

AMENDED IN ASSEMBLY APRIL 24, 2017

AMENDED IN ASSEMBLY MARCH 23, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 638

Introduced by Assembly Member Caballero

February 14, 2017

An act to *amend and* repeal Section 6126.4 of, *to amend, add, and repeal Section 6126.7 of, to add Section 22449.5 to,* and to repeal and add Chapter 19.5 (commencing with Section 22440) of Division 8 of, the Business and Professions Code, and to *amend and* repeal Section 8223 of the Government Code, relating to immigration consultants.

LEGISLATIVE COUNSEL'S DIGEST

AB 638, as amended, Caballero. Immigration consultants.

(1) Existing law regulates the practice of immigration consultants who provide nonlegal assistance or advice in an immigration matter. Existing law prohibits any person, for compensation, from engaging in the business or acting in the capacity of an immigration consultant in this state, unless that person complies with the regulations in state law governing the practice of immigration consultants, is an attorney, or is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

This bill would repeal those provisions, *as well as related provisions, as of January 1, 2019,* and, instead, by ~~March 1, 2018, January 1, 2019,~~ prohibit any person, for compensation, from engaging in the business or acting in the capacity of an immigration consultant in this state, as provided. ~~The bill would make it unlawful for any person engaged in~~

~~the business or acting in the capacity of an immigration consultant to do specified acts. The bill would, notwithstanding that prohibition, authorize specified actors to act in the capacity of an immigration consultant, including attorneys and a person or entity authorized under federal law to represent persons before the United States Department of Homeland Security or the United States Department of Justice. The bill would provide that attorneys and organizations accredited by the Executive Office for Immigration Review shall be the only individuals authorized to charge clients or prospective clients a fee for providing services associated with filing an application related to an immigration matter. The bill also would prohibit attorneys and organizations accredited by the Executive Office for Immigration Review from participating in practices that amount to price gouging, as defined, when a client or prospective client solicits these services. The bill would make it unlawful for any person engaged in business or acting in the capacity of an immigration consultant to do specified acts.~~

~~The bill would require the Secretary of State, by January 1, 2018, 2019, to notify any person who was registered as an active immigration consultant at any time on or after January 1, 2016, that immigration consulting is prohibited as of March 1, 2018. January 1, 2019. The bill would require a person who was registered as an active immigration consultant at any time on or after January 1, 2016, to provide each existing client specified files in his or her possession; possession by March 1, 2018, and to, until January 1, 2019, 2020, post a sign on his or her place of business informing the public of the prohibition on immigration consulting.~~

~~This bill would establish both criminal and civil penalties for a violation of the provisions described above, and would thereby impose a state-mandated local program. The bill would provide that a violation of certain provisions of the State Bar Act that make it an unauthorized practice of law for any person who is not an attorney to literally translate from English into another language the phrases “notary public,” “notary,” “licensed,” “attorney,” “lawyer,” or any other terms that imply that the person is an attorney constitutes a violation of these provisions, and is subject to both criminal and civil penalties. provisions.~~

~~This bill would establish both criminal and civil penalties for a violation of the provisions described above, and would thereby impose a state-mandated local program. The bill would provide that the prohibitions described above do not apply to specified actors, including attorneys and a person or entity authorized under federal law to represent~~

~~persons before the United States Department of Homeland Security or the United States Department of Justice. The bill would provide that attorneys and organizations accredited by the Executive Office for Immigration Review shall be the only individuals authorized to charge clients or prospective clients a fee for providing services associated with filing an application related to an immigration matter. The bill also would prohibit attorneys and organizations accredited by the Executive Office for Immigration Review from participating in practices that amount to price gouging, as defined, when a client or prospective client solicits these services.~~

(2) Existing law provides that, under specified conditions, a public entity has a privilege to refuse, and to prevent another from disclosing, official information acquired in confidence by a public employee in the course of his or her duty, and not open, or officially disclosed, to the public prior to the time the claim of privilege is made. Under existing law, custodial or peace officer records are accessible provided that the information is relevant to the subject matter involved in the pending litigation.

This bill would deem any client records or information obtained during the scope of an investigation relating to immigration consultants as privileged as official information.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. ~~Section 6126.4 of the Business and Professions~~
- 2 ~~Code is repealed.~~

1 ~~SEC. 2. Chapter 19.5 (commencing with Section 22440) of~~
2 ~~Division 8 of the Business and Professions Code is repealed.~~

3 *SECTION 1. Section 6126.4 of the Business and Professions*
4 *Code is amended to read:*

5 6126.4. Section 6126.3 shall apply to a person acting in the
6 capacity of an immigration consultant pursuant to Chapter 19.5
7 (commencing with Section 22440) who advertises or holds himself
8 or herself out as practicing or entitled to practice law, or otherwise
9 practices law.

10 *This section shall remain in effect only until January 1, 2019,*
11 *and as of that date is repealed.*

12 *SEC. 2. Section 6126.7 of the Business and Professions Code*
13 *is amended to read:*

14 6126.7. (a) It is a violation of subdivision (a) of Section 6126
15 for any person who is not an attorney to literally translate from
16 English into another language, in any document, including an
17 advertisement, stationery, letterhead, business card, or other
18 comparable written material, any words or titles, including, but
19 not limited to, “notary public,” “notary,” “licensed,” “attorney,”
20 or “lawyer,” that imply that the person is an attorney. As provided
21 in this subdivision, the literal translation of the phrase “notary
22 public” into Spanish as “notario publico” or “notario,” is expressly
23 prohibited.

24 (b) For purposes of this section, “literal translation of” or “to
25 literally translate” a word, title, or phrase from one language means
26 the translation of a word, title, or phrase without regard to the true
27 meaning of the word or phrase in the language that is being
28 translated.

29 (c) (1) In addition to any other remedies and penalties
30 prescribed in this article, a person who violates this section shall
31 be subject to a civil penalty not to exceed one thousand dollars
32 (\$1,000) per day for each violation, to be assessed and collected
33 in a civil action brought by the State Bar.

34 (2) In assessing the amount of the civil penalty, the court may
35 consider relevant circumstances presented by the parties to the
36 case, including, but not limited to, the following:

37 (A) The nature and severity of the misconduct.

38 (B) The number of violations.

39 (C) The length of time over which the misconduct occurred,
40 and the persistence of the misconduct.

1 (D) The wilfulness of the misconduct.

2 (E) The defendant’s assets, liabilities, and net worth.

3 (3) The court shall grant a prevailing plaintiff reasonable
4 attorneys’ fees and costs.

5 (4) A civil action brought under this section shall be commenced
6 within four years after the cause of action accrues.

7 (5) In a civil action brought by the State Bar under this section,
8 the civil penalty collected shall be paid to the State Bar and
9 allocated to the fund established pursuant to Section 6033 to
10 provide free legal services related to immigration reform act
11 services to clients of limited means or to a fund for the purposes
12 of mitigating unpaid claims of injured immigrant clients under
13 Section 22447, as directed by the Board of Trustees of the State
14 Bar. The board shall annually report any collection and expenditure
15 of funds for the preceding calendar year, as authorized by this
16 section, to the Assembly and Senate Committees on Judiciary. The
17 report required by this section may be included in the report
18 described in Section 6086.15.

19 *(d) This section shall remain in effect only until January 1, 2019,*
20 *and as of that date is repealed.*

21 *SEC. 3. Section 6126.7 is added to the Business and Professions*
22 *Code, to read:*

23 *6126.7. (a) It is a violation of subdivision (a) of Section 6126*
24 *for any person who is not an attorney to literally translate from*
25 *English into another language, in any document, including an*
26 *advertisement, stationery, letterhead, business card, or other*
27 *comparable written material, any words or titles, including, but*
28 *not limited to, “notary public,” “notary,” “licensed,” “attorney,”*
29 *or “lawyer,” that imply that the person is an attorney. As provided*
30 *in this subdivision, the literal translation of the phrase “notary*
31 *public” into Spanish as “notario publico” or “notario,” is*
32 *expressly prohibited.*

33 *(b) For purposes of this section, “literal translation of” or “to*
34 *literally translate” a word, title, or phrase from one language*
35 *means the translation of a word, title, or phrase without regard*
36 *to the true meaning of the word or phrase in the language that is*
37 *being translated.*

38 *(c) (1) In addition to any other remedies and penalties*
39 *prescribed in this article, a person who violates this section shall*
40 *be subject to a civil penalty not to exceed one thousand dollars*

1 (\$1,000) per day for each violation, to be assessed and collected
2 in a civil action brought by the State Bar.

3 (2) In assessing the amount of the civil penalty, the court may
4 consider relevant circumstances presented by the parties to the
5 case, including, but not limited to, the following:

6 (A) The nature and severity of the misconduct.

7 (B) The number of violations.

8 (C) The length of time over which the misconduct occurred, and
9 the persistence of the misconduct.

10 (D) The wilfulness of the misconduct.

11 (E) The defendant’s assets, liabilities, and net worth.

12 (3) The court shall grant a prevailing plaintiff reasonable
13 attorneys’ fees and costs.

14 (4) A civil action brought under this section shall be commenced
15 within four years after the cause of action accrues.

16 (5) In a civil action brought by the State Bar under this section,
17 the civil penalty collected shall be paid to the State Bar and
18 allocated to the fund established pursuant to Section 6033 to
19 provide free legal services related to immigration reform act
20 services to clients of limited means or to a fund for the purposes
21 of mitigating unpaid claims of injured immigrant clients under
22 Section 22447, as directed by the Board of Trustees of the State
23 Bar. The board shall annually report any collection and
24 expenditure of funds for the preceding calendar year, as authorized
25 by this section, to the Assembly and Senate Committees on
26 Judiciary. The report required by this section may be included in
27 the report described in Section 6086.15.

28 (d) In addition to any other remedies and penalties prescribed
29 by this article, a person who violates this section shall be subject
30 to the remedies and penalties provided by Chapter 19.5
31 (commencing with Section 22440) of Division 8.

32 (e) This section shall become operative on January 1, 2019.

33 ~~SEC. 3.~~

34 SEC. 4. Chapter 19.5 (commencing with Section 22440) is
35 added to Division 8 of the Business and Professions Code, to read:

36

37 CHAPTER 19.5. IMMIGRATION CONSULTANTS

38

39 22440. For purposes of this chapter, the following terms have
40 the following meanings:

1 (a) “Compensation” means money, property, or anything else
2 of monetary value.

3 (b) “Immigration matter” means any proceeding, filing, or action
4 affecting the immigration or citizenship status of any person which
5 arises under immigration and naturalization law, nonimmigrant
6 visa, executive order or presidential proclamation, or action of the
7 United States Citizenship and Immigration Services, the United
8 States Department of State, or the United States Department of
9 Labor.

10 ~~22441. (a) It is unlawful for any person, for compensation, to~~
11 ~~engage in the business or act in the capacity as an immigration~~
12 ~~consultant in this state, except as provided in Section 22449.~~

13 ~~(b)~~

14 ~~22441.~~ A person engages in the business or acts in the capacity
15 of an immigration consultant when that person gives legal or
16 nonlegal assistance, advice, or services on an immigration matter.
17 That assistance or advice includes, but is not limited to, the
18 following:

19 ~~(1)~~

20 ~~(a)~~ Drafting an application, brief, document, petition, or other
21 paper, or completing a form provided by a federal or state agency
22 in an immigration matter.

23 ~~(2)~~

24 ~~(b)~~ Advising a person as to the supporting documents which
25 may be necessary to complete any application, brief, document,
26 petition, or other paper provided by a federal or state agency in an
27 immigration matter.

28 ~~(3)~~

29 ~~(c)~~ Submitting completed forms on a person’s behalf to the
30 United States Citizenship and Immigration Services or any other
31 entity in connection with an immigration matter.

32 ~~(4)~~

33 ~~(d)~~ Making referrals to persons who could undertake legal
34 representation activities for a person in an immigration matter.

35 ~~(e) Any act in violation of this section is a violation of this~~
36 ~~chapter.~~

37 ~~(d) A violation of this section shall constitute a violation of~~
38 ~~subdivision (a) of Section 6126 as an unlawful practice of law.~~

39 ~~(e) This section shall become operative on March 1, 2018.~~

1 22442. (a) (1) *It is unlawful for any person, for compensation,*
2 *to engage in the business or act in the capacity as an immigration*
3 *consultant in this state, except as provided by this chapter.*

4 (2) *A violation of this subdivision shall also constitute a violation*
5 *of subdivision (a) of Section 6126 as an unlawful practice of law.*

6 (b) *Notwithstanding subdivision (a), the following persons may*
7 *act in the capacity as an immigration consultant:*

8 (1) *A person, or qualified designated entity authorized by federal*
9 *law to represent persons before the United States Department of*
10 *Homeland Security or the United States Department of Justice.*

11 (2) *An attorney, or a paralegal working under the direction and*
12 *supervision of an attorney.*

13 (3) *An employee of a nonprofit tax-exempt corporations from*
14 *helping clients complete application forms in an immigration*
15 *matter free of charge or for a nominal fee, including reasonable*
16 *costs, consistent with that authorized by the Executive Office for*
17 *Immigration Review under Section 292.2 of Title 8 of the Code of*
18 *Federal Regulations.*

19 (c) *Attorneys and organizations accredited by the Executive*
20 *Office for Immigration Review shall be the only individuals*
21 *authorized to charge clients or prospective clients fees for*
22 *providing consultations, legal advice, or any other services*
23 *associated with filing any application related to an immigration*
24 *matter.*

25 (d) (1) *Attorneys and organizations accredited by the Executive*
26 *Office for Immigration Review shall be prohibited from*
27 *participating in practices that amount to price gouging when a*
28 *client or prospective client solicits services associated with filing*
29 *an application related to an immigration matter.*

30 (2) *For the purposes of this section, “price gouging” means*
31 *any practice that has the effect of pressuring the client or*
32 *prospective client to purchase services immediately because*
33 *purchasing them at a later time will result in the client or*
34 *prospective client paying a higher price for the same services.*

35 (3) *In addition to the civil and criminal penalties described in*
36 *Section 22446, a violation of this subdivision by an attorney shall*
37 *be cause for discipline by the State Bar pursuant to Chapter 4*
38 *(commencing with Section 6000) of Division 3.*

39 (e) *This chapter does not authorize a notary public to engage*
40 *in the business or act in the capacity of an immigration consultant,*

1 *unless that person would otherwise be authorized pursuant to*
2 *subdivision (b). However, this chapter does not prohibit a notary*
3 *public from providing services that he or she is authorized to*
4 *provide under any other law, including Chapter 3 (commencing*
5 *with Section 8200) of Division 1 of Title 2 of the Government Code.*

6 ~~22442.~~

7 22443. It is unlawful for any person engaged in the business
8 or acting in the capacity of an immigration consultant to do any
9 of the following acts:

10 (a) Make false or misleading statements to a client while
11 providing services to that client.

12 (b) Make any guarantee or promise provided to a client, unless
13 the guarantee or promise is in writing and the person has some
14 basis in fact for making the guarantee or promise.

15 (c) Make any statement that the person can or will obtain special
16 favors from or has special influence with the United States
17 Citizenship and Immigration Services, or any other governmental
18 agency, employee, or official, that may have a bearing on a client's
19 immigration matter.

20 (d) Charge a client a fee for referral of the client to another for
21 services which the referring party cannot or will not provide to the
22 client.

23 ~~22443. (a) A violation of Section 6126.7 constitutes a violation~~
24 ~~of this chapter.~~

25 ~~(b) (1) In addition to the remedies and penalties prescribed in~~
26 ~~this chapter, a person who commits a violation described in~~
27 ~~subdivision (a) shall be subject to a civil penalty not to exceed one~~
28 ~~thousand dollars (\$1,000) per day for each violation, to be assessed~~
29 ~~and collected in a civil action brought by any person injured by~~
30 ~~the violation or in a civil action brought in the name of the people~~
31 ~~of the State of California by the Attorney General, a district~~
32 ~~attorney, or a city attorney.~~

33 ~~(2) In assessing the amount of the civil penalty, the court may~~
34 ~~consider relevant circumstances presented by the parties to the~~
35 ~~case, including, but not limited to, the following:~~

36 ~~(A) The nature and severity of the misconduct.~~

37 ~~(B) The number of violations.~~

38 ~~(C) The length of time over which the misconduct occurred,~~
39 ~~and the persistence of the misconduct.~~

40 ~~(D) The willfulness of the misconduct.~~

1 ~~(E) The defendant’s assets, liabilities, and net worth.~~
 2 ~~(3) If the Attorney General brings the action, one-half of the~~
 3 ~~civil penalty collected shall be paid to the treasurer of the county~~
 4 ~~in which the judgment was entered, and one-half to the General~~
 5 ~~Fund. If a district attorney brings the action, the civil penalty~~
 6 ~~collected shall be paid to the treasurer of the county in which the~~
 7 ~~judgment was entered. If a city attorney brings the action, one-half~~
 8 ~~of the civil penalty collected shall be paid to the treasurer of the~~
 9 ~~city in which the judgment was entered, and one-half to the~~
 10 ~~treasurer of the county in which the judgment was entered.~~
 11 ~~(4) The court shall grant a prevailing plaintiff reasonable~~
 12 ~~attorneys’ fees and costs.~~
 13 22444. (a) By January 1, ~~2018, 2019~~, the Secretary of State
 14 shall notify any individual or entity registered as an active
 15 immigration consultant at any time on or after January 1, 2016,
 16 and listed on the Secretary of State’s Internet Web site pursuant
 17 to subdivision (e) of former Section 22443.1, of the prohibition
 18 on immigration consulting under this chapter and the operative
 19 date of that prohibition.
 20 (b) By March 1, ~~2018, 2019~~, any individual who was registered
 21 as an active immigration consultant at any time on or after January
 22 1, 2016, shall provide each existing client a full and complete copy
 23 of his or her file or any other records that the consultant has
 24 regarding that client, and shall return to that client any original
 25 documents that the client had provided to the consultant. The
 26 former immigration consultant may charge his or her former client
 27 reasonable fees for photocopying of any records, not to exceed
 28 fifty cents (\$0.50) per page.
 29 (c) A person who was registered as an active immigration
 30 consultant at any time on or after January 1, 2016, shall, until
 31 January 1, ~~2019, 2020~~, post a clear and conspicuous sign, using
 32 the language developed by the Secretary of State, on his or her
 33 business informing the public of the prohibition on immigration
 34 consulting in the state. The Secretary of State shall develop, and
 35 provide to the former consultant, appropriate language for this
 36 purpose.
 37 ~~(d) Notwithstanding Section 22449, this section shall become~~
 38 ~~operative on January 1, 2018.~~
 39 22445. Any client records or information obtained during the
 40 scope of an investigation relating to immigration consultants by

1 any state or local officer shall be privileged as official information
2 within the meaning of Section 1040 of the Evidence Code.

3 22446. (a) (1) A person who violates this chapter shall be
4 subject to a civil penalty not to exceed one hundred thousand
5 dollars (\$100,000) for each violation, to be assessed and collected
6 in a civil action brought by any person injured by the violation or
7 in a civil action brought in the name of the people of the State of
8 California by the Attorney General, a district attorney, or a city
9 attorney. An action brought in the name of the people of the State
10 of California shall not preclude an action being brought by an
11 injured person.

12 (2) The court shall impose a civil penalty for each violation of
13 this chapter. In assessing the amount of the civil penalty, the court
14 may consider relevant circumstances presented by the parties to
15 the case, including, but not limited to, the following: the nature
16 and seriousness of the misconduct, the number of violations, the
17 persistence of the misconduct, the length of time over which the
18 misconduct occurred, the willfulness of the defendant's
19 misconduct, and the defendant's assets, liabilities, and net worth.

20 (3) Any action brought pursuant to this section by the Attorney
21 General, a district attorney, or a city attorney shall also seek relief
22 under subdivision (c) of Section 22447.

23 (4) If the Attorney General brings the action, one-half of the
24 civil penalty collected shall be paid to the treasurer of the county
25 in which the judgment was entered, and one-half to the General
26 Fund. If a district attorney brings the action, the civil penalty
27 collected shall be paid to the treasurer of the county in which the
28 judgment was entered. If a city attorney brings the action, one-half
29 of the civil penalty collected shall be paid to the treasurer of the
30 city in which the judgment was entered, and one-half to the
31 treasurer of the county in which the judgment was entered.

32 (b) In addition to the provisions of subdivision (a), a violation
33 of this chapter is a misdemeanor punishable by a fine of not less
34 than two thousand dollars (\$2,000) or more than ten thousand
35 dollars (\$10,000), as to each client with respect to whom a violation
36 occurs, or imprisonment in the county jail for not more than one
37 year, or by both fine and imprisonment. However, payment of
38 restitution to a client shall take precedence over payment of a fine.

39 (c) A second or subsequent violation of Section 22443 is a
40 misdemeanor subject to the penalties specified in subdivisions (a)

1 and (b). A second or subsequent violation of any other provision
2 of this chapter is a felony punishable by imprisonment in state
3 prison.

4 (d) ~~An~~ *A criminal* action brought pursuant to this section shall
5 be commenced within five years after discovery of the commission
6 of the offense.

7 22447. (a) A person claiming to be aggrieved by a violation
8 of this chapter by an individual or entity who is engaged in the
9 business or acting in the capacity of an immigration consultant in
10 violation of this chapter may bring a civil action for injunctive
11 relief or damages, or both. If the court finds that the defendant has
12 violated a provision of this chapter, it shall award actual damages,
13 plus an amount equal to treble the amount of actual damages or
14 one thousand dollars (\$1,000) per violation, whichever is greater.
15 The court shall also grant a prevailing plaintiff reasonable
16 attorneys' fees and costs.

17 (b) Any other party who, upon information and belief, claims
18 that an individual or entity has engaged in the business or acted in
19 the capacity of an immigration consultant in violation of this
20 chapter may bring a civil action for injunctive relief on behalf of
21 the general public and, upon prevailing, shall recover reasonable
22 attorneys' fees and costs.

23 (c) The Attorney General, a district attorney, or a city attorney
24 who claims a violation of this chapter has been committed by an
25 individual or entity engaged in the business of or acting in the
26 capacity of an immigration consultant, may bring a civil action for
27 injunctive relief, restitution, and other equitable relief against the
28 immigration consultant in the name of the people of the State of
29 California.

30 (d) ~~An~~ *A civil* action brought under this chapter shall be set for
31 trial at the earliest possible date, and shall take precedence over
32 all other cases, except older matters of the same character and
33 matters to which special preference may be given by law.

34 22448. Any civil action to enforce any cause of action pursuant
35 to this chapter shall be commenced within five years after the cause
36 of action has accrued. The cause of action is not to be deemed to
37 have accrued until the discovery, by the aggrieved party, of the
38 facts constituting the violation.

39 22449. (a) ~~This chapter shall not prohibit the following:~~

1 ~~(1) A person, or qualified designated entity authorized by federal~~
2 ~~law to represent persons before the United States Department of~~
3 ~~Homeland Security or the United States Department of Justice.~~

4 ~~(2) An attorney from providing legal advice in an immigration~~
5 ~~manner.~~

6 ~~(3) An employee of a nonprofit tax-exempt corporations from~~
7 ~~helping clients complete application forms in an immigration matter~~
8 ~~free of charge or for a nominal fee, including reasonable costs,~~
9 ~~consistent with that authorized by the Executive Office for~~
10 ~~Immigration Review under Section 292.2 of Title 8 of the Code~~
11 ~~of Federal Regulations.~~

12 ~~(4) A notary public from providing services that he or she is~~
13 ~~authorized to provide under any other law, including Chapter 3~~
14 ~~(commencing with Section 8200) of Division 1 of Title 2 of the~~
15 ~~Government Code. But a notary public shall not engage in the~~
16 ~~business or act in the capacity of an immigration consultant.~~

17 ~~(b) Attorneys and organizations accredited by the Executive~~
18 ~~Office for Immigration Review shall be the only individuals~~
19 ~~authorized to charge clients or prospective clients fees for providing~~
20 ~~consultations, legal advice, or any other services associated with~~
21 ~~filing any application related to an immigration matter.~~

22 ~~(e) (1) Attorneys and organizations accredited by the Executive~~
23 ~~Office for Immigration Review shall be prohibited from~~
24 ~~participating in practices that amount to price gouging when a~~
25 ~~client or prospective client solicits services associated with filing~~
26 ~~an application related to an immigration matter.~~

27 ~~(2) For the purposes of this section, “price gouging” means any~~
28 ~~practice that has the effect of pressuring the client or prospective~~
29 ~~client to purchase services immediately because purchasing them~~
30 ~~at a later time will result in the client or prospective client paying~~
31 ~~a higher price for the same services.~~

32 ~~(d) In addition to the civil and criminal penalties described in~~
33 ~~Section 22446, a violation of this section by an attorney shall be~~
34 ~~cause for discipline by the State Bar pursuant to Chapter 4~~
35 ~~(commencing with Section 6000) of Division 3.~~

36 *22449. Except as provided in Section 22444, this chapter shall*
37 *become operative on January 1, 2019.*

38 ~~SEC. 4. Section 8223 of the Government Code is repealed.~~

39 *SEC. 5. Section 22449.5 is added to the Business and*
40 *Professions Code, to read:*

1 22449.5. *This chapter shall remain in effect only until January*
2 *1, 2019, and as of that date is repealed.*

3 *SEC. 6. Section 8223 of the Government Code is amended to*
4 *read:*

5 8223. (a) A notary public who holds himself or herself out as
6 being an immigration specialist, immigration consultant, or any
7 other title or description reflecting an expertise in immigration
8 matters shall not advertise in any manner whatsoever that he or
9 she is a notary public.

10 (b) A notary public qualified and bonded as an immigration
11 consultant under Chapter 19.5 (commencing with Section 22440)
12 of Division 8 of the Business and Professions Code may enter data,
13 provided by the client, on immigration forms provided by a federal
14 or state agency. The fee for this service shall not exceed fifteen
15 dollars (\$15) per individual for each set of forms. If notary services
16 are performed in relation to the set of immigration forms, additional
17 fees may be collected pursuant to Section 8211. This fee limitation
18 shall not apply to an attorney, who is also a notary public, who is
19 rendering professional services regarding immigration matters.

20 (c) This section shall not be construed to exempt a notary public
21 who enters data on an immigration form at the direction of a client,
22 or otherwise performs the services of an immigration consultant,
23 as defined by Section 22441 of the Business and Professions Code,
24 from the requirements of Chapter 19.5 (commencing with Section
25 22440) of Division 8 of the Business and Professions Code. A
26 notary public who is not qualified and bonded as an immigration
27 consultant under Chapter 19.5 (commencing with Section 22440)
28 of Division 8 of the Business and Professions Code may not enter
29 data provided by a client on immigration forms nor otherwise
30 perform the services of an immigration consultant.

31 *(d) This section shall remain in effect only until January 1, 2019,*
32 *and as of that date is repealed.*

33 ~~SEC. 5.~~

34 *SEC. 7.* The Legislature finds and declares that Section 3 of
35 this act, which adds Section 22445 of the Business and Professions
36 Code, imposes a limitation on the public's right of access to the
37 meetings of public bodies or the writings of public officials and
38 agencies within the meaning of Section 3 of Article I of the
39 California Constitution. Pursuant to that constitutional provision,
40 the Legislature makes the following findings to demonstrate the

1 interest protected by this limitation and the need for protecting
2 that interest:

3 It is necessary to protect the privacy of client records obtained
4 during the course of an investigation.

5 ~~SEC. 6.~~

6 *SEC. 8.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O