

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates Dumais, Barkley, Bobo, Cryor, Feldman, Goldwater, Gutierrez, Haddaway, Hixson, Jameson, Kaiser, Kelley, King, Krebs, Lee, Love, Moe, Montgomery, Murray, Ramirez, Simmons, Taylor, F. Turner, and ~~Vaughn Vaughn~~, Burns, Conroy, Doory, Harrison, Kirk, Krysiak, McHale, and Parrott**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection - Immigration Consulting Services**

3 FOR the purpose of prohibiting ~~immigration consultants~~ certain persons from
4 providing certain types of services to ~~foreign nationals~~ noncitizens and persons
5 seeking to sponsor a noncitizen; providing certain exceptions; prohibiting an
6 immigration consultant from taking certain actions; ~~establishing a certain~~
7 ~~presumption~~; requiring a certain contract to be executed before an immigration
8 consultant provides certain assistance; requiring certain notices to be posted at
9 an immigration consultant's place of business; ~~establishing certain criminal~~
10 ~~penalties for a violation of this Act~~ providing that an immigration consultant
11 that violates this Act is guilty of a misdemeanor; ~~establishing certain criminal~~
12 ~~penalties for a violation of this Act~~; authorizing an individual injured by a
13 violation of this Act to bring a civil action to recover certain fees or other

1 compensation and reasonable attorney's fees in a certain amount; authorizing
 2 the court to award certain damages ~~in a certain amount; authorizing the court to~~
 3 ~~award certain damages~~; defining certain terms; and generally relating to the
 4 regulation of immigration services provided to ~~foreign nationals~~ noncitizens and
 5 persons seeking to sponsor a noncitizen.

6 BY adding to
 7 Article - Commercial Law
 8 Section 14-3301 through 14-3306, inclusive, to be under the new subtitle
 9 "Subtitle 33. Maryland Immigration Consultant Act"
 10 Annotated Code of Maryland
 11 (2000 Replacement Volume and 2004 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Commercial Law**

15 **SUBTITLE 33. MARYLAND IMMIGRATION CONSULTANT ACT.**

16 14-3301.

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 18 INDICATED.

19 (B) "CLIENT" MEANS A NONCITIZEN OR ANY PERSON ~~OR ENTITY~~ SEEKING TO
 20 SPONSOR A NONCITIZEN FOR WHOM AN IMMIGRATION CONSULTANT PERFORMS OR
 21 OFFERS TO PERFORM A SERVICE RELATING TO THE NONCITIZEN'S IMMIGRATION
 22 STATUS.

23 (C) "IMMIGRATION CONSULTANT" MEANS A PERSON THAT PROVIDES
 24 NONLEGAL ADVICE, GUIDANCE, INFORMATION, OR SERVICES TO A CLIENT ON AN
 25 IMMIGRATION MATTER FOR A FEE.

26 (D) "IMMIGRATION MATTER" MEANS ANY LEGAL PROCEEDING, FILING, OR
 27 ACTION THAT:

28 (1) AFFECTS THE IMMIGRATION STATUS OF A NONCITIZEN; AND

29 (2) ARISES UNDER:

30 (I) ANY IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE
 31 ORDER, OR PRESIDENTIAL PROCLAMATION OF THE UNITED STATES OR ANY FOREIGN
 32 COUNTRY; OR

33 (II) AN ACTION OF THE ~~U.S.~~ UNITED STATES DEPARTMENT OF
 34 HOMELAND SECURITY, THE ~~U.S.~~ UNITED STATES DEPARTMENT OF LABOR, THE ~~U.S.~~
 35 UNITED STATES DEPARTMENT OF STATE, THE ~~U.S.~~ UNITED STATES DEPARTMENT OF
 36 JUSTICE, OR THE ~~U.S.~~ UNITED STATES DEPARTMENT OF COMMERCE.

1 (E) (1) "LEGAL SERVICES" MEANS THE LEGAL REPRESENTATION OF AN
2 INDIVIDUAL.

3 (2) "LEGAL SERVICES" INCLUDES PROVIDING FORMS TO AN INDIVIDUAL,
4 ~~COMPLETING OR FORMS ON BEHALF OF AN INDIVIDUAL,~~ FILING FORMS ~~FOR ON~~
5 BEHALF OF AN INDIVIDUAL, ADVISING AN INDIVIDUAL TO FILE FORMS, OR APPLYING
6 FOR A BENEFIT ON BEHALF OF AN INDIVIDUAL.

7 (F) "SECRETARIAL SERVICES" MEANS:

8 (1) WRITING, TYPING, OR COPYING INFORMATION AS PROVIDED BY AN
9 INDIVIDUAL; ~~AND OR~~

10 (2) TRANSLATING DOCUMENTS INTO ENGLISH FOR AN INDIVIDUAL.

11 14-3302.

12 THIS SUBTITLE DOES NOT APPLY TO:

13 (1) AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE;

14 (2) AN INDIVIDUAL AUTHORIZED TO REPRESENT ~~CLIENTS~~ INDIVIDUALS
15 IN IMMIGRATION MATTERS UNDER ~~THE CODE OF FEDERAL REGULATIONS, TITLE 8, 8~~
16 CFR § 292.1; ~~OR~~

17 (3) A NONPROFIT ORGANIZATION THAT HAS BEEN ~~ACCREDITED~~
18 RECOGNIZED UNDER THE CODE OF FEDERAL REGULATIONS, TITLE 8, 8 CFR § 292.2;
19 ~~OR A CLINIC AFFILIATED WITH A LAW SCHOOL IN THE STATE; OR;~~

20 (4) A REPRESENTATIVE OF ~~AN ACCREDITED~~ A NONPROFIT
21 ORGANIZATION ~~WHO:~~

22 ~~(I)~~ IS ACCREDITED THAT HAS BEEN RECOGNIZED UNDER THE
23 ~~CODE OF FEDERAL REGULATIONS, TITLE 8, 8 CFR § 292.2; OR~~

24 ~~(II)~~ HAS INITIATED THE ACCREDITATION PROCESS PRIOR TO
25 JANUARY 5, 2006

26 (5) A CLINIC AFFILIATED WITH A LAW SCHOOL IN THE STATE.

27 14-3303.

28 ~~(A)~~ AN IMMIGRATION CONSULTANT MAY NOT:

29 (1) ~~GIVE ANY LEGAL ADVICE OR PROVIDE LEGAL~~ ADVICE OR LEGAL
30 SERVICES CONCERNING AN IMMIGRATION MATTERS MATTER;

31 (2) MAKE A MISREPRESENTATION OR FALSE STATEMENT TO
32 INFLUENCE, PERSUADE, OR ENCOURAGE A CLIENT TO USE SERVICES PROVIDED BY
33 THE IMMIGRATION CONSULTANT;

1 (3) MAKE A STATEMENT THAT THE IMMIGRATION CONSULTANT CAN OR
2 WILL OBTAIN SPECIAL FAVORS FROM OR HAS SPECIAL INFLUENCE WITH THE ~~U.S.~~
3 UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE ~~U.S.~~ UNITED STATES
4 DEPARTMENT OF LABOR, THE ~~U.S.~~ UNITED STATES DEPARTMENT OF STATE, THE ~~U.S.~~
5 UNITED STATES DEPARTMENT OF JUSTICE, OR THE ~~U.S.~~ UNITED STATES
6 DEPARTMENT OF COMMERCE;

7 (4) COLLECT ANY FEES OR OTHER COMPENSATION FOR SERVICES NOT
8 YET PERFORMED;

9 (5) REFUSE TO RETURN DOCUMENTS SUPPLIED BY, PREPARED BY, OR
10 PAID FOR BY A CLIENT, AT THE CLIENT'S REQUEST; OR

11 (6) REPRESENT, ADVERTISE, OR COMMUNICATE IN ANY MANNER THAT
12 THE IMMIGRATION CONSULTANT POSSESSES TITLES OR CREDENTIALS THAT WOULD
13 QUALIFY THE IMMIGRATION CONSULTANT TO ~~GIVE LEGAL ADVICE OR PROVIDE~~
14 LEGAL ADVICE OR LEGAL SERVICES.

15 ~~(B) IF AN IMMIGRATION CONSULTANT PROVIDES ANY SERVICES OTHER THAN~~
16 ~~SECRETARIAL SERVICES FOR A CLIENT, THERE IS A REBUTTABLE PRESUMPTION~~
17 ~~THAT LEGAL SERVICES ARE BEING PROVIDED.~~

18 14-3304.

19 (A) BEFORE PROVIDING ANY ASSISTANCE, AN IMMIGRATION CONSULTANT
20 SHALL EXECUTE A WRITTEN CONTRACT WITH THE CLIENT THAT INCLUDES:

21 (1) A DETAILED EXPLANATION OF THE SERVICES TO BE PERFORMED;

22 (2) AN ITEMIZATION OF ALL FEES TO BE CHARGED TO THE CLIENT;

23 (3) A STATEMENT THAT THE CLIENT HAS THE RIGHT TO CONSULT AN
24 ATTORNEY BEFORE SIGNING THE CONTRACT;

25 (4) A STATEMENT THAT THE CLIENT HAS THE RIGHT TO RESCIND THE
26 CONTRACT WITHIN 72 HOURS OF SIGNING;

27 (5) THE STATEMENT, "I AM NOT AN ATTORNEY LICENSED TO PRACTICE
28 LAW IN MARYLAND, AND MAY NOT PROVIDE LEGAL FORMS, ~~GIVE~~ PROVIDE LEGAL
29 ADVICE, OR PROVIDE LEGAL SERVICES", WHICH SHALL BE CONSPICUOUSLY PLACED
30 IN THE CONTRACT IN AT LEAST 12 POINT TYPE; AND

31 (6) THE STATEMENT, "I CANNOT ACCEPT A FEE FOR REFERRING A
32 CLIENT TO ANOTHER PERSON FOR SERVICES THAT I CANNOT OR WILL NOT
33 PERFORM", WHICH SHALL BE CONSPICUOUSLY PLACED IN THE CONTRACT IN AT
34 LEAST 12 POINT TYPE; AND

35 (7) ~~IF THE IMMIGRATION CONSULTANT IS A NOTARY PUBLIC, A~~
36 ~~STATEMENT EXPLAINING THE DIFFERENCE BETWEEN A NOTARY PUBLIC AND AN~~
37 ~~ATTORNEY.~~

1 (B) THE WRITTEN CONTRACT SHALL BE IN ~~BOTH~~ ENGLISH AND ~~THE CLIENT'S~~
 2 NATIVE LANGUAGE IN EACH LANGUAGE IN WHICH THE IMMIGRATION CONSULTANT
 3 PROVIDES SERVICES.

4 (C) THE IMMIGRATION CONSULTANT SHALL PROVIDE A COPY OF THE
 5 CONTRACT TO THE CLIENT ON EXECUTION.

6 (D) THE IMMIGRATION CONSULTANT SHALL RETURN ANY DOCUMENTS
 7 PROVIDED BY THE CLIENT AT THE CLIENT'S REQUEST, EVEN IN THE EVENT OF A FEE
 8 DISPUTE.

9 14-3305.

10 ~~(A)~~ AN IMMIGRATION CONSULTANT SHALL POST, IN A CONSPICUOUS
 11 LOCATION AT EACH PLACE OF BUSINESS AT WHICH THE IMMIGRATION CONSULTANT
 12 PROVIDES IMMIGRATION CONSULTING SERVICES, A SIGN THAT STATES, "I AM NOT
 13 AN ATTORNEY LICENSED TO PRACTICE LAW IN MARYLAND, AND MAY NOT PROVIDE
 14 LEGAL FORMS, ~~GIVE~~ PROVIDE LEGAL ADVICE, OR PROVIDE LEGAL SERVICES."

15 ~~(B)~~ ~~A SEPARATE SIGN SHALL BE PROVIDED IN ENGLISH AND IN EACH~~
 16 ~~LANGUAGE IN WHICH THE IMMIGRATION CONSULTANT PROVIDES SERVICES.~~

17 14-3306.

18 (A) AN IMMIGRATION CONSULTANT THAT VIOLATES THIS SUBTITLE IS
 19 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
 20 EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH, IN
 21 ADDITION TO ANY CIVIL PENALTIES IMPOSED UNDER SUBSECTION (B) OF THIS
 22 SECTION.

23 (B) AN INDIVIDUAL INJURED BY A VIOLATION OF ANY PROVISION OF THIS
 24 SUBTITLE MAY BRING AN ACTION TO RECOVER:

25 (1) ANY FEES OR OTHER COMPENSATION PAID TO THE IMMIGRATION
 26 CONSULTANT; AND

27 (2) REASONABLE ATTORNEY'S FEES IN AN AMOUNT EQUAL TO THE
 28 GREATER OF:

29 (I) \$2,000;

30 (II) ONE-THIRD OF THE AMOUNT OBTAINED UNDER ITEM (1) OF
 31 THIS SUBSECTION; OR

32 (III) ONE-THIRD OF THE AMOUNT OBTAINED UNDER SUBSECTION
 33 (C) OF THIS SECTION, IF APPLICABLE.

34 (C) THE COURT MAY AWARD UP TO THREE TIMES THE AMOUNT OF DAMAGES
 35 AUTHORIZED UNDER SUBSECTION (B)(1) OF THIS SECTION ~~IN AN AMOUNT EQUAL TO~~
 36 ~~THE GREATER OF:~~

1 (†) \$2,000;

2 (II) ~~ONE THIRD OF THE AMOUNT OBTAINED UNDER ITEM (1) OF~~
3 ~~THIS SUBSECTION; OR~~

4 (III) ~~ONE THIRD OF THE AMOUNT OBTAINED UNDER SUBSECTION~~
5 ~~(C) OF THIS SECTION, IF APPLICABLE.~~

6 (C) ~~THE COURT MAY AWARD UP TO THREE TIMES THE AMOUNT OF DAMAGES~~
7 ~~AUTHORIZED UNDER SUBSECTION (B)(1) OF THIS SECTION.~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2005.