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By: **Senators Colburn, Greenip, Hooper, Jimeno, Mooney, and Stone**

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Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Immigration Consulting Services - Fraud**

3 FOR the purpose of prohibiting certain individuals from providing certain types of  
4 services to immigrants; providing certain exceptions; establishing criminal  
5 penalties for certain violations of this Act; authorizing an individual affected by  
6 a violation of this Act to bring a civil action against the violator; authorizing the  
7 recovery of reasonable attorney's fees and damages in a certain amount;  
8 authorizing the court to award treble damages; requiring a certain contract to be  
9 executed before an immigration consultant provides certain assistance;  
10 requiring certain notifications to be provided to immigrants; defining certain  
11 terms; and generally relating to the regulation of immigration services provided  
12 to immigrants.

13 BY adding to

14 Article - Commercial Law

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

16 "Subtitle 33. Maryland Immigration Consultant Fraud Act"

17 Annotated Code of Maryland

18 (2000 Replacement Volume and 2004 Supplement)

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

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

21 **Article - Commercial Law**

22 **SUBTITLE 33. MARYLAND IMMIGRATION CONSULTANT FRAUD ACT.**

23 14-3301.

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

26 (B) "CLIENT" MEANS ANY INDIVIDUAL FOR WHICH AN IMMIGRATION  
27 CONSULTANT PERFORMS ANY SERVICE RELATING TO THE INDIVIDUAL'S  
28 IMMIGRATION STATUS.

1 (C) "IMMIGRATION CONSULTANT" MEANS ANY PERSON, OTHER THAN AN  
2 ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE OR AN INDIVIDUAL  
3 AUTHORIZED BY THE LAWS OF THIS STATE OR THE UNITED STATES TO REPRESENT  
4 IMMIGRANTS, WHO RENDERS NONLEGAL ADVICE, GUIDANCE, INFORMATION, OR  
5 SERVICES TO IMMIGRANTS ON IMMIGRATION MATTERS.

6 (D) "IMMIGRATION MATTER" MEANS ANY PROCEEDING, FILING, OR ACTION  
7 AFFECTING THE IMMIGRATION STATUS OF ANY NONCITIZEN THAT ARISES UNDER  
8 IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE ORDER, OR PRESIDENTIAL  
9 PROCLAMATION OF THE UNITED STATES OR ANY FOREIGN COUNTRY, OR THAT  
10 ARISES UNDER THE ACTION OF THE UNITED STATES DEPARTMENT OF HOMELAND  
11 SECURITY, THE UNITED STATES DEPARTMENT OF LABOR, OR THE UNITED STATES  
12 DEPARTMENT OF STATE.

13 (E) "LEGAL SERVICES" MEANS THE LEGAL REPRESENTATION OF CLIENTS AND  
14 INCLUDES PROVIDING FORMS TO A CLIENT, FILING FORMS FOR A CLIENT, ADVISING  
15 A CLIENT TO FILE FORMS, OR APPLYING FOR ANY PROGRAMS ON BEHALF OF A  
16 CLIENT.

17 (F) "SECRETARIAL SERVICES" MEANS WRITING, TYPING, OR COPYING  
18 INFORMATION AS PROVIDED BY AN INDIVIDUAL AND INCLUDES TRANSLATING  
19 INFORMATION INTO ENGLISH.

20 14-3302.

21 THIS SUBTITLE DOES NOT APPLY TO:

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

23 (2) AN INDIVIDUAL AUTHORIZED TO REPRESENT PERSONS IN  
24 IMMIGRATION MATTERS UNDER THE CODE OF FEDERAL REGULATIONS, TITLE 8, §  
25 292.1; OR

26 (3) A NONPROFIT ORGANIZATION OR CLINIC AFFILIATED WITH A LAW  
27 SCHOOL IN THE STATE THAT PROVIDES IMMIGRATION ASSISTANCE TO CLIENTS  
28 WITHOUT CHARGE BEYOND REIMBURSEMENT FOR REASONABLE COSTS RELATING  
29 TO PROVIDING THOSE SERVICES.

30 14-3303.

31 (A) IN THE COURSE OF DEALING WITH CLIENTS OR PROSPECTIVE CLIENTS,  
32 AN IMMIGRATION CONSULTANT MAY NOT:

33 (1) GIVE ANY LEGAL ADVICE OR PROVIDE LEGAL SERVICES  
34 CONCERNING AN IMMIGRATION MATTER;

35 (2) MAKE ANY MISREPRESENTATION OR FALSE STATEMENT, DIRECTLY  
36 OR INDIRECTLY, TO INFLUENCE, PERSUADE, OR ENCOURAGE A CLIENT'S BUSINESS;

1 (3) MAKE ANY STATEMENT THAT THE IMMIGRATION CONSULTANT CAN  
2 OR WILL OBTAIN SPECIAL FAVORS FROM OR HAS SPECIAL INFLUENCE WITH ANY  
3 AGENCY WITHIN THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE  
4 UNITED STATES DEPARTMENT OF STATE, OR THE UNITED STATES DEPARTMENT OF  
5 LABOR;

6 (4) RETAIN ANY COMPENSATION FOR SERVICES NOT PERFORMED;

7 (5) REFUSE TO RETURN DOCUMENTS SUPPLIED BY, PREPARED BY, OR  
8 PAID FOR BY THE CLIENT, ON THE CLIENT'S REQUEST;

9 (6) REPRESENT, ADVERTISE, OR COMMUNICATE IN ANY MANNER, IN  
10 CONNECTION WITH THE PROVISION OF IMMIGRATION CONSULTING, OTHER TITLES  
11 OR CREDENTIALS THAT COULD CAUSE A CLIENT TO BELIEVE THAT THE  
12 IMMIGRATION CONSULTANT IS QUALIFIED TO PROVIDE LEGAL ASSISTANCE; OR

13 (7) THREATEN, DIRECTLY OR INDIRECTLY, TO INFORM THE POLICE,  
14 GOVERNMENT, OR ANY AUTHORITY OF THE IMMIGRATION STATUS OF THE CLIENT.

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

18 14-3304.

19 (A) BEFORE PROVIDING ANY ASSISTANCE, THE 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 COSTS TO BE CHARGED TO THE CLIENT;

23 (3) A STATEMENT THAT THE INDIVIDUAL IS NOT AN ATTORNEY AND  
24 MAY NOT PERFORM LEGAL SERVICES; AND

25 (4) IF THE IMMIGRATION CONSULTANT IS A NOTARY PUBLIC, A  
26 STATEMENT EXPLAINING THE DIFFERENCE BETWEEN A NOTARY PUBLIC AND AN  
27 ATTORNEY.

28 (B) THE WRITTEN CONTRACT SHALL BE STATED IN BOTH ENGLISH AND THE  
29 CLIENT'S NATIVE LANGUAGE.

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

32 (D) THE IMMIGRATION CONSULTANT SHALL RETURN ANY DOCUMENTS  
33 PROVIDED BY THE CLIENT ON THE CLIENT'S REQUEST, EVEN IN THE EVENT OF A FEE  
34 DISPUTE.

1 14-3305.

2 (A) ANY INDIVIDUAL WHO PROVIDES OR OFFERS IMMIGRATION CONSULTING  
3 SERVICES IN THE STATE SHALL POST A SIGN AT THAT INDIVIDUAL'S PLACE OF  
4 BUSINESS, SETTING FORTH INFORMATION IN ENGLISH AND IN EACH LANGUAGE IN  
5 WHICH THE INDIVIDUAL PROVIDES OR OFFERS SERVICES.

6 (B) EACH SIGN SHALL:

7 (1) INCLUDE THE WORDS "I AM NOT AN ATTORNEY LICENSED TO  
8 PRACTICE LAW IN MARYLAND, AND MAY NOT PROVIDE LEGAL FORMS, GIVE LEGAL  
9 ADVICE, OR PROVIDE LEGAL SERVICES.";

10 (2) BE IN ONLY ONE LANGUAGE; AND

11 (3) BE POSTED IN A CONSPICUOUS LOCATION.

12 14-3306.

13 (A) AN INDIVIDUAL WHO VIOLATES THIS SUBTITLE IS GUILTY OF A  
14 MISDEMEANOR.

15 (B) ANY INDIVIDUAL AFFECTED BY A VIOLATION OF ANY PROVISION OF THIS  
16 SUBTITLE MAY BRING AN ACTION TO RECOVER:

17 (1) ANY COSTS REMITTED TO THE IMMIGRATION CONSULTANT; AND

18 (2) REASONABLE ATTORNEY'S FEES IN THE AMOUNT OF THE GREATER  
19 OF:

20 (I) \$2,000; OR

21 (II) ONE-THIRD OF THE AMOUNT OBTAINED UNDER SUBSECTION  
22 (B)(1) OR (C) OF THIS SECTION.

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

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