 *person.*

3 ~~13-1~~ 4. As used in this section:

4 (a) "Commercial registered agent" has the meaning ascribed to it
5 in NRS 77.040.

6 (b) "Commercial wedding chapel" means a permanently affixed
7 structure which operates a business principally for the performance
8 of weddings and which is licensed for that purpose.

9 **Sec. 2.** NRS 240A.100 is hereby amended to read as follows:

10 240A.100 1. A person who wishes to engage in the business
11 of a document preparation service must be registered by the
12 Secretary of State pursuant to this chapter. An applicant for
13 registration must be a citizen or legal resident of the United States or
14 hold a valid Employment Authorization Document issued by the
15 United States Citizenship and Immigration Services of the
16 Department of Homeland Security, and be at least 18 years of age.

17 2. The Secretary of State shall not register as a document
18 preparation service any person:

19 (a) Who is suspended or has previously been disbarred from the
20 practice of law in any jurisdiction;

21 (b) Whose registration as a document preparation service in this
22 State or another state has previously been revoked for cause;

23 (c) Who has previously been convicted of, or entered a plea of
24 guilty, guilty but mentally ill or nolo contendere to, a gross
25 misdemeanor pursuant to paragraph (b) of subsection 1 of NRS
26 240A.290; or

27 (d) Who has, within the 10 years immediately preceding the date
28 of the application for registration as a document preparation service,
29 been:

30 (1) Convicted of, or entered a plea of guilty, guilty but
31 mentally ill or nolo contendere to, a crime involving theft, fraud or
32 dishonesty;

33 (2) Convicted of, or entered a plea of guilty, guilty but
34 mentally ill or nolo contendere to, the unauthorized practice of law
35 pursuant to NRS 7.285 or the corresponding statute of any other
36 jurisdiction; or

37 (3) Adjudged by the final judgment of any court to have
38 committed an act involving theft, fraud or dishonesty.

39 3. An application for registration as a document preparation
40 service must be made under penalty of perjury on a form prescribed
41 by regulation of the Secretary of State and must be accompanied by

42 ~~14-1~~ :

43 (a) *An application fee of \$50; and*

44 (b) *A cash bond or surety bond meeting the requirements of*
45 *NRS 240A.120.*



1 4. An applicant for registration must submit to the Secretary of
2 State a declaration under penalty of perjury stating that the applicant
3 has not had a certificate or license as a document preparation service
4 revoked or suspended in this State or any other state or territory of
5 the United States.

6 5. After the investigation of the history of the applicant is
7 completed, the Secretary of State shall issue a certificate of
8 registration if the applicant is qualified for registration and has
9 complied with the requirements of this section. Each certificate of
10 registration must bear the name of the registrant and a registration
11 number unique to that registrant. The Secretary of State shall
12 maintain a record of the name and registration number of each
13 registrant.

14 6. An application for registration as a document preparation
15 service that is not completed within 6 months after the date on
16 which the application was submitted must be denied.

17 **Sec. 3.** NRS 240A.110 is hereby amended to read as follows:

18 240A.110 1. The registration of a document preparation
19 service is valid for 1 year after the date of issuance of the certificate
20 of registration, unless the registration is suspended or revoked.
21 Except as otherwise provided in this section, the registration may be
22 renewed subject to the same conditions as the initial registration. An
23 application for renewal must be made under penalty of perjury on a
24 form prescribed by regulation of the Secretary of State and must be
25 accompanied by ~~fat~~ :

26 (a) *A renewal fee of \$25; and*

27 (b) *A cash bond or surety bond meeting the requirements of*
28 *NRS 240A.120, unless the bond previously filed by the registrant*
29 *remains on file and in effect.*

30 2. The registration of a registrant who holds a valid
31 Employment Authorization Document issued by the United States
32 Citizenship and Immigration Services of the Department of
33 Homeland Security must expire on the date on which that person's
34 employment authorization expires.

35 3. The Secretary of State may:

36 (a) Conduct any investigation of a registrant that the Secretary
37 of State deems appropriate.

38 (b) Require a registrant to submit a complete set of fingerprints
39 and written permission authorizing the Secretary of State to forward
40 the fingerprints to the Central Repository for Nevada Records of
41 Criminal History for submission to the Federal Bureau of
42 Investigation for its report.

43 4. After any investigation of the history of a registrant is
44 completed, unless the Secretary of State elects or is required to deny
45 renewal pursuant to this section or NRS 240A.270, the Secretary of



1 State shall renew the registration if the registrant is qualified for
2 registration and has complied with the requirements of this section.

3 **Sec. 4.** NRS 240A.240 is hereby amended to read as follows:
4 240A.240 A registrant shall not:

5 1. After the date of the last service performed for a client,
6 retain any fees or costs for services not performed or costs not
7 incurred.

8 2. Make, orally or in writing:

9 (a) A promise of the result to be obtained by the filing or
10 submission of any document, unless the registrant has some basis in
11 fact for making the promise;

12 (b) A statement that the registrant has some special influence
13 with or is able to obtain special treatment from the court or agency
14 with which a document is to be filed or submitted; or

15 (c) A false or misleading statement to a client if the registrant
16 knows that the statement is false or misleading or knows that the
17 registrant lacks a sufficient basis for making the statement.

18 3. In any advertisement or written description of the registrant
19 or the services provided by the registrant, or on any letterhead or
20 business card of the registrant, use the term "legal aid," "legal
21 services," "law office," "notario," "notario publico," "notary
22 public," "notary," "*paralegal,*" "*legal assistant,*" "licensed,"
23 "licenciado," "attorney," "lawyer" or any similar term, in English,
24 Spanish or any other language, which implies that the registrant:

25 (a) Offers services without charge if the registrant does not do
26 so; ~~(b)~~

27 (b) Is an attorney authorized to practice law in this State ~~(c)~~ *or*

28 *(c) Is acting under the direction and supervision of an*
29 *attorney.*

30 4. *Represent himself or herself, orally or in writing, as a*
31 *paralegal or legal assistant which implies that the registrant is*
32 *acting under the direction and supervision of an attorney licensed*
33 *to practice law in this State.*

34 5. Negotiate with another person concerning the rights or
35 responsibilities of a client, communicate the position of a client to
36 another person or convey the position of another person to a client.

37 ~~(5)~~ 6. Appear on behalf of a client in a court proceeding or
38 other formal adjudicative proceeding, unless the registrant is ordered
39 to appear by the court or presiding officer.

40 ~~(6)~~ 7. Provide any advice, explanation, opinion or
41 recommendation to a client about possible legal rights, remedies,
42 defenses, options or the selection of documents or strategies, except
43 that a registrant may provide to a client published factual
44 information, written or approved by an attorney, relating to legal
45 procedures, rights or obligations.



- 1 ~~7~~ 8. Seek or obtain from a client a waiver of any provision
2 of this chapter. Any such waiver is contrary to public policy and
3 void.
4 **Sec. 5.** This act becomes effective on July 1, 2017.

