

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 690 (Chen)
Version: February 13, 2023
Hearing Date: June 13, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Legal document assistants and unlawful detainer assistants

DIGEST

This bill extends the operation of the provisions of law regulating legal document assistants (LDAs) and unlawful detainer assistants (UDAs) from January 1, 2024, to January 1, 2030, and makes various other technical and nonsubstantive changes.

EXECUTIVE SUMMARY

Existing law, until January 1, 2024, provides for the regulation of LDAs and UDAs by requiring LDAs and UDAs to register with the county clerk in the county in which their principal place of business is located and where they maintain a branch office. This bill would extend the operation of these provisions until January 1, 2030.

The bill is sponsored by the California Association of Legal Document Assistants. The bill is supported by the California Apartment Association, the Southern California Rental Housing Association, and various individuals. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires an LDA or UDA to be registered by the county clerk in the county in which their principal place of business is located and in which in they maintain a branch office and to provide proof that the registrant has satisfied specified bonding requirements. (Bus. & Prof. Code § 6402 & 6405.)
- 2) Prescribes various requirements an LDA and UDA must comply with when conducting business and prohibits certain acts and practices, such as making any false or misleading statements to the consumer concerning the subject matter, legal

issues, or self-help service being provided. (Bus. & Prof. Code §§ 6408 et. seq. & 6411(a).)

3) Sunsets these provisions as of January 1, 2024. (Bus. & Prof. Code § 6401.7.)

This bill extends the sunset of these provisions until January 1, 2030.

COMMENTS

1. Stated need for the bill

The author writes:

AB 690 would allow individuals who wish to handle their own legal matters to work with Legal Document Assistants, by extending the sunset date on the statute authorizing and regulating LDAs for another 6 years.

2. This bill extends the sunset date on the authority of LDAs and UDAs to provide self-help assistance until January 1, 2030.

Under California law, certain types of legal services can be performed by LDAs or UDAs. LDAs and UDAs provide, for compensation, self-help assistance to members of the public who are representing themselves in legal matters. LDAs and UDAs provide an important service to low income litigants by helping these litigants navigate the legal process without hiring an attorney at a cost of hundreds of dollars an hour. LDAs and UDAs are prohibited from providing legal advice or opinion, but they are permitted to prepare legal documents; provide attorney-authored general information and published legal documents; and file and serve documents at the direction of the client. This bill extends the statutory authorization of LDAs and UDAs by extending the sunset date from January 1, 2024, to January 1, 2030.

The existing statutory framework for LDAs and UDAs provides very little regulatory oversight, as no single state entity is charged with certifying or overseeing LDAs and UDAs. They are required to register at the county level but this registration is not required to be posted online. Consumers can file complaints with the Department of Consumer Affairs, but as the Assembly Judiciary Committee notes “inquiries made by [the Assembly Judiciary Committee in 2019] indicate that neither the Department of Consumer Affairs, nor counties regularly communicate with one another regarding the regulation of legal document assistants.”¹ Without clear regulatory oversight, a consumer who is wronged by an LDA or UDA is has very little recourse except filing a civil action seeking redress, which is likely infeasible given the fact that a person

¹ Asm. Jud. Comm. Analysis AB 690 (2023-24 reg. sess.) as introduced Feb. 13, 2023 at p. 4.

seeking the services of an LDA or UDA likely could not afford to hire an attorney for the prior legal issue in the first place.

Over the past years there has been a recognition from stakeholders that stronger regulation of LDAs and UDAs is probably needed in order to better protect consumers; however, there is no clear consensus on what this would look like. The Assembly Judiciary Committee, and to a certain extent the State Bar of California, have indicated that LDAs and UDAs should be registered with and subject to some regulatory oversight from the State Bar; however, the LDA and UDA industry prefers to be overseen by the Department of Consumer Affairs.² The determination about what state entity should be tasked with overseeing LDAs and UDAs, though an important one, may best be left to a later date for several reasons. First, there is no clear consensus on what entity should be tasked with the oversight of LDAs and UDAs. Additionally, at the request of the Assembly Judiciary Committee, the Attorney General is researching and will issue an opinion regarding the legality of the State Bar potentially regulating non-attorneys as these groups do not “practice law”. (Request for Attorney General Opinion No. 22-602.)³ This opinion has not yet been issued and would likely provide important guidance to crafting an appropriate regulatory framework. Lastly, the Legislature, as a result issues unrelated to LDAs and UDAs, imposed a temporary prohibition on the State Bar from evaluating programs to regulate paraprofessionals and, as such, cannot provide input into any new regulatory proposals during the temporary prohibition.⁴

3. Comments in support

The sponsor of the bill, the California Association of Legal Document Assistants, writes:

Legal document assistants (LDAs) are experienced professionals authorized to prepare legal documents in a ministerial manner at the express direction of individuals wishing to represent themselves. LDAs provide affordable assistance to legal consumers with routine tasks such as typing and filing paperwork for child support modifications, child custody and visitation orders, domestic violence restraining orders, guardianships, limited conservatorships, and other form-intensive matters. CALDA estimates that there are currently 2,000 LDAs serving in California. [...]

Because LDAs serve as a key resource for “self help” individuals, extending the existing statutes governing their profession for an additional six years is critically important. For these reasons, CALDA is pleased to sponsor AB 690 and urges your support when it is heard in the Senate Judiciary Committee.

² *Id.* at 5.

³ *Id.* at 6.

⁴ AB 2958 (Committee on Judiciary, Ch. 419, Stats. 2022.)

SUPPORT

California Association of Legal Document Assistants (sponsor)
California Apartment Association
Southern California Rental Housing Association
6 individuals

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1213 (Chen, Ch. 128, Stats. 2019) extended the sunset date on the provisions governing LDAs and UDAs to January 1, 2024, and made other changes.

AB 1698 (Gallagher, Ch. 295, Stats. 2015), among other things, added a sunset date of January 1, 2021, to the provisions governing LDAs and UDAs.

AB 1698 (Committee on Judiciary, Ch. 1018, Stats. 2002) removed the sunset date on the provision relating to LDAs.

SB 1418 (Rosenthal, Ch. 1079, Stats. 1998) created a new category of legal technician called the LDA, specified the types of services that an LDA may provide, required an LDA to register in the same manner as an UDA, and repealed the provisions relating to LDAs on January 1, 2003.

AB 1573 (Burton, Ch. 1010, Stats. 1993) required individuals who render non-legal assistance in the prosecution or defense of an unlawful detainer action for compensation to register in every county in which the individual acts and be bonded as specified.

PRIOR VOTES

Assembly Floor (Ayes 79, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Judiciary Committee (Ayes 11, Noes 0)
