

## **UNLAWFUL DETAINER ASSISTANT APPLICANT INSTRUCTIONS**

**Attached you will find a copy of the following:**

1. Summary of Procedures for processing Unlawful Detainer Assistant Applications
2. Summary of the Business & Professions Codes covering the registration requirements for unlawful detainer assistants

**To complete the registration process, you must do the following:**

1. Complete and sign the application form
2. Provided supporting documentation as requested in the application form
3. Provide payment of fees:
  - (a) \$182.00 cash or check payable to County Clerk
  - (b) \$13.00 1<sup>st</sup> page of bond – check payable to Recorder  
\$3.00 each additional page on bond beyond the first page
  - (c) \$10.00 each additional ID card beyond the first payable to County Clerk
4. \$25,000 bond for individual registration \*\*\*  
Corporations or Partnerships bonding requirement based on the number of employees:  
\$25,000 (1 to 4 assistants); \$50,000 (5 to 9 assistants); \$100,000 (10 or more assistants)
5. Valid picture identification
6. Personally bring all of the above to the County Clerk's Office in the county you are applying for registration in.

**\*\*\* PLEASE NOTE- If you are filing a secondary registration, you must provide a certified copy of the bond that was filed and recorded with your primary registration.**

**Summary of Procedures  
Unlawful Detainer Assistant  
Business & Professions Code §6400, et seq**

**General Discussion**

Since 1993 state law has required unlawful detainer assistants to register with the County Clerk of the county in which he or she performs those services. State law was amended (Statutes of 1998) to also require legal document assistants to register with the County Clerk in the county in which the services are provided. State law was amended (Chapter 386, Statutes of 2000) under urgency legislation, to require legal document assistants and unlawful detainer assistants to register with the County Clerk in the county where their principal place of business is located (deemed primary registration), and in each county in which they are providing services (deemed secondary registration).

The law pertaining to legal document assistants is interspersed with those applying to unlawful detainer assistants. Some of the laws apply to both and some apply to one of them.

A separate document has been prepared describing the laws as they apply to legal document assistants. This document describes those applicable to unlawful detainer assistants.

**Definition of Unlawful Detainer Assistant [§6400]**

Unlawful detainer assistant means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

**Exemption from Unlawful Detainer Assistant Registration Requirement [§6401]**

This chapter does not apply to any person engaged in any of the following occupations, provided that the person does not also perform the duties of an unlawful detainer assistant in addition to those occupations:

- a) Any government employee who is acting in the course of his or her employment.
- b) A member of the State Bar of California, or his or her employee, paralegal, or agent, or independent contractor while acting on behalf of a member of the State Bar.
- c) Any employee of a nonprofit, tax-exempt corporation who either assists clients free of charge or is supervised by a member of the State Bar of California who has malpractice insurance.
- d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with B & P §10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of B & P §10131 on an unlawful detainer claim as defined in subdivision (b) of B & P §6400, and who is a party to the unlawful detainer action.
- e) An immigration consultant, as defined in Chapter 19.5 (commencing with B & P §22441) of Division 8.
- f) A person registered as a process server under Chapter 16 (commencing B & P §22350) or a person registered as a professional photocopier under Chapter 20 (commencing with B & P §22450) of Division 8.

- g) A person who provided services relative to the preparation of security instruments or conveyance documents as an integral part of the provision of title or escrow service.
- h) A person who provides services that are regulated by federal law.
- i) A person who is employed by, and provides services to, a supervised financial institution, holding company, subsidiary or affiliate.

**When to File**

The law regulating unlawful detainer assistants has been in effect since 1993. Anyone who performs services as an unlawful detainer assistant must register prior to performing those services.

**Where to get Registration Forms**

Applicants can obtain the forms from the County Clerk.

**Where to File [§6402]**

The unlawful detainer assistant must file and register in the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration).

**Cost of Filing [§§6404 & 6406]**

\$175.00	Filing fee (included one identification card)
\$ 10.00	For each additional identification card
\$ 7.00	Filing Bond
\$ 12.00	Recording bond for the first page. \$3.00 for each additional page.

**Bonding Requirements [§6405]**

An application for a certificate of registration for an unlawful detainer assistant shall be accompanied by a bond as follows:

- The bond shall be in the amount of \$25,000 for an individual; \$25,000/\$50,000/\$100,000 for a corporation or partnership (based on the number of employees). Bond must be issued by a corporate surety qualified to do business in the state. In lieu of the bond, a registrant may deposit the amount in cash with the County Clerk.
- An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.
- The bond required by this section shall be in favor of the State of California, and also indicate the name of the county in which it will be filed.
- The fee for recording the bond shall be paid by the registrant.
- The County Clerk shall, upon filing the bond, deliver the bond forthwith to the County Recorder for recording.
- The fee for filing, canceling, revoking, or withdrawing the bond is \$7.00.

## **Register of Unlawful Detainer Assistant [§6407]**

The County Clerk shall maintain a register of unlawful detainer assistants and assign a unique number to each unlawful detainer assistant.

### **Identification Card [§6407(b)]**

The County Clerk shall issue an identification card to each unlawful detainer assistant. Additional cards for employees of unlawful detainer assistants registered as a partnership or corporation shall be issued upon the payment of \$10.00 for each card. Upon renewal of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

The identification card shall be a card 3 ½ inches by 2 ¼ inches, and shall contain at the top, the title "Unlawful Detainer Assistant", followed by the registrant's name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner. The front of the card, above the title, shall also contain the following statement in 12-point boldface type: "This person is not a lawyer." The front of the card, at the bottom shall also contain the following statement in 12-point boldface type: "The County Clerk has not evaluated this person's knowledge, experience or services."

NOTE: The Legislative Committee recommends that you emboss the cards with your County Clerk seal.

### **Employees of Registered Unlawful Detainer Assistant**

It is the recommendation of the Legislative Committee that the County Clerk obtain something in writing (preferably on letterhead) authorizing you to issue an identification card to the employee of the partnership or corporation.

### **Renewal of Registration [§6406(a)]**

A certificate of registration shall be effective for a period of two years. Thereafter, a registrant shall file an application for renewal of registration and pay the \$175.00 fee plus \$10.00 for each additional identification card, \$7.00 for filing the bond. The recording of the bond is \$13.00 for the first page of the bond and \$3.00 for each additional page.

NOTE: Renewal requires completion of a new registration form.

NOTE: It is the opinion of the Legislative Committee that if the registrant renews before expiration of the two years, he/she can use the old number. If the registrant renews after the expiration of the two years, then a new number must be issued. The old number would no longer be used.

### **Denial of Registration or Renewal [§6406(b)]**

The County Clerk shall deny registration or renewal if the applicant has been any of the following:

- Convicted of a felony, or of a misdemeanor under §6126 or 6127 of the Business & Professions Code.
- Held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of

- an unfair, unlawful, or deceptive business practice.
- Convicted of a misdemeanor violation of this chapter.
- Had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.
- Had his or her registration revoked pursuant to §6413.
- Fails to meet one of the requirements listed in §6402.1.

If the County Clerk finds that the applicant has failed to demonstrate having met the requisite requirements of §6402 or 6402.1, or that any of the above listed convictions or judgments apply, the County Clerk, within three business days of submission of the application and fee, shall return the application and fee to the applicant with a notice to the applicant indicating the reason for the denial and the method of appeal. The State of California, Director of Consumer Affairs has established procedures for appeal. If the Director orders that the certificate of registration be granted, the applicant may resubmit the application, with the appropriate application fee and the written decision of the Director. The County Clerk shall grant the certificate of registration to the applicant within three business days of being supplied with the information.

NOTE: It is the recommendation of the Legislative Committee that the County clerk not file the documents until it has been determined that all is in order and that the filing will not be denied.

### **Revocation of the Registration [§6413]**

The County Clerk shall revoke the registration of an unlawful detainer assistant upon receipt of an official document or record stating that the registrant has been found guilty of the unauthorized practice of law pursuant to §§6125, 6126, or 6127, has been found guilty of a misdemeanor violation of this chapter, or that a civil judgment has been entered against the registrant in an action arising out of the registrant's negligent, reckless, or willful failure to properly perform his or her obligation as unlawful detainer assistant.

The County Clerk shall be given notice of the disposition in any court action by the city attorney, district attorney, or plaintiff, as applicable. A registrant whose registration is revoked pursuant to this section may reapply for registration after three years.

### **Miscellaneous Information**

- A legal document assistant is not the same as an unlawful detainer assistant. Each requires their own application, registration and bond.
- A legal document assistant is not the same as a paralegal. Pursuant to B & P §6401(b) a paralegal does not have to register as a legal document assistant while acting on behalf of a member of the State Bar. A paralegal, acting independently must register as a legal document assistant if performing those services.
- No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with §6100) of Chapter 4 of the Business and Professions Code shall, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant. [§6402]
- Many of the code sections related to legal document assistant change on January 1, 2003. Both the current and those that take affect in 2003 are listed in the code books – one must be careful when reading the codes as to whether you are reading the current or future law.