

**PROFESSIONAL FIDUCIARIES BUREAU  
1625 N. Market Blvd., Ste. S-209  
Sacramento, CA 95834**

**December 27, 2016**

**NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATION  
AND INITIAL STATEMENT OF REASONS ADDENDUM**

Pursuant to the requirements of Government Code sections 11346.8(c) and 11347.1, and section 44 of Title 1 of the California Code of Regulations, the Professional Fiduciaries Bureau (Bureau) is providing notice of changes made to proposed regulation section 4640 which was the subject of a Notice of Proposed Rulemaking published in the California Regulatory Notice Register on August 28, 2015. These changes are in response to the Decision of Disapproval of Regulatory Action received from the State of California Office of Administrative Law received on October 13, 2016, regarding the proposed regulation.

If you have any comments regarding the proposed changes to the modified text and/or the addendum to the Initial Statement of Reasons, the Bureau will accept written comments between December 27, 2016 and January 11, 2017. All written comments must be received by the Bureau no later than 5:00 p.m. on January 11, 2017, and addressed to:

Tracy Montez, Division Chief  
Professional Fiduciaries Bureau  
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All written comments received by January 11, 2017, which pertain to the indicated changes will be reviewed and responded to as part of the compilation of the rulemaking file. Please limit your comments to the current modifications to the text and the Initial Statement of Reasons Addendum. Only comments in response to the current text modifications and the Initial Statement of Reasons Addendum will be responded to.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Informative Digest: Business and Professions (B&P) Code section 6517 authorizes the Bureau to adopt, amend, or repeal, such rules and regulations necessary to enable the Bureau to carry into effect the provisions of law relating to the Professional Fiduciaries Act (Act). B&P § 138, requires every board, as defined in § 22 of the B&P, within the Department of Consumer Affairs (Department), to initiate the process of adopting regulations requiring its licensees to provide notice to their clients or customers that they are licensed by the State of California (State). Pursuant to B&P § 22, the Bureau is deemed a “board” for purpose of the requirement. The Bureau proposes to adopt CCR

4640 to comply with the Department-wide client notice requirement. The adoption of proposed CCR 4640 is intended to effectuate the Bureau's legal mandate of B&P § 138 by requiring professional fiduciary licensees to provide notice sufficient for their clients to know they are regulated by the State through the Bureau.

Adopt Section 4640 – Client Notice, of Division 41, of Title 16 of the California Code of Regulations: This proposal adopts Section 4640 of the California Code of Regulations to require licensed Professional Fiduciaries to provide notice to all clients of the fact that the professional is licensed and regulated by the Bureau. This proposal requires the notice to include a statement that Professional Fiduciaries are licensed and regulated by the Bureau and requires the notice to contain the Bureau's telephone number and website address. The proposal also requires the licensee to provide a copy of the written notice to the client and the client's legal representative.

**POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL:**

The Bureau's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Bureau achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violation of the Act, monitoring licensees whose licenses have been placed on probation; and educating the public about their consumer rights. The Bureau also promulgates regulations for the protection of the public.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations and amendments, the Bureau has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

**FORMS INCORPORATED BY REFERENCE**

No forms have been incorporated by reference.

**FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly

affecting business, including the ability of California businesses to compete with businesses in other states. No data was relied upon when making the above determination.

Cost Impact on Representative Private Person or Business: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Bureau are at most very minor, and would result from paper and ink costs associated with the one page posted notice for licensees place of business, if they have a place of business and there may be paper and paper and ink costs for written notice that must be provided to clients, if the licensee does not email the notice. There may be additional postage costs if the notice must be mailed to clients.

Effect on Housing Costs: None

### **EFFECT ON SMALL BUSINESS**

The Bureau has determined that the proposed regulation affects small business licensees. Any business that has an actual place of business where it conducts fiduciary services must post the one page notice.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

Impact on Jobs/New Businesses: The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This initial determination is based on the following facts:

- Analysis of creation/elimination of jobs: This proposal will not create or eliminate any jobs within California. Licensees will have to provide their clients (or their clients' legal representatives) with a one page notice about their license being regulated by the Bureau and with the Bureau's contact information. Licensees who have a place of business will must also post a one page notice with the same information at the place of business.
- Analysis of creation/elimination of businesses: This proposal will not eliminate any businesses in California for the reasons described above.
- Analysis of expansion of business: This proposal will not expand any businesses in California for the reasons described above.
- Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: This regulatory proposal will benefit the health and welfare of California residents who seek licensed professional fiduciary services and/or who work with individuals who render professional fiduciary services by ensuring they are aware that the professional fiduciaries services are regulated by the Bureau and allowing them to verify a licensee's licensure history and providing them a means to contact the Bureau for concerns related to the licensees professional services and/or to report complaints about professional fiduciary services.

As part of its Economic Impact Analysis, the Bureau has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and will not eliminate any jobs or occupations. This proposal does not impact multiple industries.

Occupations/Businesses Impacted: This proposed regulation will impact those licensees who have place of business because they will have to post the notice. The costs potentially incurred in reasonable compliance with the proposed action are minor, and would result from printing costs for a new stock of business cards, for example. A one-year phase-in for the advertising regulation has been built in to help avoid such costs.

Reporting Requirements: The proposed regulations do not impose any reporting requirements on licensees or the public.

Business Reporting Requirement: The proposed regulations do not impose any reporting requirements on businesses.

Comparable Federal Regulations: None

Benefits: This proposal will benefit consumers by ensuring that they are aware that their profession fairly is licensed and regulated by the Bureau.

### **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternatives considered were as follows:

1. Not adopt the regulation. This alternative was rejected because Bureau is statutorily required to draft client notice regulations for the protection of clients and consumers.
2. Adopt the regulation. The Bureau determined that this alternative is the most feasible because it complies with law and better informs licensees' clients and the public for their consumer protection.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Bureau's website at [www.pfb.ca.gov](http://www.pfb.ca.gov).

### **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

### **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Tracy Montez  
Address: 1625 N. Market Blvd., Suite S-209  
Sacramento, CA 95834  
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