

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2AA as follows:

6 (815 ILCS 505/2AA)

7 Sec. 2AA. Immigration services.

8 (a) "Immigration matter" means any proceeding, filing, or
9 action affecting the nonimmigrant, immigrant or citizenship
10 status of any person that arises under immigration and
11 naturalization law, executive order or presidential
12 proclamation of the United States or any foreign country, or
13 that arises under action of the United States Citizenship and
14 Immigration Services, the United States Department of Labor, or
15 the United States Department of State.

16 "Immigration assistance service" means any information or
17 action provided or offered to customers or prospective
18 customers related to immigration matters, excluding legal
19 advice, recommending a specific course of legal action, or
20 providing any other assistance that requires legal analysis,
21 legal judgment, or interpretation of the law.

22 "Compensation" means money, property, services, promise of
23 payment, or anything else of value.

24 "Employed by" means that a person is on the payroll of the
25 employer and the employer deducts from the employee's paycheck
26 social security and withholding taxes, or receives
27 compensation from the employer on a commission basis or as an
28 independent contractor.

29 "Reasonable costs" means actual costs or, if actual costs
30 cannot be calculated, reasonably estimated costs of such things
31 as photocopying, telephone calls, document requests, and
32 filing fees for immigration forms, and other nominal costs

1 incidental to assistance in an immigration matter.

2 (a-1) The General Assembly finds and declares that private
3 individuals who assist persons with immigration matters have a
4 significant impact on the ability of their clients to reside
5 and work within the United States and to establish and maintain
6 stable families and business relationships. The General
7 Assembly further finds that that assistance and its impact also
8 have a significant effect on the cultural, social, and economic
9 life of the State of Illinois and thereby substantially affect
10 the public interest. It is the intent of the General Assembly
11 to establish rules of practice and conduct for those
12 individuals to promote honesty and fair dealing with residents
13 and to preserve public confidence.

14 (a-5) The following persons are exempt from this Section,
15 provided they prove the exemption by a preponderance of the
16 evidence:

17 (1) An attorney licensed to practice law in any state
18 or territory of the United States, or of any foreign
19 country when authorized by the Illinois Supreme Court, to
20 the extent the attorney renders immigration assistance
21 service in the course of his or her practice as an
22 attorney.

23 (2) A legal intern, as described by the rules of the
24 Illinois Supreme Court, employed by and under the direct
25 supervision of a licensed attorney and rendering
26 immigration assistance service in the course of the
27 intern's employment.

28 (3) A not-for-profit organization recognized by the
29 Board of Immigration Appeals under 8 C.F.R. 292.2(a) and
30 employees of those organizations accredited under 8 C.F.R.
31 292.2(d).

32 (4) Any organization employing or desiring to employ an
33 alien or nonimmigrant alien, where the organization, its
34 employees or its agents provide advice or assistance in
35 immigration matters to alien or nonimmigrant alien
36 employees or potential employees without compensation from

1 the individuals to whom such advice or assistance is
2 provided.

3 Nothing in this Section shall regulate any business to the
4 extent that such regulation is prohibited or preempted by State
5 or federal law.

6 All other persons providing or offering to provide
7 immigration assistance service shall be subject to this
8 Section.

9 (b) Any person who provides or offers to provide
10 immigration assistance service may perform only the following
11 services:

12 (1) Completing a government agency form, requested by
13 the customer and appropriate to the customer's needs, only
14 if the completion of that form does not involve a legal
15 judgment for that particular matter.

16 (2) Transcribing responses to a government agency form
17 which is related to an immigration matter, but not advising
18 a customer as to his or her answers on those forms.

19 (3) Translating information on forms to a customer and
20 translating the customer's answers to questions posed on
21 those forms.

22 (4) Securing for the customer supporting documents
23 currently in existence, such as birth and marriage
24 certificates, which may be needed to be submitted with
25 government agency forms.

26 (5) Translating documents from a foreign language into
27 English.

28 (6) Notarizing signatures on government agency forms,
29 if the person performing the service is a notary public of
30 the State of Illinois.

31 (7) Making referrals, without fee, to attorneys who
32 could undertake legal representation for a person in an
33 immigration matter.

34 (8) Preparing or arranging for the preparation of
35 photographs and fingerprints.

36 (9) Arranging for the performance of medical testing

1 (including X-rays and AIDS tests) and the obtaining of
2 reports of such test results.

3 (10) Conducting English language and civics courses.

4 (11) Other services that the Attorney General
5 determines by rule may be appropriately performed by such
6 persons in light of the purposes of this Section.

7 Fees for a notary public, agency, or any other person who
8 is not an attorney or an accredited representative filling out
9 immigration forms shall be limited to the maximum fees set
10 forth in subsections (a) and (b) of Section 3-104 of the Notary
11 Public Act (5 ILCS 312/3-104). The maximum fee schedule set
12 forth in subsections (a) and (b) of Section 3-104 of the Notary
13 Public Act shall apply to any person that provides or offers to
14 provide immigration assistance service performing the services
15 described therein. The Attorney General may promulgate rules
16 establishing maximum fees that may be charged for any services
17 not described in that subsection. The maximum fees must be
18 reasonable in light of the costs of providing those services
19 and the degree of professional skill required to provide the
20 services.

21 No person subject to this Act shall charge fees directly or
22 indirectly for referring an individual to an attorney or for
23 any immigration matter not authorized by this Article, provided
24 that a person may charge a fee for notarizing documents as
25 permitted by the Illinois Notary Public Act.

26 (c) Any person performing such services shall register with
27 the Illinois Attorney General and submit verification of
28 malpractice insurance or of a surety bond.

29 (d) Except as provided otherwise in this subsection, before
30 providing any assistance in an immigration matter a person
31 shall provide the customer with a written contract that
32 includes the following:

33 (1) An explanation of the services to be performed.

34 (2) Identification of all compensation and costs to be
35 charged to the customer for the services to be performed.

36 (3) A statement that documents submitted in support of

1 an application for nonimmigrant, immigrant, or
2 naturalization status may not be retained by the person for
3 any purpose, including payment of compensation or costs.

4 This subsection does not apply to a not-for-profit
5 organization that provides advice or assistance in immigration
6 matters to clients without charge beyond a reasonable fee to
7 reimburse the organization's or clinic's reasonable costs
8 relating to providing immigration services to that client.

9 (e) Any person who provides or offers immigration
10 assistance service and is not exempted from this Section, shall
11 post signs at his or her place of business, setting forth
12 information in English and in every other language in which the
13 person provides or offers to provide immigration assistance
14 service. Each language shall be on a separate sign. Signs shall
15 be posted in a location where the signs will be visible to
16 customers. Each sign shall be at least 11 inches by 17 inches,
17 and shall contain the following:

18 (1) The statement "I AM NOT AN ATTORNEY LICENSED TO
19 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES
20 FOR LEGAL ADVICE."

21 (2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU
22 BEFORE THE UNITED STATES IMMIGRATION AND NATURALIZATION
23 SERVICE AND THE IMMIGRATION BOARD OF APPEALS."

24 (3) The fee schedule.

25 (4) The statement that "You may cancel any contract
26 within 3 working days and get your money back for services
27 not performed."

28 (5) Additional information the Attorney General may
29 require by rule.

30 Every person engaged in immigration assistance service who
31 is not an attorney who advertises immigration assistance
32 service in a language other than English, whether by radio,
33 television, signs, pamphlets, newspapers, or other written
34 communication, with the exception of a single desk plaque,
35 shall include in the document, advertisement, stationery,
36 letterhead, business card, or other comparable written

1 material the following notice in English and the language in
2 which the written communication appears. This notice shall be
3 of a conspicuous size, if in writing, and shall state: "I AM
4 NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY
5 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such
6 advertisement is by radio or television, the statement may be
7 modified but must include substantially the same message.

8 Any person who provides or offers immigration assistance
9 service and is not exempted from this Section shall not, in any
10 document, advertisement, stationery, letterhead, business
11 card, or other comparable written material, literally
12 translate from English into another language terms or titles
13 including, but not limited to, notary public, notary, licensed,
14 attorney, lawyer, or any other term that implies the person is
15 an attorney. To illustrate, the words ~~word~~ "notario" and "poder
16 notarial" are ~~is~~ prohibited under this provision.

17 If not subject to penalties under subsection (a) of Section
18 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations
19 of this subsection shall result in a fine of \$1,000. Violations
20 shall not preempt or preclude additional appropriate civil or
21 criminal penalties.

22 (f) The written contract shall be in both English and in
23 the language of the customer.

24 (g) A copy of the contract shall be provided to the
25 customer upon the customer's execution of the contract.

26 (h) A customer has the right to rescind a contract within
27 72 hours after his or her signing of the contract.

28 (i) Any documents identified in paragraph (3) of subsection
29 (c) shall be returned upon demand of the customer.

30 (j) No person engaged in providing immigration services who
31 is not exempted under this Section shall do any of the
32 following:

33 (1) Make any statement that the person can or will
34 obtain special favors from or has special influence with
35 the United States Immigration and Naturalization Service
36 or any other government agency.

1 (2) Retain any compensation for service not performed.

2 (2.5) Accept payment in exchange for providing legal
3 advice or any other assistance that requires legal
4 analysis, legal judgment, or interpretation of the law.

5 (3) Refuse to return documents supplied by, prepared on
6 behalf of, or paid for by the customer upon the request of
7 the customer. These documents must be returned upon request
8 even if there is a fee dispute between the immigration
9 assistant and the customer.

10 (4) Represent or advertise, in connection with the
11 provision assistance in immigration matters, other titles
12 of credentials, including but not limited to "notary
13 public" or "immigration consultant," that could cause a
14 customer to believe that the person possesses special
15 professional skills or is authorized to provide advice on
16 an immigration matter; provided that a notary public
17 appointed by the Illinois Secretary of State may use the
18 term "notary public" if the use is accompanied by the
19 statement that the person is not an attorney; the term
20 "notary public" may not be translated to another language;
21 for example "notario" is prohibited.

22 (5) Provide legal advice, recommend a specific course
23 of legal action, or provide any other assistance that
24 requires legal analysis, legal judgment, or interpretation
25 of the law.

26 (6) Make any misrepresentation of false statement,
27 directly or indirectly, to influence, persuade, or induce
28 patronage.

29 (k) (Blank)

30 (l) (Blank)

31 (m) Any person who violates any provision of this Section,
32 or the rules and regulations issued under this Section, shall
33 be guilty of a Class A misdemeanor for a first offense and a
34 Class 3 felony for a second or subsequent offense committed
35 within 5 years of a previous conviction for the same offense.

36 Upon his own information or upon the complaint of any

1 person, the Attorney General or any State's Attorney, or a
2 municipality with a population of more than 1,000,000, may
3 maintain an action for injunctive relief and also seek a civil
4 penalty not exceeding \$50,000 in the circuit court against any
5 person who violates any provision of this Section. These
6 remedies are in addition to, and not in substitution for, other
7 available remedies.

8 If the Attorney General or any State's Attorney or a
9 municipality with a population of more than 1,000,000 fails to
10 bring an action as provided under this Section any person may
11 file a civil action to enforce the provisions of this Article
12 and maintain an action for injunctive relief, for compensatory
13 damages to recover prohibited fees, or for such additional
14 relief as may be appropriate to deter, prevent, or compensate
15 for the violation. In order to deter violations of this
16 Section, courts shall not require a showing of the traditional
17 elements for equitable relief. A prevailing plaintiff may be
18 awarded 3 times the prohibited fees or a minimum of \$1,000 in
19 punitive damages, attorney's fees, and costs of bringing an
20 action under this Section. It is the express intention of the
21 General Assembly that remedies for violation of this Section be
22 cumulative.

23 (n) No unit of local government, including any home rule
24 unit, shall have the authority to regulate immigration
25 assistance services unless such regulations are at least as
26 stringent as those contained in this amendatory Act of 1992. It
27 is declared to be the law of this State, pursuant to paragraph
28 (i) of Section 6 of Article VII of the Illinois Constitution of
29 1970, that this amendatory Act of 1992 is a limitation on the
30 authority of a home rule unit to exercise powers concurrently
31 with the State. The limitations of this Section do not apply to
32 a home rule unit that has, prior to the effective date of this
33 amendatory Act, adopted an ordinance regulating immigration
34 assistance services.

35 (o) This Section is severable under Section 1.31 of the
36 Statute on Statutes.

1 (p) The Attorney General shall issue rules not inconsistent
2 with this Section for the implementation, administration, and
3 enforcement of this Section ~~by January 1, 1995~~. The rules may
4 provide for the following:

5 (1) The content, print size, and print style of the
6 signs required under subsection (e). Print sizes and styles
7 may vary from language to language.

8 (2) Standard forms for use in the administration of
9 this Section.

10 (3) Any additional requirements deemed necessary.

11 (Source: P.A. 93-1001, eff. 8-23-04.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.