
By: **Senators Colburn, Greenip, Hooper, Jimeno, Mooney, and Stone Stone,
Della, Exum, Gladden, Kelley, Klausmeier, Middleton, and Teitelbaum**

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Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER _____

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 noncitizens~~; providing certain exceptions; prohibiting an
 5 immigration consultant from taking certain actions; establishing a certain
 6 rebuttable presumption; requiring a certain contract to be executed before an
 7 immigration consultant provides certain assistance; requiring certain notices to
 8 be posted at an immigration consultant's place of business; ~~establishing criminal~~
 9 penalties for certain violations of this Act providing that an immigration
 10 consultant that violates this Act is guilty of a misdemeanor; authorizing an
 11 individual ~~affected~~ injured by a violation of this Act to bring a civil action
 12 against the violator; ~~authorizing the recovery of reasonable attorney's fees and~~
 13 damages in a certain amount to recover certain fees or other compensation and
 14 reasonable attorney's fees in a certain amount; authorizing the court to award
 15 treble ~~certain~~ damages; ~~requiring a certain contract to be executed before an~~
 16 immigration consultant provides certain assistance; requiring certain
 17 notifications to be provided to ~~immigrants~~; defining certain terms; and generally
 18 relating to the regulation of immigration services provided to ~~immigrants~~
 19 noncitizens.

20 BY adding to

21 Article - Commercial Law

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

23 "Subtitle 33. Maryland Immigration Consultant ~~Fraud~~ Act"

24 Annotated Code of Maryland

25 (2000 Replacement Volume and 2004 Supplement)

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

3 **Article - Commercial Law**

4 SUBTITLE 33. MARYLAND IMMIGRATION CONSULTANT ~~FRAUD~~ ACT.

5 14-3301.

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

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

12 (C) "IMMIGRATION CONSULTANT" MEANS ~~ANY PERSON, OTHER THAN AN~~
13 ~~ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE OR AN INDIVIDUAL~~
14 ~~AUTHORIZED BY THE LAWS OF THIS STATE OR THE UNITED STATES TO REPRESENT~~
15 ~~IMMIGRANTS, WHO RENDERS A PERSON THAT PROVIDES NONLEGAL ADVICE,~~
16 GUIDANCE, INFORMATION, OR SERVICES TO IMMIGRANTS A CLIENT ON AN
17 IMMIGRATION MATTERS MATTER.

18 (D) "IMMIGRATION MATTER" MEANS ANY LEGAL PROCEEDING, FILING, OR
19 ACTION ~~AFFECTING THAT:~~

20 (1) AFFECTS THE IMMIGRATION STATUS OF ANY NONCITIZEN ~~THAT;~~
21 AND

22 (2) ARISES UNDER:

23 (I) IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE ORDER,
24 OR PRESIDENTIAL PROCLAMATION OF THE UNITED STATES OR ANY FOREIGN
25 ~~COUNTRY, COUNTRY;~~ OR

26 (II) ~~THAT ARISES UNDER THE AN~~ ACTION OF THE UNITED STATES
27 DEPARTMENT OF HOMELAND SECURITY, THE UNITED STATES DEPARTMENT OF
28 LABOR, ~~OR~~ THE UNITED STATES DEPARTMENT OF STATE, THE UNITED STATES
29 DEPARTMENT OF JUSTICE, OR THE UNITED STATES DEPARTMENT OF COMMERCE.

30 (E) (1) "LEGAL SERVICES" MEANS THE LEGAL REPRESENTATION OF
31 ~~CLIENTS AND AN INDIVIDUAL.~~

32 (2) "LEGAL SERVICES" INCLUDES PROVIDING FORMS TO ~~A CLIENT AN~~
33 INDIVIDUAL, FILING FORMS FOR ~~A CLIENT AN INDIVIDUAL~~, ADVISING ~~A CLIENT AN~~
34 INDIVIDUAL TO FILE FORMS, OR APPLYING FOR ANY PROGRAMS ON BEHALF OF A
35 ~~CLIENT AN INDIVIDUAL.~~

36 (F) "SECRETARIAL SERVICES" MEANS:

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

3 (2) TRANSLATING INFORMATION 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 PERSONS IN
8 IMMIGRATION MATTERS UNDER ~~THE CODE OF FEDERAL REGULATIONS, TITLE 8, §~~
9 CFR § 292.1; OR

10 (3) A NONPROFIT ORGANIZATION ~~OR CLINIC AFFILIATED WITH A LAW~~
11 ~~SCHOOL IN THE STATE THAT PROVIDES IMMIGRATION ASSISTANCE TO CLIENTS~~
12 ~~WITHOUT CHARGE BEYOND REIMBURSEMENT FOR REASONABLE COSTS RELATING~~
13 ~~TO PROVIDING THOSE SERVICES THAT HAS BEEN ACCREDITED UNDER 8 CFR § 292.2;~~

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

16 (I) IS ACCREDITED UNDER 8 CFR § 292.2; OR

17 (II) HAS INITIATED THE ACCREDITATION PROCESS PRIOR TO
18 JANUARY 5, 2006; OR

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

20 14-3303.

21 (A) ~~IN THE COURSE OF DEALING WITH CLIENTS OR PROSPECTIVE CLIENTS,~~
22 AN IMMIGRATION CONSULTANT MAY NOT:

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

25 (2) MAKE ~~ANY~~ A MISREPRESENTATION OR FALSE STATEMENT,
26 ~~DIRECTLY OR INDIRECTLY,~~ TO INFLUENCE, PERSUADE, OR ENCOURAGE A ~~CLIENT'S~~
27 ~~BUSINESS~~ CLIENT TO USE SERVICES PROVIDED BY THE IMMIGRATION CONSULTANT;

28 (3) MAKE ANY STATEMENT THAT THE IMMIGRATION CONSULTANT CAN
29 OR WILL OBTAIN SPECIAL FAVORS FROM OR HAS SPECIAL INFLUENCE WITH ~~ANY~~
30 ~~AGENCY WITHIN~~ THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE
31 UNITED STATES DEPARTMENT OF STATE, ~~OR~~ THE UNITED STATES DEPARTMENT OF
32 LABOR, ~~THE UNITED STATES DEPARTMENT OF JUSTICE, OR THE UNITED STATES~~
33 DEPARTMENT OF COMMERCE;

34 (4) ~~RETAIN ANY~~ COLLECT ANY FEES OR OTHER COMPENSATION FOR
35 SERVICES NOT PERFORMED;

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

3 (6) REPRESENT, ADVERTISE, OR COMMUNICATE IN ANY MANNER, ~~IN~~
4 ~~CONNECTION WITH THE PROVISION OF IMMIGRATION CONSULTING, OTHER THAN~~
5 ~~THE IMMIGRATION CONSULTANT POSSESSES TITLES OR CREDENTIALS THAT COULD~~
6 ~~CAUSE A CLIENT TO BELIEVE THAT WOULD QUALIFY THE IMMIGRATION~~
7 ~~CONSULTANT IS QUALIFIED TO PROVIDE LEGAL ASSISTANCE; OR~~

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

10 (B) IF THE IMMIGRATION CONSULTANT PROVIDES ANY SERVICES OTHER
11 THAN SECRETARIAL SERVICES FOR THE CLIENT, THERE IS A REBUTTABLE
12 PRESUMPTION THAT LEGAL SERVICES ARE BEING PROVIDED.

13 14-3304.

14 (A) BEFORE PROVIDING ANY ASSISTANCE, ~~THE AN~~ IMMIGRATION
15 CONSULTANT SHALL EXECUTE A WRITTEN CONTRACT WITH THE CLIENT THAT
16 INCLUDES:

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

18 (2) AN ITEMIZATION OF ALL COSTS TO BE CHARGED TO THE CLIENT;

19 (3) A STATEMENT THAT THE ~~INDIVIDUAL IS NOT AN ATTORNEY AND~~
20 ~~MAY NOT PERFORM LEGAL SERVICES; AND CLIENT HAS THE RIGHT TO CONSULT AN~~
21 ATTORNEY BEFORE SIGNING THE CONTRACT;

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

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

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

31 (4) (7) IF THE IMMIGRATION CONSULTANT IS A NOTARY PUBLIC, A
32 STATEMENT EXPLAINING THE DIFFERENCE BETWEEN A NOTARY PUBLIC AND AN
33 ATTORNEY.

34 (B) THE WRITTEN CONTRACT SHALL BE ~~STATED~~ IN BOTH ENGLISH AND THE
35 CLIENT'S NATIVE LANGUAGE.

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

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

6 14-3305.

7 (A) ~~ANY INDIVIDUAL WHO PROVIDES OR OFFERS IMMIGRATION CONSULTING~~
8 ~~SERVICES IN THE STATE SHALL POST A SIGN AT THAT INDIVIDUAL'S PLACE OF~~
9 ~~BUSINESS AN IMMIGRATION CONSULTANT SHALL POST, IN A CONSPICUOUS~~
10 LOCATION AT EACH PLACE OF BUSINESS AT WHICH THE IMMIGRATION CONSULTANT
11 PROVIDES IMMIGRATION CONSULTING SERVICES, A SIGN, SETTING FORTH
12 INFORMATION IN ENGLISH AND IN EACH LANGUAGE IN WHICH THE INDIVIDUAL
13 PROVIDES OR OFFERS SERVICES.

14 (B) EACH SIGN SHALL:

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

18 (2) BE IN ONLY ONE LANGUAGE; AND

19 (3) BE POSTED IN A CONSPICUOUS LOCATION.

20 14-3306.

21 (A) ~~AN INDIVIDUAL WHO IMMIGRATION CONSULTANT THAT VIOLATES THIS~~
22 ~~SUBTITLE IS GUILTY OF A MISDEMEANOR.~~

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

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

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

29 (I) \$2,000; OR

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

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

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

