

RESOLUTION 10-04-04

DIGEST

Non-lawyers Exempt from Required Registration as Legal Document Preparers: Identification Amends Business and Professions Code section 6408 to require that non-lawyers who prepare a legal document identify themselves therein and specify any basis claimed for exemption from registration.

RESOLUTIONS COMMITTEE RECOMMENDATION APPROVE IN PRINCIPLE

History:

Similar to Resolution 09-08-99.

Reasons:

This resolution amends Business and Professions Code section to require that non-lawyers who prepare a legal document identify themselves therein and specify any basis claimed for exemption from registration. This resolution should be approved in principle because under present law the identity of such preparers is not disclosed and the validity of their exempt status is difficult or impossible to determine. As a result the registration requirement is rendered largely unenforceable.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored amending Business and Professions Code section 6408 to read as follows:

- 1 § 6408
2 The registrant's name, business address, telephone number, registration number,
3 expiration date of the registration, and county of registration shall appear in any
4 solicitation or advertisement, and on any papers or documents prepared or used by the
5 registrant, including, but not limited to, contracts, letterhead, business cards,
6 correspondence, documents, forms, claims, petitions, checks, receipts, money orders, and
7 pleadings.
8 On any such documents prepared by a person who is exempt from these provisions,
9 as provided for in Section 6401, the name, address, telephone number, and the reason that
10 no registration is required shall appear on all such documents.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Orange County Bar Association

STATEMENT OF REASONS

Existing Law: Business and Professions Code Sections 6400 et seq provides that non-lawyers must register with the county clerk, and (§6401) provides that certain persons are exempt

including nonprofit corporation employees, licensed real estate brokers and process servers.

This Resolution: This resolution would provide the additional disclosure of requiring the non-lawyer to state why they are not registered.

The Problem: The fact of the matter is that when documents are submitted prepared by someone who is not registered, there is no way of knowing the reason they are not registered. The reason why they have not registered should be stated, and this legislative change would establish that requirement.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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COUNTERARGUMENT

SAN DIEGO COUNTY BAR ASSOCIATION

If individuals are exempt under B&P section 6408, as are certain government employees, they shouldn't be burdened with the explaining why they are exempt on every document prepared and filed by them.