

**SENATE RULES COMMITTEE**

SB 1159

Office of Senate Floor Analyses  
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THIRD READING

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Bill No: SB 1159  
Author: Lara (D)  
Amended: 4/7/14  
Vote: 21

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SENATE BUSINESS, PROF. & ECON. DEV. COMM.: 8-1, 4/21/14  
AYES: Lieu, Berryhill, Block, Corbett, Galgiani, Hernandez, Hill, Padilla  
NOES: Wyland

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/5/14  
AYES: De León, Gaines, Hill, Lara, Steinberg  
NO VOTE RECORDED: Walters, Padilla

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**SUBJECT:** Professions and vocations: license applicants: federal tax identification number

**SOURCE:** Author

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**DIGEST:** This bill authorizes a board, as defined, and the State Bar of California and the Bureau of Real Estate (BRE) to accept an application from an individual containing a federal taxpayer identification number (TIN) for an initial or renewal license in lieu of a social security number (SSN).

**ANALYSIS:**

Existing law:

1. Provides that each board under the Department of Consumer Affairs (DCA), as well as the State Bar and BRE shall, at the time of issuance of the license, require that the licensee provide their federal employer identification number (EIN), if the licensee is a partnership, or SSN for all others.

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2. Specifies that any licensee who does not provide the federal EIN or SSN shall be reported by the licensing board to the Franchise Tax Board (FTB) and is subject to a penalty.
3. Provides that in addition to a penalty, a licensing board may elect to not process any application for an original license if the applicant or licensee fails to provide its federal EIN or SSN where requested on the application.
4. Requires a licensing board, upon request of FTB, to furnish to FTB specified information including the federal EIN if the entity is a partnership, or SSN, for all others.
5. States legislative intent to utilize the SSN or federal EIN for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Family Code (FAM) Section 17520 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.
6. Requires the Department of Child Support Services (DCSS) to maintain a “certified list” that provides names of persons who are found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.
7. Requires DCSS to provide the certified list to each board that is responsible for the regulation of licenses, as specified, and that all boards shall collect SSNs from all applicants for the purposes of matching the names of the certified list to applicants and licensees and of responding to requests for this information made by child support services.
8. Requires that promptly after receiving the certified list from DCSS, and prior to issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified list provided by DCSS and provides that the board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

This bill:

1. Provides that each board under DCA, as well as the State Bar and BRE shall at the time of issuance of an initial or renewal license require that the applicant

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provide its federal EIN, if the applicant is a partnership, or the applicant's federal TIN or SSN, if one has been issued, for all other applicants.

2. Requires that any applicant failing to provide the federal EIN or the federal TIN or SSN, if one has been issued to the individual, to be reported by the licensing board to FTB and provides if the applicant fails to provide that information they shall be subject to a penalty.
3. Provides that in addition to a penalty, a licensing board may elect to not process any application for an original license if the applicant or licensee fails to provide its federal EIN, or federal TIN or SSN, if one has been issued to the individual, where requested on the application.
4. Requires a licensing board, upon request of FTB, to furnish to FTB specified information including the federal EIN if the entity is a partnership, or the licensee's federal TIN or SSN, if one has been issued to the individual, for all other licensees.
5. States legislative intent to utilize the federal EIN, federal TIN, or SSN for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with FAM Section 17520 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

### Background

TINs. A TIN is an identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. It is issued by the Social Security Administration (SSA) or by the IRS. An SSN is issued by the SSA whereas all other TINs are issued by the IRS.

The Individual TIN, or ITIN, is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a SSN. It is a 9-digit number, beginning with the number "9" and is formatted like a SSN. To obtain an ITIN, an individual must complete an IRS form. The form requires documentation substantiating foreign/alien status and true identity for the individual. The person may either mail the documentation, along with the required form, present it at the IRS office, or process the application through an acceptable agent authorized by the IRS.

### Comments

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According to the author's office, Business and Professions Code (BPC) Section 30 currently requires professional licensing boards to request, and applicants to provide, SSNs for the issuance of a professional license; thereby limiting who may apply and obtain a professional license in California. The author's office argues that this section is now inconsistent with sections of the BPC recently amended by AB 1024 (Gonzalez, Chapter 573, Statutes of 2013) and AB 1822 (Berryhill, Chapter 317, Statutes of 2012).

As indicated by the author's office, AB 1024 clarified that all applicants who meet the requirements for admission to the State Bar may be licensed to practice law, regardless of immigration status. On January 2, 2014, the State Supreme Court unanimously ruled to allow for the admission of an applicant for licensure, an undocumented immigrant who passed the bar exam, to the State Bar of California, specifically citing the enactment of AB 1024. AB 1822 authorized, for purposes of processing a licensing application or a renewal application, submission of an individual tax identification number, or other appropriate identification number as determined by the California Architects Board, in lieu of an SSN, if the individual is not eligible for a social security account number at the time of application and is not in noncompliance with a judgment or order for support pursuant to FAM Section 17520.

The author states that while the requirement for a SSN was intended to ensure the payment and collection of taxes associated with the practice of the profession under the given license, the requirement has created inconsistencies and ambiguity in the law. "While in some sections of the B&P Code (Sec. 6064 and Sec. 5550.5) we authorize an individual access to a professional license, regardless of immigration status, in another section we still require that same individual to provide a SSN in order to access the license."

The author further explains that it is in the best social and economic interest of our state to support efforts to educate our workforce and enable our residents, including immigrants to improve their economic mobility and self-sufficiency, which will increase their contributions back to the state. This bill authorizes an applicant to provide a licensing board a federal identification number, if one has been issued, in lieu of a SSN, as part of the application for a professional license in California. "Over the last decade our state has understood the importance of a continued investment in immigrant children. The natural step is to ensure that as these young people complete their education a professional license is accessible to them in their respective fields. SB 1159 clarifies this ambiguity in the law."

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- DCA indicates that it would incur one-time costs of up to \$130,000 (special funds) to update forms, publications, and information technology.
- This bill could result in potential costs to DCA's boards and bureaus to ensure that new applicants using TINs are complying with child support judgments. The extent of these costs is unknown.
- This bill results in an increase in individuals applying for licenses at the various boards and bureaus within DCA, leading to increased licensing revenues. The amount of the increase is unknown.

**SUPPORT:** (Verified 5/7/14)

ACLU

California Immigrant Policy Center

Coalition for Humane Immigrant Rights of Los Angeles

Educators for Fair Consideration

Pre-Health Dreamers

**ARGUMENTS IN SUPPORT:** Proponents write, "SB 1159 recognizes the continued importance of investment in young immigrants in California. It will remove a barrier in the law that prevents young people who complete their education from obtaining a license to practice in their field."

MW:e 5/7/14 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* **END** \*\*\*\*