

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

The initial public notice of proposed text was published on June 3, 2011. A public hearing was held on July 21, 2011. In response to both written and verbal comments received by the Bureau, the proposed text was modified. The language modifications to the first proposed text and to this amended proposed text are identified as follows.

LEGEND

Single Underline	Identifies proposed additions to the existing regulation as indicated and published on June 3, 2011.
Double Underline	Identifies additions to the amended proposed text, pursuant to this notice.
Strikeouts	Identifies proposed deletions of existing regulations as indicated and published on June 3, 2011.
Double Strikeouts	Identifies deletions to the amended proposed text pursuant to this notice.

MODIFIED LANGUAGE

(1) Amend section 600.1 of Division 7 of Title 16 of the California Code of Regulations as follows:

§ 600.1 Definitions.

In this ~~chapter~~ division, unless the context otherwise requires:

- (a) "Code" refers to the Business and Professions Code.
- (b) "Chapter" refers to any of the following: Chapter 8, 8.5 (Locksmiths); 11 (Repossessors), 11.3 (Private Investigators), 11.4 (Proprietary Security Services), 11.5 (Private Security Services), or 11.6 (Alarm Companies) of Division 3 of the Business and Professions Code.
- (c) "Person" includes any individual, firm, company, association, organization, partnership or corporation~~s~~.
- (d) "Licensee" as used herein means any person licensed, certified, registered or issued a permit under Chapter 8, 8.5, 11, 11.3, 11.4, 11.5, or 11.6 of the Code.

(e) "License" as used herein includes a certificate, registration, permit, or other means to engage in a business or profession regulated by Chapter ~~8~~, 8.5, 11, 11.3, 11.4, 11.5, or 11.6 of the Code.

(f) "Unlicensed" as used herein means any individual, person, firm, company, association, organization, partnership, or corporation who is required to be licensed, certified, registered, or issued a permit under Chapters 8.5, ~~11~~, 11.3, 11.4, ~~or 11.5, or 11.6~~ of the ~~California Code of Regulations~~ and has not obtained such license, certification, registration or permit.

(g) "Advertisement" as used herein means any written, printed, or verbal communication soliciting, describing, or promoting a business regulated by Chapters 8.5, ~~11~~, 11.3, 11.4, ~~or 11.5, or 11.6~~ of the Code. This includes any business card, stationery, brochure, letter, pamphlet, newspaper, periodical, publication, flyer, circular, newsletter, fax form or other writing, radio, television, **internet**, or similar airwave **or electronic** transmission, printed or published advertisement in any media form, directory listing, **online**, or telephone book listing.

Note: Authority cited: Sections ~~148, 149~~, 6980.7, 7501.6, 7515, 7574.2, 7581, and 7591.6, Business and Professions Code. Reference: Sections 6980, 6980.7, 7500.1, 7501.6, 7512.4, 7515, 7580.4, 7581, 7590.1, and 7591.6, Business and Professions Code.

(2) Adopt section 601.6 of Division 7 of Title 16 of the California Code of Regulations as follows:

§ 601.6 Citations for Unlicensed Persons.

(a) The Chief or his or her designee may issue a citation, in accordance with section 148 of the Business and Professions Code against any unlicensed person who is acting **or offering to act** in the capacity of a licensee, registrant, permit holder, or certificate holder under the jurisdiction of the Bureau and who is not otherwise exempt from licensure. Each citation may contain an assessment of an administrative fine up to \$5,000 and, where appropriate, an order of abatement fixing a reasonable period of time not to exceed 30 days for abatement.

(b) Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

(c) In addition, the Chief or his or her designee may issue a citation, in accordance with sections 148 and 149 of the ~~Business and Professions~~ Code against any person who advertises, **as defined in subdivision (g) of section 600.1, in any written, printed, or verbal communication for the purpose of soliciting business** without a license.

NOTE: Authority cited: Sections 125.9, 148, 149, 6980.7, 7515, and 7581, Business and Professions Code. Reference: Sections 6980.10(a), 7520, and 7582, Business and Professions Code.

(3) Adopt section 601.7 of Division 7 of Title 16 of the California Code of Regulations as follows:

§ 601.7 Citation Factors for Unlicensed Person.

The following factors shall be considered when determining the amount of an administrative fine:

- (a) The good or bad faith exhibited by the cited person.
- (b) The nature and severity of the violation.
- (c) Evidence that the violation was willful.
- (d) History of violations of the same or similar nature.
- (e) The extent to which the cited person has cooperated with the Bureau.
- (f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (g) Any other factors as justice may require.

NOTE: Authority cited: Sections 125.9, 148, 149, 6980.7, 7515 and 7581, Business and Professions Code. Reference: Sections 6980.10(a), 7520 and 7582, Business and Professions Code.

(4) Adopt section 601.8 of Division 7 of Title 16 of the California Code of Regulations as follows:

§ 601.8 Citation Format for Unlicensed Persons.

Each citation:

- (a) Shall be in writing~~§~~.
- (b) Shall describe with particularity the nature of the violation, including specific reference to the provision of the Act or regulation contained in this division determined to have been violated~~§~~.

(c) May contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time not to exceed 30 days for abatement, or both an administrative fine and an order of abatement.

(d) Shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Bureau within thirty (30) days of the issuance of the citation or assessment.

(e) Shall inform the cited person if he or she desires an informal conference with the Chief or his or her designee to contest the finding of a violation, that the informal conference shall be requested by written notice to the Bureau within ten (10) days of the issuance of the citation or assessment.

(f) Shall be served upon the cited person personally or by certified mail.

NOTE: Authority cited: Sections 125.9, 148, 149, 6980.7, 7515, and 7581, Business and Professions Code. Reference: Sections 6980.10(a), 7520, and 7582, Business and Professions Code.

(5) Adopt section 601.9 of Division 7 of Title 16 of the California Code of Regulations as follows:

§ 601.9 Compliance with Order of Abatement for Unlicensed Persons.

(a) The time allowed for abatement of a violation shall begin the first day after the order of abatement has been served. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time in which to complete the correction from the Chief or his or her designee. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement.

NOTE: Authority cited: Sections 125.9, 148, 149, 6980.7, 7515, and 7581, Business and Professions Code. Reference: Sections 6980.10(a), 7520, and 7582, Business and Professions Code.

(6) Adopt section 601.10 of Division 7 of Title 16 of the California Code of Regulations as follows:

601.10 Contest of Citations for Unlicensed Persons.

(a) If a cited person wishes to contest the citation, assessment of the administrative fine, or order of abatement, the cited person shall, within thirty (30) days after service of the citation, file in writing a request for an administrative hearing to the Chief or his or her designee regarding the acts charged in the citation, as provided for in subdivision (b)(4) of Section 125.9 of the Code.

(b) In addition to, or instead of, requesting an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited person may, within ten (10) days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the Chief or his or her designee.

(c) Upon receipt of a written request for an informal citation conference, the Chief or his or her designee shall, within thirty (30) days, hold an informal citation conference with the cited person.

(d) If an informal citation conference is held, the Chief or his or her designee may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation, including reason for the decision, shall be issued. The affirmed or modified citation shall be mailed to the cited person and his or her legal counsel, if any, within fifteen (15) days from the date of the informal citation conference.

(e) If a cited person wishes to contest an affirmed or modified citation, the person shall, within thirty (30) days of his or her notification, file in writing a request for an administrative hearing to the Chief or his or her designee regarding the acts charged in the affirmed or modified citation, in accordance with subdivision (b)(4) of Section 125.9 of the Code.

(f) A cited person may not request another informal conference for a citation which was modified or affirmed during an informal conference.

NOTE: Authority cited: Sections 125.9, 148, 149, 6980.7, 7515, and 7581, Business and Professions Code. Reference: Sections 6980.10(a), 7520, and 7582, Business and Professions Code.