

ASSEMBLY THIRD READING

AB 1939 (Flora)

As Amended May 18, 2026

Majority vote

SUMMARY

Authorizes professional fiduciaries, beginning January 1, 2028, to form professional fiduciary professional corporations, as specified.

Major Provisions

- 1) Authorizes, beginning January 1, 2028, the formation of professional fiduciary professional corporations as follows:
 - a) Authorizes one or more licensees to organize a professional fiduciary professional corporation to provide professional fiduciary services that require licensure under this chapter.
 - b) Specifies that the governmental agency designated for the Moscone-Knox Professional Corporation Act is the Professional Fiduciaries Bureau (PFB).
 - c) Clarifies that the PFB may adopt, repeal, or amend regulations for professional fiduciary professional corporations.
 - d) Defines a professional fiduciary professional corporation as a corporation that is authorized to render professional services if that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed professional fiduciaries are in compliance with all statutes and regulations pertaining to the corporation and the conduct of its affairs.
 - e) Requires professional fiduciary professional corporations to comply with the Moscone-Knox Professional Corporation Act, establishes requirements for registration with the Secretary of State, and specifies other technical details around corporate practice.
 - f) Requires, upon request of the PFB, each professional fiduciary professional corporation to provide to the PFB a corporation-wide report consisting of specified corporate structure and client information.
 - g) Specifies that the corporation-wide report is an investigatory or security file that is compiled for licensing purposes that shall not be disclosed to the public pursuant to the California Public Records Act except under specified circumstances.
 - h) Makes it unprofessional conduct for a professional fiduciary professional corporation to fail to submit the corporation-wide report within 60 days of the request, or to respond to an inquiry from the PFB related to the corporation within 60 days of the request.
 - i) Outlines the process that applies when a professional fiduciary professional corporation must follow when appointed in a matter that violates the Probate Code provisions added under this bill.

- 2) Makes the following conforming changes to the Professional Fiduciaries Act:
 - a) Requires the PFB to set an annual fee of \$1,000 or more, as specified, for the implementation and regulation of professional fiduciary professional corporations by regulation.
 - b) Requires the PFB to include specified professional fiduciary professional corporation information in its licensee files.
 - c) Requires licensees to include specified professional fiduciary professional corporation in their annual case information filings with the PFB.
 - d) Adds to the list of causes for disciplinary action failure of a licensee to, in a timely manner, respond to inquiries or produce documents requested by the PFB, including inquiries and documents related to a professional fiduciary professional corporation.
- 3) Repeals the court appointment prohibitions under the Probate Code related to professional fiduciaries and replaces it with the following:
 - a) Prohibits a superior court from appointing a professional fiduciary or a professional fiduciary professional corporation as a guardian, conservator, personal representative, or trustee, or permit a professional fiduciary or a professional fiduciary professional corporation to continue in any of those offices, unless the professional fiduciary or the professional fiduciary professional corporation satisfies any of the following:
 - i) Holds a current, unsuspended license issued pursuant to the Professional Fiduciaries Act to act or hold themselves out to the public as a professional fiduciary.
 - ii) Is exempt from the licensing requirements.
 - iii) Unless exempt from licensing requirements, is a professional fiduciary professional corporation, organized as a professional corporation under the Moscone-Knox Professional Corporation Act and as provided for in the Professional Fiduciaries Act. When making this appointment, the petition and appointment must specify the licensed professional fiduciary having primary responsibility for the matter. A professional fiduciary professional corporation may not be appointed as any of the following:
 - (1) Guardian of the person of a ward.
 - (2) Conservator of the person of a conservatee.
 - (3) Any office under the Health Care Decisions Law.
 - b) Duplicates the prohibition that a person may not act or hold themselves out to the public as a professional fiduciary unless they are licensed as a professional fiduciary.
- 4) Makes other technical and conforming changes.

COMMENTS

Background. The word "fiduciary" is a term of art used to describe a person who is entrusted to act in the best interest of another person or entity (the principal). A fiduciary often acts as an agent or representative, making financial, legal, healthcare, or other decisions that are typically made by the principal directly. That trust comes with the highest level of legal responsibility. Legally, a fiduciary's duties are loyalty and care—they are expected to put the principal's interests above their own.

Many licensed professionals act as fiduciaries for their clients, such as attorneys, accountants, and real estate agents. There are also unlicensed people or entities with fiduciary duties, such as corporate officers and directors, financial advisors, trustees, and court appointed conservators and guardians.

The level of trust and confidence placed in a fiduciary leaves the principal vulnerable to significant harm from fraud or incompetence. Because fiduciaries are treated as if the principal were making the decision, they have nearly unrestricted control over legal and financial instruments like bank accounts, investments, and contracts. Improper medical or home care can also result in injury or death.

For licensed professionals, clients are directly protected by the professional conduct requirements required of the licensee by their respective practice acts and licensing entities. For unlicensed fiduciaries, principals rely on indirect protections and expectations that come with familial relationships or employer-employee, shareholder, or other business obligations. However, there are fewer indirect protections for principals utilizing a fiduciary who is not a family member or an integral part of a business organization.

The Professional Fiduciaries Act aims to provide professional licensing protection for the latter principals. The act requires a license issued by the PFB when acting as a "professional fiduciary," which is defined to mean a person who acts as a fiduciary for more than one principal who they are not related to. The minimum number of principals increases to three or four depending on the type of fiduciary service provided.

Corporations and Licensed Practice. Except in specifically authorized situations, corporations and limited liability companies (LLCs) are not authorized to obtain a professional license. Corporations and LLCs are distinct entities with their own business assets. This structure shields the personal assets of their owners, officers, and shareholders. This corporate shield is antithetical to the professional conduct and competence requirements of a license. Professional licensing laws are intended to protect consumers by ensuring individual accountability and liability.

Licensing practice acts that do authorize the issuance of licenses directly to corporations and LLCs, such as the Contractors State License Law, reconcile this conflict by requiring designated qualified managers and financial protections such as liability insurance or surety bonds. This ensures that there is at least one responsible individual and there are financial remedies for consumers.

For practice acts that do not authorize corporations to hold licenses but otherwise authorize corporate practice of the profession, licensees may form a specific type of corporation called a "professional corporation" under the Moscone-Knox Professional Corporation Act. Instead

Moscone-Knox limits professional corporations to a single profession, restricts ownership and control to authorized licensees, and authorizes services only through employees who are licensed to provide the services. This ensures the appropriate licensing board can effectively pierce the corporate shield in the event of malpractice or incompetence.

Professional Fiduciary Professional Corporations. The Professional Fiduciaries Act does not authorize corporations to provide professional fiduciary services. However, according to the sponsor, there are still situations in which unlicensed corporate entities have been designated as professional fiduciaries. One example provided results from a grey area in the Probate Code regarding trusts. Currently, there is no explicit restriction on the person or entity a testator may name as successor trustee in their will. The appointed trustee is simply determined by the testator's stated wishes as opposed to a court appointment. As a result, the testator may name any entity as a trustee, regardless of the licensing status of the members of that entity.

This bill attempts to address the problem by creating a legal pathway for professional fiduciary corporations and reinforcing the prohibition against unlicensed corporate fiduciary practice. It does so by authorizing licensees to form professional fiduciary corporations under the Professional Fiduciaries Act and Moscone-Knox and explicitly limiting the corporate provision of professional fiduciary services to professional fiduciary professional corporations. It also includes additional transparency measures, including reporting and disclosure requirements.

According to the Author

[This bill] expressly authorizes licensed professional fiduciaries, like other professionals, to form a professional corporation that could be appointed by the court to act as a guardian of an estate, conservator of an estate, personal representative of a decedent's estate, or trustee of a trust. Most importantly, the bill protects consumers of these services, first, by requiring the members of the corporation to possess a license, second, by prescribing requirements and regulations for those corporations to provide fiduciary services, and third, by requiring the entities to comply with the requirements of the Moscone Knox Professional Corporations Act.

Arguments in Support

The *Professional Fiduciary Association of California* (sponsor) writes in support:

[This bill] authorizes the court to appoint a professional fiduciary professional corporation to serve in a professional fiduciary capacity including as guardian of an estate, conservator of an estate, personal representative of a decedent's estate, trustee of a trust.

The legislation also prohibits a professional fiduciary professional corporation from being appointed as a guardian of the person of a ward or conservator of the person of a conservatee and from serving as agent under a health care power of attorney.

The bill protects consumers of these services by requiring the members of the corporation to possess a license and requiring that the entities comply with the Moscone Knox Professional Corporations Act.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) The Bureau estimates ongoing costs of \$79,000 in fiscal year (FY) 2028-29, \$256,000 in FY 2029-30, and \$358,000 in FY 2030-31 and ongoing for 1.5 additional staff positions to implement the program and investigate violation complaints, including referrals to the Attorney General's (AG's) Office (Professional Fiduciary Fund). This estimate assumes at least 100 applicants in years one and two and 15 in each of the next four years and between 30 to 40 complaints against licensed corporations beginning in year three and ongoing. The Bureau assumes approximately 50% of complaints may be referred to the AG's Office.

The 2025 budget act provides approximately \$1.12 million (Professional Fiduciaries Fund) and 4.5 positions to support the continued operation of the Bureau's licensing and enforcement activities. Boards and bureaus within DCA are "special funded," meaning they derive their funding from fees charged to licensees. The Bureau notes the \$1,000 fee required in the bill to implement and regulate professional fiduciary corporations appears to be a one-time registration fee (as there is no license renewal or ongoing fee language in the bill) and may be insufficient to support ongoing program costs.

- 2) The Bureau must establish a fee via regulations prior to implementation. The Bureau anticipates this process will take approximately 12 to 24 months to complete and up to 15% of staff time. Additionally, the Bureau must update various existing forms and provide outreach on the new registrants. The Bureau indicates this workload is absorbable within existing resources.
- 3) The Office of Information Services (OIS) within DCA reports one-time IT costs of approximately \$50,000 to add a new registration type and to allow Bureau licensees to be associated with the corporate registrations. OIS presumes this will be a one-time payment and the registration type will have low complexity. OIS indicates delayed implementation is required to get the IT work completed after regulations are finished. The office indicates these costs are absorbable through the redirection of existing resources.

VOTES

ASM BUSINESS AND PROFESSIONS: 19-0-0

YES: Berman, Johnson, Addis, Ahrens, Alanis, Bains, Aguiar-Curry, Caloza, Chen, Elhawary, Hadwick, Haney, Hart, Irwin, Jackson, Lowenthal, Macedo, Nguyen, Pellerin

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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CONSULTANT: Vincent Chee / B. & P. / (916) 319-3301

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