
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**

Introduced and read first time: February 7, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Immigration Consulting Services**

3 FOR the purpose of prohibiting immigration consultants from providing certain types
4 of services to foreign nationals; providing certain exceptions; prohibiting an
5 immigration consultant from taking certain actions; establishing a certain
6 presumption; requiring a certain contract to be executed before an immigration
7 consultant provides certain assistance; requiring certain notices to be posted at
8 an immigration consultant's place of business; establishing certain criminal
9 penalties for a violation of this Act; authorizing an individual injured by a
10 violation of this Act to bring a civil action to recover certain fees or other
11 compensation and reasonable attorney's fees in a certain amount; authorizing
12 the court to award certain damages; defining certain terms; and generally
13 relating to the regulation of immigration services provided to foreign nationals.

14 BY adding to

15 Article - Commercial Law

16 Section 14-3301 through 14-3306, inclusive, to be under the new subtitle

17 "Subtitle 33. Maryland Immigration Consultant Act"

18 Annotated Code of Maryland

19 (2000 Replacement Volume and 2004 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Commercial Law**

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

24 14-3301.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

26 INDICATED.

1 (B) "CLIENT" MEANS A NONCITIZEN OR ANY PERSON OR ENTITY SEEKING TO
2 SPONSOR A NONCITIZEN FOR WHOM AN IMMIGRATION CONSULTANT PERFORMS OR
3 OFFERS TO PERFORM A SERVICE RELATING TO THE NONCITIZEN'S IMMIGRATION
4 STATUS.

5 (C) "IMMIGRATION CONSULTANT" MEANS A PERSON THAT PROVIDES
6 NONLEGAL ADVICE, GUIDANCE, INFORMATION, OR SERVICES TO A CLIENT ON AN
7 IMMIGRATION MATTER.

8 (D) "IMMIGRATION MATTER" MEANS ANY PROCEEDING, FILING, OR ACTION
9 THAT:

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

11 (2) ARISES UNDER:

12 (I) IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE ORDER,
13 OR PRESIDENTIAL PROCLAMATION OF THE UNITED STATES OR ANY FOREIGN
14 COUNTRY; OR

15 (II) AN ACTION OF THE U.S. DEPARTMENT OF HOMELAND
16 SECURITY, THE U.S. DEPARTMENT OF LABOR, THE U.S. DEPARTMENT OF STATE, THE
17 U.S. DEPARTMENT OF JUSTICE, OR THE U.S. DEPARTMENT OF COMMERCE.

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

20 (2) "LEGAL SERVICES" INCLUDES PROVIDING FORMS TO AN INDIVIDUAL,
21 COMPLETING OR FILING FORMS FOR AN INDIVIDUAL, ADVISING AN INDIVIDUAL TO
22 FILE FORMS, OR APPLYING FOR A BENEFIT ON BEHALF OF AN INDIVIDUAL.

23 (F) "SECRETARIAL SERVICES" MEANS:

24 (1) WRITING, TYPING, OR COPYING INFORMATION AS PROVIDED BY AN
25 INDIVIDUAL; AND

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

27 14-3302.

28 THIS SUBTITLE DOES NOT APPLY TO:

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

30 (2) AN INDIVIDUAL AUTHORIZED TO REPRESENT CLIENTS IN
31 IMMIGRATION MATTERS UNDER THE CODE OF FEDERAL REGULATIONS, TITLE 8, §
32 292.1; OR

33 (3) A NONPROFIT ORGANIZATION THAT HAS BEEN ACCREDITED UNDER
34 THE CODE OF FEDERAL REGULATIONS, TITLE 8, § 292.2, OR A CLINIC AFFILIATED
35 WITH A LAW SCHOOL IN THE STATE; OR

1 (4) A REPRESENTATIVE OF AN ACCREDITED NONPROFIT
2 ORGANIZATION WHO:

3 (I) IS ACCREDITED UNDER THE CODE OF FEDERAL REGULATIONS,
4 TITLE 8, § 292.2; OR

5 (II) HAS INITIATED THE ACCREDITATION PROCESS PRIOR TO
6 JANUARY 5, 2006.

7 14-3303.

8 (A) AN IMMIGRATION CONSULTANT MAY NOT:

9 (1) GIVE ANY LEGAL ADVICE OR PROVIDE LEGAL SERVICES
10 CONCERNING IMMIGRATION MATTERS;

11 (2) MAKE A MISREPRESENTATION OR FALSE STATEMENT TO
12 INFLUENCE, PERSUADE, OR ENCOURAGE A CLIENT TO USE SERVICES PROVIDED BY
13 THE IMMIGRATION CONSULTANT;

14 (3) MAKE A STATEMENT THAT THE IMMIGRATION CONSULTANT CAN OR
15 WILL OBTAIN SPECIAL FAVORS FROM OR HAS SPECIAL INFLUENCE WITH THE U.S.
16 DEPARTMENT OF HOMELAND SECURITY, THE U.S. DEPARTMENT OF LABOR, THE U.S.
17 DEPARTMENT OF STATE, THE U.S. DEPARTMENT OF JUSTICE, OR THE U.S.
18 DEPARTMENT OF COMMERCE;

19 (4) COLLECT ANY FEES OR OTHER COMPENSATION FOR SERVICES NOT
20 YET PERFORMED;

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

23 (6) REPRESENT, ADVERTISE, OR COMMUNICATE IN ANY MANNER THAT
24 THE IMMIGRATION CONSULTANT POSSESSES TITLES OR CREDENTIALS THAT WOULD
25 QUALIFY THE IMMIGRATION CONSULTANT TO GIVE LEGAL ADVICE OR PROVIDE
26 LEGAL SERVICES.

27 (B) IF AN IMMIGRATION CONSULTANT PROVIDES ANY SERVICES OTHER THAN
28 SECRETARIAL SERVICES FOR A CLIENT, THERE IS A REBUTTABLE PRESUMPTION
29 THAT LEGAL SERVICES ARE BEING PROVIDED.

30 14-3304.

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

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

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

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

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

5 (5) THE STATEMENT, "I AM NOT AN ATTORNEY LICENSED TO PRACTICE
6 LAW IN MARYLAND, AND MAY NOT PROVIDE LEGAL FORMS, GIVE LEGAL ADVICE, OR
7 PROVIDE LEGAL SERVICES", WHICH SHALL BE CONSPICUOUSLY PLACED IN THE
8 CONTRACT;

9 (6) THE STATEMENT, "I CANNOT ACCEPT A FEE FOR REFERRING A
10 CLIENT TO ANOTHER PERSON FOR SERVICES THAT I CANNOT OR WILL NOT
11 PERFORM", WHICH SHALL BE CONSPICUOUSLY PLACED IN THE CONTRACT; AND

12 (7) IF THE IMMIGRATION CONSULTANT IS A NOTARY PUBLIC, A
13 STATEMENT EXPLAINING THE DIFFERENCE BETWEEN A NOTARY PUBLIC AND AN
14 ATTORNEY.

15 (B) THE WRITTEN CONTRACT SHALL BE IN BOTH ENGLISH AND THE CLIENT'S
16 NATIVE LANGUAGE.

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

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

22 14-3305.

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

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

30 14-3306.

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

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

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

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

5 (I) \$2,000;

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

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

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

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