
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~~**

Introduced and read first time: February 7, 2005

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 29, 2005

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

18 BY adding to

19 Article - Commercial Law

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

21 "Subtitle 33. Maryland Immigration Consultant Act"

22 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

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

4 **Article - Commercial Law**

5 SUBTITLE 33. MARYLAND IMMIGRATION CONSULTANT ACT.

6 14-3301.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "CLIENT" MEANS A NONCITIZEN OR ANY PERSON ~~OR ENTITY~~ SEEKING TO
10 SPONSOR A NONCITIZEN FOR WHOM AN IMMIGRATION CONSULTANT PERFORMS OR
11 OFFERS TO PERFORM A SERVICE RELATING TO THE NONCITIZEN'S IMMIGRATION
12 STATUS.

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

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

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

19 (2) ARISES UNDER:

20 (I) ANY IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE
21 ORDER, OR PRESIDENTIAL PROCLAMATION OF THE UNITED STATES OR ANY FOREIGN
22 COUNTRY; OR

23 (II) AN ACTION OF THE ~~U.S.~~ UNITED STATES DEPARTMENT OF
24 HOMELAND SECURITY, THE ~~U.S.~~ UNITED STATES DEPARTMENT OF LABOR, THE ~~U.S.~~
25 UNITED STATES DEPARTMENT OF STATE, THE ~~U.S.~~ UNITED STATES DEPARTMENT OF
26 JUSTICE, OR THE ~~U.S.~~ UNITED STATES DEPARTMENT OF COMMERCE.

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

29 (2) "LEGAL SERVICES" INCLUDES PROVIDING FORMS TO AN INDIVIDUAL,
30 COMPLETING ~~OR~~ FORMS ON BEHALF OF AN INDIVIDUAL, FILING FORMS ~~FOR ON~~
31 BEHALF OF AN INDIVIDUAL, ADVISING AN INDIVIDUAL TO FILE FORMS, OR APPLYING
32 FOR A BENEFIT ON BEHALF OF AN INDIVIDUAL.

33 (F) "SECRETARIAL SERVICES" MEANS:

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

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

4 14-3302.

5 THIS SUBTITLE DOES NOT APPLY TO:

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

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

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

13 (4) A REPRESENTATIVE OF ~~AN ACCREDITED~~ A NONPROFIT
14 ORGANIZATION ~~WHO:~~

15 ~~(A)~~ IS ACCREDITED THAT HAS BEEN RECOGNIZED UNDER THE
16 CODE OF FEDERAL REGULATIONS, TITLE 8, § 292.2; OR

17 ~~(H)~~ HAS INITIATED THE ACCREDITATION PROCESS PRIOR TO
18 JANUARY 5, 2006

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

20 14-3303.

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

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

24 (2) MAKE A MISREPRESENTATION OR FALSE STATEMENT TO
25 INFLUENCE, PERSUADE, OR ENCOURAGE A CLIENT TO USE SERVICES PROVIDED BY
26 THE IMMIGRATION CONSULTANT;

27 (3) MAKE A STATEMENT THAT THE IMMIGRATION CONSULTANT CAN OR
28 WILL OBTAIN SPECIAL FAVORS FROM OR HAS SPECIAL INFLUENCE WITH THE U.S.
29 UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE U.S. UNITED STATES
30 DEPARTMENT OF LABOR, THE U.S. UNITED STATES DEPARTMENT OF STATE, THE U.S.
31 UNITED STATES DEPARTMENT OF JUSTICE, OR THE U.S. UNITED STATES
32 DEPARTMENT OF COMMERCE;

33 (4) COLLECT ANY FEES OR OTHER COMPENSATION FOR SERVICES NOT
34 YET PERFORMED;

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

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

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

10 14-3304.

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

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

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

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

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

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

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

27 ~~(7) IF THE IMMIGRATION CONSULTANT IS A NOTARY PUBLIC, A~~
28 ~~STATEMENT EXPLAINING THE DIFFERENCE BETWEEN A NOTARY PUBLIC AND AN~~
29 ~~ATTORNEY.~~

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

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

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

4 14-3305.

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

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

12 14-3306.

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

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

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

22 (2) REASONABLE ATTORNEY'S FEES ~~IN AN AMOUNT EQUAL TO THE~~
23 ~~GREATER OF:~~

24 (I) \$2,000;

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

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

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

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

