

NOTE: The governor signed this measure on 6/10/2016.

An Act

HOUSE BILL 16-1391

BY REPRESENTATIVE(S) Pabon, McCann, Moreno, Salazar, Arndt, Becker K., Court, Danielson, Duran, Esgar, Fields, Foote, Garnett, Hamner, Kagan, Lebsock, Lontine, Melton, Mitsch Bush, Pettersen, Primavera, Priola, Rosenthal, Ryden, Singer, Vigil, Williams, Winter, Young; also SENATOR(S) Lundberg, Aguilar, Heath, Kefalas, Martinez Humenik, Merrifield, Newell, Roberts, Steadman, Ulibarri.

CONCERNING A PROHIBITION AGAINST NONATTORNEYS PROVIDING LEGAL SERVICES RELATED TO IMMIGRATION MATTERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 6-1-727 as follows:

6-1-727. Immigration-related services provided by nonattorneys - deceptive trade practice. (1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DETERMINES THAT THE PRACTICE BY SOME NONATTORNEYS OF PROVIDING LEGAL ADVICE OR SERVICES IN IMMIGRATION MATTERS NEGATIVELY IMPACTS THE PEOPLE WHO USE THEIR SERVICES AND THE PUBLIC INTEREST IN PREVENTING FRAUD AND PROVIDING ADEQUATE OPPORTUNITIES TO PURSUE IMMIGRATION RELIEF. WHILE THE COLORADO SUPREME COURT REGULATES THE PRACTICE OF LAW IN THIS STATE, THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE PUBLIC INTEREST TO PROHIBIT NONATTORNEYS FROM ENGAGING IN DECEPTIVE TRADE PRACTICES IN IMMIGRATION SERVICES IN ADDITION TO THE COLORADO SUPREME COURT'S PROHIBITION AGAINST THE UNAUTHORIZED PRACTICE OF LAW.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMPENSATION" MEANS MONEY, PROPERTY, OR ANYTHING ELSE OF VALUE.

(b) (I) "IMMIGRATION MATTER" MEANS A PROCEEDING, FILING, OR OTHER ACTION THAT AFFECTS A PERSON'S IMMIGRANT, NONIMMIGRANT, OR CITIZENSHIP STATUS THAT ARISES UNDER AN IMMIGRATION AND NATURALIZATION LAW, EXECUTIVE ORDER, OR PRESIDENTIAL PROCLAMATION OR PURSUANT TO AN ACTION OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, THE UNITED STATES DEPARTMENT OF LABOR, THE UNITED STATES DEPARTMENT OF STATE, THE UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE BOARD OF IMMIGRATION APPEALS, OR THEIR SUCCESSOR AGENCIES, OR ANY OTHER ENTITY HAVING JURISDICTION OVER IMMIGRATION LAW.

(II) "IMMIGRATION MATTER" INCLUDES A PENDING OR FUTURE ACT OF CONGRESS OR EXECUTIVE ORDER THAT CONCERNS IMMIGRATION REFORM.

(c) "PRACTICE OF LAW" HAS THE MEANING ESTABLISHED BY THE COLORADO SUPREME COURT, WHETHER BY RULE OR DECISION.

(3) **Prohibited practices - assistance with immigration matters - permitted practices.** (a) A PERSON SHALL NOT ENGAGE IN THE PRACTICE OF LAW IN AN IMMIGRATION MATTER FOR COMPENSATION UNLESS THE PERSON IS:

(I) LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE LAW IN THIS STATE PURSUANT TO COLORADO SUPREME COURT RULES AND ARTICLE 5 OF TITLE 12, C.R.S.; OR

(II) AUTHORIZED, UNDER FEDERAL LAW, WHETHER ACTING THROUGH A CHARITABLE ORGANIZATION OR OTHERWISE, TO REPRESENT OTHERS IN IMMIGRATION MATTERS.

(b) IF A PERSON OTHER THAN A PERSON LISTED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) ENGAGES IN OR OFFERS TO ENGAGE IN ONE OR MORE OF THE FOLLOWING ACTS OR PRACTICES IN AN IMMIGRATION MATTER FOR COMPENSATION, THE PERSON ENGAGES IN A DECEPTIVE TRADE PRACTICE:

(I) ADVISING OR ASSISTING ANOTHER PERSON IN A DETERMINATION OF THE PERSON'S LEGAL OR ILLEGAL STATUS FOR THE PURPOSE OF AN IMMIGRATION MATTER;

(II) FOR THE PURPOSE OF APPLYING FOR A BENEFIT, VISA, OR PROGRAM RELATED TO AN IMMIGRATION MATTER, SELECTING FOR ANOTHER PERSON, ASSISTING ANOTHER PERSON IN SELECTING, OR ADVISING ANOTHER PERSON IN SELECTING A BENEFIT, VISA, OR PROGRAM;

(III) SELECTING FOR ANOTHER PERSON, ASSISTING ANOTHER PERSON IN SELECTING, OR ADVISING ANOTHER PERSON IN SELECTING HIS OR HER ANSWERS ON A GOVERNMENT AGENCY FORM OR DOCUMENT RELATED TO AN IMMIGRATION MATTER;

(IV) PREPARING DOCUMENTS FOR, OR OTHERWISE REPRESENTING THE INTERESTS OF, ANOTHER PERSON IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING IN AN IMMIGRATION MATTER;

(V) EXPLAINING, ADVISING, OR OTHERWISE INTERPRETING THE MEANING OR INTENT OF A QUESTION ON A GOVERNMENT AGENCY FORM IN AN IMMIGRATION MATTER;

(VI) DEMANDING OR ACCEPTING ADVANCE PAYMENT FOR THE FUTURE PERFORMANCE OF SERVICES IN AN IMMIGRATION MATTER, ESPECIALLY WITH REGARD TO SERVICES TO BE PERFORMED IF A PENDING OR FUTURE ACT OF CONGRESS OR EXECUTIVE ORDER THAT CONCERNS IMMIGRATION REFORM IS MADE EFFECTIVE; OR

(VII) SELECTING, DRAFTING, OR COMPLETING A LEGAL DOCUMENT AFFECTING THE LEGAL RIGHTS OF ANOTHER PERSON IN AN IMMIGRATION

MATTER.

(c) WITH OR WITHOUT COMPENSATION OR THE EXPECTATION OF COMPENSATION, A PERSON OTHER THAN A PERSON LISTED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) ENGAGES IN A DECEPTIVE TRADE PRACTICE IN AN IMMIGRATION MATTER IF HE OR SHE REPRESENTS, IN ANY LANGUAGE, EITHER ORALLY OR IN A DOCUMENT, LETTERHEAD, ADVERTISEMENT, STATIONERY, BUSINESS CARD, WEBSITE, OR OTHER WRITTEN MATERIAL THAT HE OR SHE:

(I) IS A NOTARIO PUBLICO, NOTARIO, IMMIGRATION ASSISTANT, IMMIGRATION CONSULTANT, IMMIGRATION SPECIALIST, OR OTHER DESIGNATION OR TITLE THAT CONVEYS OR IMPLIES IN ANY LANGUAGE THAT HE OR SHE POSSESSES PROFESSIONAL LEGAL SKILLS OR EXPERTISE IN THE AREA OF IMMIGRATION LAW; OR

(II) CAN OR IS WILLING TO PROVIDE SERVICES IN AN IMMIGRATION MATTER, IF SUCH SERVICES WOULD CONSTITUTE THE PRACTICE OF LAW.

(d) THE PROHIBITIONS OF PARAGRAPHS (a) TO (c) OF THIS SUBSECTION (3) DO NOT APPLY TO THE ACTIVITIES OF A NONATTORNEY ASSISTANT ACTING UNDER THE SUPERVISION OF A PERSON WHO IS:

(I) LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE LAW IN THIS STATE PURSUANT TO COLORADO SUPREME COURT RULES AND ARTICLE 5 OF TITLE 12, C.R.S.; OR

(II) AUTHORIZED, UNDER FEDERAL LAW, TO REPRESENT OTHERS IN IMMIGRATION MATTERS.

(e) NOTWITHSTANDING PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (3), A PERSON OTHER THAN A PERSON LISTED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) MAY:

(I) OFFER OR PROVIDE LANGUAGE TRANSLATION OR TYPING SERVICES, REGARDLESS OF WHETHER COMPENSATION IS SOUGHT;

(II) SECURE OR OFFER TO SECURE EXISTING DOCUMENTS, SUCH AS BIRTH AND MARRIAGE CERTIFICATES, FOR A PERSON SEEKING SERVICES; OR

(III) OFFER OTHER IMMIGRATION-RELATED SERVICES THAT:

(A) ARE NOT PROHIBITED UNDER THIS SUBSECTION (3), SECTION 12-55-110.3, C.R.S., OR ANY OTHER PROVISION OF LAW; AND

(B) DO NOT CONSTITUTE THE PRACTICE OF LAW.

SECTION 2. In Colorado Revised Statutes, 12-55-110.3, **amend** (1) (a), (3) (b) (IV), and (3) (b) (V); and **add** (3) (b) (VI) as follows:

12-55-110.3. Advertisements for services - unauthorized practice of law - prohibited conduct - penalties. (1) (a) A notary public who is not a licensed attorney in the state of Colorado and who advertises, including by signage, his or her services in a language other than English shall include in the advertisement the following notice, both in English and in the language of the advertisement:

I AM NOT AN ATTORNEY LICENSED TO PRACTICE
LAW IN THE STATE OF COLORADO AND I MAY NOT
GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL
ADVICE. I AM NOT AN IMMIGRATION CONSULTANT, NOR AM
I AN EXPERT ON IMMIGRATION MATTERS.
IF YOU SUSPECT FRAUD, YOU MAY CONTACT THE COLORADO
ATTORNEY GENERAL'S OFFICE OR THE COLORADO SUPREME
COURT.

(3) (b) A notary public who is not an attorney licensed to practice law in Colorado is prohibited from:

(IV) Soliciting or accepting compensation to obtain relief of any kind on behalf of another from any officer, agency, or employee of the state of Colorado or of the United States; ~~or~~

(V) Using the phrase "notario" or "notario publico" to advertise the services of a notary public, whether by sign, pamphlet, stationery, or other written communication or by radio, television, or other nonwritten communication; OR

(VI) ENGAGING IN CONDUCT THAT CONSTITUTES A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-727, C.R.S.

SECTION 3. Applicability. This act applies to acts committed and practices engaged in on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO