

106TH CONGRESS
2D SESSION

H. R. 5035

To reduce fraud in connection with the provision of legal advice and other services to individuals applying for immigration benefits or otherwise involved in immigration proceedings by requiring paid immigration consultants to be licensed and otherwise provide services in a satisfactory manner.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2000

Mr. GUTIERREZ (for himself, Mr. SERRANO, Mr. PASTOR, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reduce fraud in connection with the provision of legal advice and other services to individuals applying for immigration benefits or otherwise involved in immigration proceedings by requiring paid immigration consultants to be licensed and otherwise provide services in a satisfactory manner.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Immigration Services Consumer Protection Act of
4 2000”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Criminal penalty for immigration consultants not meeting requirements.
- Sec. 4. Exception for attorneys, representatives of recognized organizations,
and others; recognition and accreditation of representatives.
- Sec. 5. Education through community outreach programs.
- Sec. 6. Non-preemption of more protective State laws.
- Sec. 7. Confidentiality of information.
- Sec. 8. Effective date.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act:

9 (1) ATTORNEY.—The term “attorney” means a
10 person licensed and authorized to practice law in the
11 area in which the person is acting as an immigration
12 consultant.

13 (2) COMPENSATION.—The term “compensa-
14 tion” means money, property, promise of payment,
15 or anything of value, provided directly or indirectly.

16 (3) IMMIGRATION CONSULTANT.—The term
17 “immigration consultant” means any person that
18 provides assistance or advice on an immigration
19 matter, including—

20 (A) completing a form provided by a Fed-
21 eral or State agency;

1 (B) translating a person's answer to ques-
2 tions asked on such a form;

3 (C) securing for a person supporting docu-
4 ments (such as birth and marriage certificates)
5 which may be necessary to complete those
6 forms;

7 (D) submitting completed forms, on a cli-
8 ent's behalf and at the client's request, to the
9 Immigration and Naturalization Service;

10 (E) making referrals to attorneys to rep-
11 resent the client in the matter; or

12 (F) preparing or arranging for the prepa-
13 ration of photograph or fingerprint in connec-
14 tion with the matter.

15 (4) IMMIGRATION MATTER.—the term “immi-
16 gration matter” means any proceeding, filing, or ac-
17 tion affecting the immigration or citizenship status
18 of any person which arises under any immigration or
19 naturalization law, Executive order, or Presidential
20 proclamation, or action of the Immigration and Nat-
21 uralization Service, the Department of State, or the
22 Department of Labor.

1 **SEC. 3. CRIMINAL PENALTY FOR IMMIGRATION CONSULT-**
2 **ANTS NOT MEETING REQUIREMENTS.**

3 (a) IN GENERAL.—Except as provided in section 4,
4 any person who acts as an immigration consultant with
5 respect to an immigration matter for any client for com-
6 pensation and who knowingly fails to meet a requirement
7 of subsection (b) shall be fined under title 18, United
8 States Code, imprisoned not more than 5 years, or both.

9 (b) REQUIREMENTS.—The requirements of this sub-
10 section for a person acting as an immigration consultant
11 in an immigration matter for a client are as follows:

12 (1) CONSULTANT LICENSE REQUIRED.—The
13 person shall have a license as an immigration con-
14 sultant issued by the Immigration and Naturaliza-
15 tion Service after the person has made an applica-
16 tion that meets such requirements as the Attorney
17 General may impose.

18 (2) WRITTEN CONTRACT.—The person shall not
19 act as an immigration consultant in the immigration
20 matter on behalf of the client unless the person has
21 entered into a written agreement with the client that
22 meets the following requirements:

23 (A) The agreement includes a description
24 of—

25 (i) the services to be performed by the
26 person under the agreement, and

1 (ii) the amounts to be paid by the cli-
2 ent.

3 (B) The agreement includes a statement,
4 printed on the face of the contract in boldface
5 type no smaller than 10 point, that the person
6 is not an attorney and may not perform legal
7 services.

8 (C) The agreement includes a conspicuous
9 statement (in both English and the other prin-
10 cipal language of the client, if it is not English)
11 that the client has the right to rescind the
12 agreement within 72 hours of the time it is exe-
13 cuted.

14 (D) The agreement shall not include—

15 (i) any guarantee or promise with re-
16 spect to the disposition of the Immigration
17 and Naturalization Service and the Attor-
18 ney General on the matter; or

19 (ii) any statement that the person can
20 or will obtain special favors from or has
21 special influence with the Service or the
22 Attorney General on the matter.

23 (3) OFFICE NOTICE.—The person shall con-
24 spicuously display in any office in which the person
25 meets with clients a notice, not smaller than 12

1 inches by 20 inches and in boldface print no smaller
2 one inch in height, that includes the following infor-
3 mation:

4 (A) A copy of the license issued under
5 paragraph (1), including the full name, address,
6 and license number of the person.

7 (B) A statement that the person is not an
8 attorney.

9 (4) NOTICE OF CHANGE OF ADDRESS.—The
10 person shall notify the Immigration and Naturaliza-
11 tion Service within 30 days of any change of name,
12 address, or telephone number.

13 (5) DELIVERY OF DOCUMENTS.—The person
14 shall deliver to the client a copy of each document
15 or form completed on the client's behalf.

16 (6) RETURNING DOCUMENTS TO CLIENT.—The
17 person shall, upon request of the client, return to
18 the client any original documents of the client in the
19 possession of the person that were delivered to the
20 person in order to provide services for the client.

1 **SEC. 4. EXCEPTION FOR ATTORNEYS, REPRESENTATIVES**
2 **OF RECOGNIZED ORGANIZATIONS, AND OTH-**
3 **ERS; RECOGNITION AND ACCREDITATION OF**
4 **REPRESENTATIVES.**

5 (a) IN GENERAL.—Section 3(a) shall not apply to the
6 following:

7 (1) ATTORNEYS.—An attorney.

8 (2) LAW STUDENTS AND LAW GRADUATES NOT
9 YET ADMITTED TO THE BAR.—A law student who is
10 enrolled in an accredited law school, or a law grad-
11 uate who is not yet admitted to the bar, where the
12 following conditions are satisfied:

13 (A) REQUEST.—The student or graduate
14 is appearing at the request of the person enti-
15 tled to representation.

16 (B) STATEMENT OF LAW STUDENT.—In
17 the case of a law student, the student has filed
18 a statement that the student is participating,
19 under the direct supervision of a faculty mem-
20 ber or an attorney, in a legal aid program or
21 clinic conducted by a law school or non-profit
22 organization, and that the student is appearing
23 without direct or indirect remuneration from
24 person represented.

25 (C) STATEMENT OF LAW GRADUATE.—In
26 the case of a law graduate, the graduate has

1 filed a statement that the graduate is appearing
2 under the supervision of a licensed attorney or
3 accredited representative and that the graduate
4 is appearing without direct or indirect remuneration from the person represented.
5

6 (D) OFFICIAL PERMISSION.—The law stu-
7 dent's or law graduate's appearance is per-
8 mitted by the official or officials before whom
9 the student or graduate wishes to appear. The
10 official or officials may require that a law stu-
11 dent be accompanied by the supervising faculty
12 member or attorney.

13 (3) ACCREDITED REPRESENTATIVES OF RECOG-
14 NIZED ORGANIZATIONS.—An individual who is an
15 accredited representative of an organization that is
16 recognized under subsection (b).

17 (4) ACCREDITED OFFICIALS.—An accredited of-
18 ficial, in the United States, of the government to
19 which an alien owes allegiance, if the official appears
20 solely in an official capacity and with the alien's con-
21 sent.

22 (5) GRANDFATHER.—A person, other than a
23 representative of an organization described in sub-
24 section (b), who on December 23, 1952, was author-
25 ized to practice before the Board of Immigration Ap-

1 peals and the Immigration and Naturalization Serv-
2 ice.

3 (b) RECOGNITION OF QUALIFIED ORGANIZATIONS;
4 ACCREDITATION OF REPRESENTATIVES.—

5 (1) IN GENERAL.—The Attorney General shall
6 establish a process—

7 (A) for the recognition of nonprofit reli-
8 gious, charitable, social service, or similar orga-
9 nization established in the United States; and

10 (B) for the accreditation of representatives
11 of a recognized organization to provide immi-
12 gration services, including practicing before the
13 Immigration and Naturalization Service and the
14 Board of Immigration Appeals, on behalf of the
15 organization.

16 (2) QUALIFICATIONS.—

17 (A) RECOGNITION.—An organization shall
18 not be recognized under paragraph (1)(A) un-
19 less the organization establishes to the satisfac-
20 tion of the Attorney General that it has at its
21 disposal adequate knowledge, information and
22 experience.

23 (B) ACCREDITATION OF REPRESENTA-
24 TIVES.—A representative may not be accredited

1 under paragraph (1)(B) unless the
2 representative—

3 (i) is of good moral character; and

4 (ii) has sufficient experience and
5 knowledge of immigration and naturaliza-
6 tion law and procedure to adequately rep-
7 resent clients of the organization in immi-
8 gration matters.

9 (3) APPLICATION PROCESS.—The Attorney
10 General shall establish an application process for the
11 recognition of organizations and accreditation of rep-
12 resentatives of such organizations under this sub-
13 section. As a condition for continuing the recognition
14 of an organization or accreditation of a representa-
15 tive, the Attorney General may require the periodic
16 submission of such application or information as the
17 Attorney General may specify.

18 (4) WITHDRAWAL OF RECOGNITION OR AC-
19 CREDITATION.—The Attorney General may with-
20 draw recognition of any organization or accreditation
21 of a representative if the organization or representa-
22 tive has failed to maintain the qualifications to be so
23 recognized or accredited, under a process specified
24 by the Attorney General.

1 (5) USE OF CURRENT STANDARDS.—To the ex-
2 tent practicable, the Attorney General shall carry
3 out this subsection in a manner consistent with the
4 recognition and accreditation process provided by
5 the Board of Immigration Appeals under section
6 292.2 of title 8, Code of Federal Regulations, as in
7 effect as of the date of the enactment of this Act.

8 (c) CONSTRUCTION.—Nothing in section 3 shall be
9 construed as applying to a person who does not receive
10 direct or indirect compensation for provision of services.

11 **SEC. 5. EDUCATION THROUGH COMMUNITY OUTREACH**
12 **PROGRAMS.**

13 The Attorney General is authorized to provide grants
14 to States in order to provide community outreach pro-
15 grams through State and local government agencies to
16 educate individuals who use immigration consultants re-
17 garding the requirements of this Act.

18 **SEC. 6. NON-PREEMPTION OF MORE PROTECTIVE STATE**
19 **LAWS.**

20 The provisions of this Act supersede State laws only
21 to the extent the State laws prevent the application of sec-
22 tion 3. States may impose requirements that are in addi-
23 tion to the requirements established under this Act.

1 **SEC. 7. CONFIDENTIALITY OF INFORMATION.**

2 (a) IN GENERAL.—Except as provided in this section,
3 neither the Attorney General, nor any other official or em-
4 ployee of the Department of Justice, or bureau or agency
5 thereof, may use the information furnished by any person
6 (including an alien who is not lawfully present in the
7 United States) specifically in relation to a violation of this
8 Act for any purpose other than to carry out this Act (in-
9 cluding prosecutions under section 3). If such information
10 is furnished by an alien who is not lawfully present in the
11 United States, such information shall not be used for the
12 purpose of identifying and removing the person from the
13 United States or imposing other sanctions against the per-
14 son, except if the information furnished is false or fraudu-
15 lent.

16 (b) CONSTRUCTION.—Nothing in this section shall be
17 construed to limit the use, or release, for immigration en-
18 forcement purposes or law enforcement purposes of infor-
19 mation contained in files or records of the Immigration
20 and Naturalization Service, other than information fur-
21 nished under subsection (a) that is not available from any
22 other source.

23 (c) CRIME.—Whoever knowingly uses information in
24 violation of this section shall be fined not more than
25 \$10,000.

1 **SEC. 8. EFFECTIVE DATE.**

2 This Act applies to actions taken as an immigration
3 consultant on and after such date (not later than 2 years
4 after the date of the enactment of this Act) as the Attor-
5 ney General shall specify in regulations.

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