

**TITLE 16
PROFESSIONAL FIDUCIARIES BUREAU
DEPARTMENT OF CONSUMER AFFAIRS**

**PROPOSED TEXT CONCERNING
INACTIVE AND RETIRED LICENSE STATUS;
FEES NON-REFUNDABLE**

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Section 4560 of Division 41 of Title 16 of the California Code of Regulations is amended as follows:

§ 4560. Renewal.

- (a) A license may be renewed for a period of twelve (12) months.
- (b) For license renewal, a licensee shall have met the annual reporting requirements of subdivision (b) of Section 4540, show proof of compliance with the continuing education requirements of Section 4442, and submit the renewal fee as required in Section 4580.
- (c) For the first license renewal following the initial license period as provided in Section 4428, each licensee shall comply with the continued education requirements of Section 4442.
- (d) This section does not apply to a license placed in an inactive or retired status pursuant to Section 4564 or 4572. The requirements for renewal of a license placed in an inactive status are set forth in Section 4567.

NOTE: Authority cited: Sections 152.6, 462, and 6517, and 6542, Business and Professions Code.

Reference: Sections 152.6, 462, 6538, 6541, 6542, 6561, and 6592, Business and Professions Code.

Section 4562 of Division 41 of Title 16 of the California Code of Regulations is amended as follows:

§ 4562. Delinquency.

- (a) Except as otherwise provided by law, a license which has expired may be renewed upon the filing of an application for renewal and payment of the renewal fee.

(b) If a license is renewed more than thirty (30) days after its expiration, the licensee, as a condition prior to renewal, shall also pay the late delinquency fee required in Section 4580.

(c) Delinquency fees and accrued and unpaid renewal fees shall not apply to a license placed in an inactive or retired status pursuant to Section 4564 or 4572.

NOTE: Authority cited: Section 6592, Business and Professions Code.

Reference: Sections 121.5, 163.5, 462, 6541, and 6592, Business and Professions Code.

Article 8.3 (commencing with Section 4563) is added to Division 41 of Title 16 of the California Code of Regulations, to read as follows:

Article 8.3. Inactive License Status; Renewal of Inactive License; Reinstatement of Inactive License to Active Status

§ 4563. Definitions.

For purposes of this Article, the following terms have the following meanings:

(a) "Annual statement" means an annual statement that complies with the requirements of Section 4542.

(b) "Delinquent" means that a license is expired and subject to the late delinquency fee required in Section 4580.

(c) "Inactive license" means a license placed in an inactive status pursuant to Section 4564.

(d) "In good standing," in reference to a license, means that a license is not suspended, revoked, surrendered, expired, delinquent, otherwise restricted, or on probation due to any disciplinary action by the Bureau.

NOTE: Authority cited: Sections 462, and 6517, Business and Professions Code.

Reference: Sections 125.3, 125.9, 142, 163.5, 462, 6535, 6541, and 6542, Business and Professions Code.

§ 4564. Placement of License in Inactive Status; Effect.

(a) Upon application to the Bureau pursuant to Section 4566, an eligible licensee, as described in Section 4565, may have their license placed in an inactive status. Placement in an inactive status shall occur on the first day of the next renewal period following the Bureau's approval of the application.

(b) The holder of an inactive license shall not engage in any professional fiduciary activity for which a license is required unless exempt under the Act.

(c) The holder of an inactive license shall not identify as a "licensed professional fiduciary" as provided in Section 6532 of the Business and Professions Code unless the licensee qualifies that title immediately before or after with the word "inactive."

(d) (1) Pursuant to Business and Professions Code 462, subdivision (b)(2), the holder of an inactive license is not required to complete continuing education as a condition of renewal pursuant to Section 4567 of this Article.

(2) The holder of an inactive license shall remain subject to the annual reporting duties of Section 4540, including filing of an annual statement, and the ongoing reporting duties of Section 4544.

NOTE: Authority cited: Sections 462 and 6517, Business and Professions Code. Reference: Sections 119, 121.5, 149, 462, 6530, 6531, 6532, 6541, 6541.1, and 6561, Business and Professions Code.

§ 4565. Eligibility for Placement of License in Inactive Status.

A licensee shall be eligible to place their license in an inactive status under the following conditions:

(a) (1) For applications submitted on or before [OAL: insert date that is one year after effective date], the license may be active, placed in a retired status, expired, or delinquent.

(2) For applications submitted after [OAL: insert date that is one year after effective date], the license shall either be active or placed in a retired status and shall not be expired or delinquent.

(b) The license shall be in good standing for at least five consecutive years immediately preceding submission of an application pursuant to Section 4566.

(c) There shall be no outstanding citation issued by the Bureau against the licensee, unresolved disciplinary action initiated by the Bureau against the licensee, or other disqualifying condition specified in Section 6542(b) of the Business and Professions Code.

(d) There shall be no outstanding order for recovery of the Bureau's costs issued against the licensee pursuant to Section 125.3 of the Business and Professions Code.

(e) The licensee shall have no open cases that require active licensure.

NOTE: Authority cited: Sections 462, 6517 and 6542, Business and Professions Code. Reference: Section 12.5, 125.3, 125.9, 148, 462, 490, 6517, 6542, 6580, and 6584, Business and Professions Code.

§ 4566. Application for Placement of License in Inactive Status.

In order to have a license placed in an inactive status, an eligible licensee shall submit to the Bureau all of the following:

(a) An application that contains all of the following:

(1) Full name as it appears on the license, address, phone number, and email address of the licensee.

(2) The license number and expiration date.

(3) A signed and dated affidavit by the licensee of intent not to practice while the license is in an inactive status unless exempt under the Act. For purposes of this paragraph, to "practice" means to engage in any professional fiduciary activity for which a license is required.

(4) A signed and dated affidavit by the licensee that the license is in good standing and the licensee is not aware of any pending administrative or judicial proceeding against the licensee that may result in the loss of good standing.

(b) An updated annual statement. The annual statement shall be filed with the Bureau in the same manner as the licensee would file an annual statement for license renewal.

(c) The fee for placement of a license in an inactive status specified in subdivision (f) of Section 4580.

NOTE: Authority cited: Sections 462, 6517, and 6592, Business and Professions Code. Reference: Sections 27, 30, 118, 462, 464, 6530, 6531, 6534, 6561, 6580, and 6592, Business and Professions Code; Section 19528, Revenue and Taxation Code.

§ 4567. Renewal of Inactive License.

(a) An inactive license shall expire one year after the day on which it is placed in an inactive status, as specified in subdivision (a) of Section 4564, and on the same day of each subsequent year, subject to renewal pursuant to this section.

(b) To renew an inactive license, a licensee shall satisfy the following requirements, which apply in lieu of the requirements set forth in Section 6541 of the Business and Professions Code:

(1) File with the Bureau an updated annual statement in the same manner as the licensee would file an annual statement for an active license. If the annual statement is not submitted no later than 60 days prior to the expiration of the inactive license as required by Section 4540, the licensee may be subject to a citation, fine, or disciplinary action as provided in that section.

(2) Submit to the Bureau the renewal fee specified in subdivision (f) of Section 4580.

(c) The Bureau may refuse to renew an inactive license if the licensee has engaged in disqualifying conduct specified in Section 6541 of the Business and Professions Code.

NOTE: Authority cited: Sections 462, 6517, and 6592, Business and Professions Code. Reference: Sections 118, 121.5, 142, 152.6, 462, 6541, 6561, 6562, and 6592, Business and Professions Code.

§ 4568. Reinstatement of Inactive License to Active Status; Duration of Initial License Period Post-Reinstatement; Reinstatement Fee; Continuing Education Requirements for Initial Period.

(a) Except as provided in subdivision (d), on or before the date that is 10 years after the date on which a license was placed in an inactive status, a licensee may reinstate the inactive license to active status, if it is not expired under Section 4567, by following all of the procedures in subdivision (b). After that date, a licensee seeking to reinstate their inactive license shall be subject to the same requirements, including retaking the licensing examination, as an applicant for initial licensure.

(b) To reinstate an inactive license to active status, a licensee shall do all of the following:

(1) In the one-year period immediately before requesting reinstatement, earn a minimum of fifteen (15) hours of continuing education credit from approved education courses as provided in Section 4442, including at least 2 hours of continuing education credits in ethics for fiduciaries, as required in subdivision (b)(2) of that section.

(2) Submit to the Bureau an affidavit, signed under penalty of perjury, that the licensee has completed the continuing education courses required by paragraph (1). The licensee shall maintain and disclose evidence supporting this statement as provided in Section 4452.

(3) File with the Bureau an updated annual statement. The annual statement shall be filed with the Bureau in the same manner as the licensee would file an annual statement for renewal of an active license.

(4) Submit to the Bureau the reinstatement fee specified in subdivision (f) of Section 4580.

(c) (1) The initial license period after an inactive license is reinstated to active status shall be adjusted as provided in Section 4428 in order to set the renewal date for each licensee.

(2) For the initial license period after reinstatement, each licensee shall comply with the continuing education requirements for an annual renewal period pursuant to Section 4442.

(d) Reinstatement of an inactive license under this section is subject to denial pursuant to Section 125.3 or 494.5 of the Business and Professions Code or as otherwise provided by law.

NOTE: Authority cited: Sections 462, 6517, and 6592, Business and Professions Code. Reference: Sections 125.3, 134, 152.6, 462, 494.5, 6538, 6561, and 6592, Business and Professions Code.

§ 4569. Delinquency and Cancellation.

An inactive license that is not renewed or reinstated to active status within the time period specified in Section 6541.1 of the Business and Professions Code shall not be renewed or reinstated and shall be canceled immediately upon expiration of that period.

NOTE: Authority cited: Sections 462, 6517, and 6592, Business and Professions Code. Reference: Sections 462, 6541.1, and 6592, Business and Professions Code.

§ 4570. Enforcement.

Failure to maintain compliance with this Article is unprofessional conduct and grounds for disciplinary action including, but not limited to, revocation of the inactive license.

NOTE: Authority cited: Sections 125.9, 462, and 6517, Business and Professions Code. Reference: Sections 12.5, 125.9, 148, 462, 490, 6517, 6580, and 6584, Business and Professions Code.

Article 8.5 (commencing with Section 4571) is added to Division 41 of Title 16 of the California Code of Regulations, to read as follows:

Article 8.5. Retired License Status; Reinstatement of Retired License to Active License Status

§ 4571. Definitions.

For purposes of this Article, the following terms have the following meanings:

(b) "Annual statement" means an annual statement that complies with the requirements of Section 4542.

(c) "Delinquent" means that a license is expired and subject to the late delinquency fee required in Section 4580.

(d) "In good standing," in reference to a license, means that a license is not suspended, revoked, expired, delinquent, otherwise restricted, or on probation due to any disciplinary action by the Bureau.

(e) "Retired license" means a license placed in a retired status pursuant to Section 4572.

NOTE: Authority cited: Sections 6517, and 6542, Business and Professions Code. Reference: Sections 125.3, 125.9, 142, 163.5, 6535, 6541, and 6542, Business and Professions Code.

§ 4572. Placement of License in Retired Status; Effect.

(a) Upon application to the Bureau pursuant to Section 4574, an eligible licensee, as described in Section 4573, may have their license placed in a retired status. Placement in a retired status shall occur on the first day of the next renewal period following the Bureau's approval of the application.

(b) The holder of a retired license shall not engage in any professional fiduciary activity for which an active license is required unless exempt under the Act.

(c) The holder of a retired license shall not identify as a "licensed professional fiduciary" as provided in Section 6532 of the Business and Professions Code unless the licensee qualifies that title immediately before or after with the word "retired."

(d) Notwithstanding Sections 6541 and 6541.1 of the Business and Professions Code, a retired license shall not expire or require renewal.

(e) (1) Except as provided in Section 4575, the holder of a retired license shall not be subject to the annual reporting duties of Section 4540, including filing of an annual statement. This paragraph applies to the holder of a retired license in lieu of Section 6561 of the Business and Professions Code.

(2) Section 136 of the Business and Professions Code, requiring notification of a change in address, applies to the holder of a retired license in lieu of the ongoing reporting duties of Section 4544 of this Division.

NOTE: Authority cited: Sections 6517 and 6542, Business and Professions Code. Reference: Sections 119, 121.5, 136, 149, 6530, 6531, 6532, 6541, 6541.1, 6542, and 6561, Business and Professions Code.

§ 4573. Eligibility for Placement of License in Retired Status.

A licensee shall be eligible to place their license in a retired status under the following conditions:

(a) (1) For applications submitted on or before [OAL: *insert date that is one year after effective date*], the license may be active, placed in an inactive status, expired, or delinquent.

(2) For applications submitted after [OAL: *insert date that is one year after effective date*], the license shall either be active or placed in an inactive status and shall not be expired or delinquent.

(b) The license shall be in good standing for at least five consecutive years immediately preceding submission of an application pursuant to Section 4574.

(c) There shall be no outstanding citation issued by the Bureau against the licensee, unresolved disciplinary action initiated by the Bureau against the licensee, or other disqualifying condition specified in Section 6542(b) of the Business and Professions Code.

(d) There shall be no outstanding order for recovery of the Bureau's costs issued against the licensee pursuant to Section 125.3 of the Business and Professions Code.

(e) The licensee shall have no open cases that require active licensure.

NOTE: Authority cited: Sections 6517 and 6542, Business and Professions Code.
Reference: Sections 12.5, 125.9, 148, 490, 6517, 6542, 6580, and 6584, Business and Professions Code.

§ 4574. Application for Placement of License in Retired Status.

In order to have a license placed in a retired status, an eligible licensee shall submit to the Bureau all of the following:

(a) An application that contains all of the following:

(1) Full name, address, phone number, and email address of the licensee.

(2) The license number and expiration date.

(3) A signed and dated affidavit by the licensee of intent not to practice while the license is in a retired status unless exempt under the Act. For purposes of this paragraph, to "practice" means to engage in any professional fiduciary activity for which a license is required.

(4) A signed and dated affidavit by the licensee that the license is in good standing and the licensee is not aware of any pending administrative or judicial proceeding against the licensee that may result in the loss of good standing.

(b) An updated annual statement. The annual statement shall be filed with the Bureau in the same manner as the licensee would file an annual statement for license renewal.

(c) The fee for placement of a license in a retired status specified in subdivision (g) of Section 4580.

NOTE: Authority cited: Sections 6517, 6542, and 6592, Business and Professions Code. Reference: Sections 27, 30, 118, 464, 6530, 6531, 6534, 6542, 6561, 6580, and 6592, Business and Professions Code; Section 19528, Revenue and Taxation Code.

§ 4575. Reinstatement of Retired License to Active Status; Duration of Initial License Period Post-Reinstatement; Reinstatement Fee; Continuing Education Requirements for Initial Period.

(a) Except as provided in subdivision (d), on or before the date that is 5 years after the date on which a license was placed in a retired status, a licensee may reinstate the retired license to an active status by following all of the procedures in subdivision (b). After that date, a licensee seeking to reinstate their retired license shall be subject to the same requirements, including retaking the licensing examination, as an applicant for initial licensure.

(b) To reinstate a retired license to active status, a licensee shall do all of the following:

(1) In the one-year period immediately before requesting reinstatement, complete the amount of approved continuing education courses required by Section 6538 of the Business and Professions Code, as determined under Section 4442, including at least 2 hours of continuing education credits in ethics for fiduciaries, as required in subdivision (b)(2) of that section.

(2) Submit to the Bureau a statement, signed under penalty of perjury, that the licensee has completed the continuing education courses required by paragraph (1). The licensee shall maintain and disclose evidence supporting this statement as provided in Section 4452.

(3) File with the Bureau an updated annual statement. The annual statement shall be filed with the Bureau in the same manner as the licensee would file an annual statement for renewal of an active license.

(4) Submit to the Bureau the reinstatement fee specified in subdivision (g) of Section 4580.

(c) (1) The initial license period after a retired license is reinstated to active status shall be adjusted as provided in Section 4428 in order to set the renewal date for each licensee.

(2) For the initial license period after reinstatement, each licensee shall comply with the continuing education requirements for an annual renewal period pursuant to Section 4442.

(d) Reinstatement of a retired license under this section is subject to denial pursuant to Section 125.3 or 494.5 of the Business and Professions Code or as otherwise provided by law.

NOTE: Authority cited: Sections 494.5, 6517, 6542, and 6592, Business and Professions Code.

Reference: Sections 125.3, 134, 152.6, 494.5, 6538, 6542, 6561, and 6592, Business and Professions Code.

§ 4576. Enforcement.

Failure to maintain compliance with this Article is unprofessional conduct and grounds for disciplinary action including, but not limited to, revocation of the retired license.

NOTE: Authority cited: Sections 125.9, 6517, and 6542, Business and Professions Code.

Reference: Sections 12.5, 125.9, 148, 490, 6542, 6580, and 6584, Business and Professions Code.

Section 4580 of Division 41 of Title 16 of the California Code of Regulations is amended as follows:

§ 4580. Fees

The following fees are established:

(a) The application fee for a professional fiduciary license shall be four hundred dollars (\$400).

(b) The initial license fee shall be six hundred dollars (\$600) for the first twelve (12) months plus a prorated amount of the renewal fee required in subdivision (c) to adjust the duration of the initial license period to set the renewal date for each licensee as provided in Section 4428.

(c) The renewal fee for a license, except for an inactive license, shall be seven hundred dollars (\$700).

(d) The delinquency fee for a license shall be one hundred and fifty dollars (\$150). Delinquency fees shall not apply to a license placed in an inactive or retired status pursuant to Section 4564 or 4572 of this Division.

(e) The fee for a duplicate or replacement license shall be twenty-five dollars (\$25).

(f) (1) The fee for placement of a license in an inactive status shall be three hundred and fifty dollars (\$350).

(2) The renewal fee for an inactive license shall be three hundred and fifty dollars (\$350).

(3) The fee for reinstatement of an inactive license to active status shall be seven hundred dollars (\$700) for the first twelve (12) months plus a prorated amount of the renewal fee required in subdivision (c) to adjust the duration of the initial license period after reinstatement to set the renewal date for each licensee as provided in subdivision (c) of Section 4568.

(g) (1) The fee for placement of a license in a retired status shall be three hundred and fifty dollars (\$350).

(2) The fee for reinstatement of a retired license to active status shall be seven hundred dollars (\$700) for the first twelve (12) months plus a prorated amount of the renewal fee required in subdivision (c) to adjust the duration of the initial license period after reinstatement to set the renewal date for each licensee as provided in subdivision (c) of Section 4575.

NOTE: Authority cited: Sections 462, 6517, 6542, and 6592, Business and Professions Code.

Reference: Sections 121.5, 122, 134, 142, 152.6, 163.5, 462, 6533, 6544, 6541, 6542, and 6592, Business and Professions Code.

Section 4581 is added to Article 9 of Division 41 of Title 16 of the California Code of Regulations, to read as follows:

§ 4581. Fees Nonrefundable.

(a) All fees in this Article are nonrefundable except as described in Section 158 of the Business and Professions Code.

(b) This section shall apply regardless of whether, after payment of a fee:

(1) The application is withdrawn or abandoned.

(2) The applicant is found ineligible, or the applicant's qualifications insufficient, for the license issuance, renewal, change in status, or reinstatement for which the fee is paid.

(3) The licensee stops practicing or becomes unable to practice in this state.

NOTE: Authority cited: Section 6517, Business and Professions Code.

Reference: Sections 158, 494.5, 6533, and 6592, Business and Professions Code; Sections 13142 and 13143, Government Code.