



AB 1159 – Immigration Reform Act Services

IN BRIEF

AB 1159 is a consumer protection measure that establishes minimum statutory requirements and regulations through the State Bar of California for attorneys and consultants who offer immigration services under comprehensive immigration reform. Our goal is to protect individuals seeking a path to citizenship from fraud and abuse.

THE PROBLEM

The Border Security, Economic Opportunity, and Immigration Modernization Act, or S744, will create a pathway to citizenship for the 2.5 million undocumented immigrants currently residing in California. This immigration reform will increase the already enormous need for qualified legal counsel to represent foreign nationals in immigration proceedings.

Though individuals in removal proceedings are granted the privilege of being represented by legal counsel, such representation must be provided at no expense to the government. The burden of securing and paying for adequate representation is the responsibility of the individual seeking immigration services. However, because foreign nationals have a much greater chance of achieving a favorable outcome in immigration proceedings if they are represented by counsel, it is in their best interest to retain the services of an immigration services professional.

Beyond the immediate problem of fraudulent behavior, the risks involved with an unqualified person performing immigration services can be profoundly disruptive for the individual seeking legal immigration help. Simply filing the wrong paperwork with the U.S. Citizenship and Immigration Services (USCIS) can trigger interviews, investigations and often deportation proceedings.

THE SOLUTION

AB 1159 is intended to protect vulnerable Californians who believe they may be able to seek protection as a result of pending federal immigration reform proposals, but, instead, are already the targets of fraudulent schemes. Through specific restrictions on both lawyers and non-lawyers providing certain

immigration reform services, the bill is designed to significantly reduce fraud before it occurs, as well as to provide appropriate enforcement tools to recover against those individuals who do engage in fraudulent behavior. AB 1159 Key Components:

- **Trust Account Requirement.** Require these attorneys to deposit in a client trust account all funds received from the client prior to performing those services when the reasonable cost of attorney's fees are expected to exceed \$1,000, and would impose certain requirements relating to the expenditure of funds from this trust account.
- **Written Retainer Agreement.** The bill would require these attorneys to provide a client with a written contract, in the client's language (written or verification of oral translation), describing the services to be performed, when the cost of services will exceed \$1,000.
- **Prohibits Early Client Solicitation.** The bill would make it unlawful to demand money for services before the passage by Congress of immigration reform legislation and the return, or deposit in a trust account, of fees already collected before the federal legislation is even enacted.
- **Annual Verification of Compliance.** This bill would require attorneys providing services involving immigration reform applications to file an annual verification that they are in compliance with the legislation.
- **Malpractice Coverage or Bond.** The bill would require these attorneys to maintain malpractice insurance coverage or a bond of \$100,000.
- **Exemptions.** The legislation specifically exempts certain nonprofit legal services providers, pro bono attorneys and certified immigration specialists with malpractice coverage, or a bond.
- **Prohibition of use of term "Notario".** The legislation would also clarify that advertising the term "notario," which is already prohibited except in certain limited situations, would also constitute an unlawful holding out by a non-lawyer in violation of the law prohibiting the unauthorized practice of law.
- **Other Non-lawyer Restrictions and Prohibitions.** Finally, the bill would add other consumer protections for immigration assistance provided by non-lawyers.

FOR MORE INFORMATION

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