

109TH CONGRESS
2^D SESSION

H. R. 6190

To reduce the number of innocent victims of immigration fraud by making certain immigration consultant practices criminal offenses.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2006

Mr. OWENS introduced the following bill, which was referred to the Committee on the Judiciary

A BILL

To reduce the number of innocent victims of immigration fraud by making certain immigration consultant practices criminal offenses.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immigration Relief and
5 Protection Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The number of fraudulent immigration con-
9 sultants preying upon immigrants seeking assistance
10 has risen dramatically in recent years.

1 (2) Fraudulent immigration consultants extract
2 money from aliens, including fees or compensation
3 for services not provided, and give false promises,
4 misleading statements, and baseless guarantees.

5 (3) Many unscrupulous consultants claim that
6 they are immigration attorneys.

7 (4) Fraudulent consultants claim that they have
8 close connections to United States Citizenship and
9 Immigration Services.

10 (5) Victims of immigration fraud are usually
11 afraid to report fraud to Government officials be-
12 cause they are unsure of their rights and are too
13 fearful of deportation.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) ATTORNEY.—The term “attorney” means
17 any individual who is a member in good standing of
18 the bar of the highest court of any State, possession,
19 territory, Commonwealth, or the District of Colum-
20 bia, and is not under any order of any court sus-
21 pending, enjoining, restraining, disbarring, or other-
22 wise restricting such person in the practice of law.

23 (2) ACCREDITED REPRESENTATIVE.—The term
24 “accredited representative” means any individual or
25 organization that has been accredited by the Board

1 of Immigration Appeals pursuant to section 292 of
2 title 8, Code of Federal Regulations.

3 (3) COMPENSATION.—The term “compensa-
4 tion” means money, property, promise of payment,
5 or any other consideration, provided directly or indi-
6 rectly.

7 (4) IMMIGRATION CONSULTANT.—The term
8 “immigration consultant”—

9 (A) means any individual, organization, or
10 entity that in exchange for compensation or the
11 expectation of compensation, promises to pro-
12 vide or provides assistance or advice on an im-
13 migration matter; and

14 (B) does not include any attorney, indi-
15 vidual employed by and working under the di-
16 rect supervision of one or more attorneys, or
17 any accredited representative.

18 (5) IMMIGRATION MATTER.—The term “immi-
19 gration matter” means any proceeding, filing, or ac-
20 tion affecting the immigration or citizenship status
21 of any individual which arises under any immigra-
22 tion or naturalization law, Executive order, Presi-
23 dential proclamation, or action of United States Citi-
24 zenship and Immigration Services, other component

1 of the Department of Homeland Security, the De-
2 partment of State, or the Department of Labor.

3 **SEC. 4. PROHIBITED ACTS AND CRIMINAL PENALTIES.**

4 (a) PROHIBITED ACTS.—It shall be unlawful for any
5 immigration consultant to intentionally or with reckless
6 disregard for the truth to—

7 (1) make any false or misleading statement,
8 guarantee, or promise to any client, prospective cli-
9 ent, or the public while providing, offering, or adver-
10 tising services;

11 (2) make any statement indicating or implying
12 that the immigration consultant can or will obtain
13 special favors from, or has special influence with,
14 any government agency;

15 (3) demand or retain any fees or compensation
16 for services not performed, or costs that are not ac-
17 tually incurred;

18 (4) represent that a fee may be charged, or
19 charge a fee for the distribution, provision, or sub-
20 mission of any official document or form issued or
21 promulgated by a State or Federal governmental en-
22 tity, or for a referral of the client to another indi-
23 vidual or entity that is qualified to provide services
24 or assistance which the immigration consultant will
25 not provide;

1 (5) refuse to return any document or fail to
2 provide copies supplied by, prepared on behalf of, or
3 paid for by, any client or prospective client, even in
4 the event of a fee dispute;

5 (6) select forms to be filed with any government
6 agency in connection with an immigration matter;

7 (7) disclose any information to, or file any
8 forms or documents with, immigration or other au-
9 thorities without the knowledge or consent of the cli-
10 ent;

11 (8) engage in the unauthorized practice of law
12 in connection with an immigration matter, as such
13 is defined by applicable State statutes, regulations,
14 rules, or municipal ordinances, in conjunction with
15 an immigration matter; or

16 (9) hold himself or herself out to any client,
17 prospective client, or to the public as engaging in or
18 entitled to engage in the practice of law, or uses any
19 title in any language, such as “notario” or “notary
20 public”, to convey attorney status.

21 (b) CRIMINAL PENALTIES.—Any immigration con-
22 sultant who commits any act set forth in subsection (a)
23 shall be fined under title 18, United States Code, impris-
24 oned not more than five years, or both.

1 **SEC. 5. ADVERTISEMENT DISCLAIMER, NOTICE, AND WRIT-**
2 **TEN CONTRACT.**

3 (a) **ADVERTISEMENT DISCLAIMER.**—It shall be un-
4 lawful for an immigration consultant to make any adver-
5 tisement unless the advertisement includes a statement
6 that the immigration consultant is not an attorney, that
7 the immigration consultant cannot provide legal advice or
8 select forms for use by clients or prospective clients, and
9 that the immigration consultant cannot obtain special fa-
10 vors from and has no special influence with, United States
11 Citizenship and Immigration Services.

12 (b) **NOTICE.**—It shall be unlawful for an immigration
13 consultant to perform immigration consulting services un-
14 less, in any office in which an immigration consultant
15 meets with clients or prospective clients, the immigration
16 consultant has conspicuously displayed a notice, no small-
17 er than 12 inches by 20 inches and in boldface print no
18 smaller than 1 inch in height, that includes—

19 (1) a statement that the immigration consultant
20 is not an attorney, cannot select forms for use by
21 the client, and cannot provide legal services in any
22 immigration matter; and

23 (2) a statement that the immigration consultant
24 cannot obtain special favors from, and has no special
25 influence with, United States Citizenship and Immi-
26 gration Services.

1 (c) WRITTEN CONTRACT.—It shall be unlawful for an
2 immigration consultant knowingly to act in an immigra-
3 tion matter unless the immigration consultant has entered
4 into a written contract (in both English and the other
5 principal language of the client, if not English) with the
6 client that includes—

7 (1) a description of all services to be performed
8 by the immigration consultant under the agreement;

9 (2) the amount to be paid by the client;

10 (3) a statement, printed on the face of the con-
11 tract in boldface type no smaller than 10 point, that
12 the immigration consultant is not licensed and au-
13 thorized to practice law in the State in which the im-
14 migration consultant’s services are to be performed
15 and is unable to perform legal services;

16 (4) a statement, printed on the face of the con-
17 tract in boldface type no smaller than 10 point, that
18 any document provided to the immigration consult-
19 ant in connection with the immigration matter may
20 not be retained by the immigration consultant and
21 must be returned to the client at any time requested
22 by the client;

23 (5) a statement that the client may rescind the
24 contract within 72 hours of the time it is executed

1 and receive a full refund of all monies paid to the
2 immigration consultant; and

3 (6) a statement certifying that a copy of the
4 contract has been provided to the client upon execu-
5 tion of the contract.

6 (d) CRIMINAL PENALTIES.—Any immigration con-
7 sultant who knowingly fails to perform any requirement
8 set forth in this section shall be fined under title 18,
9 United States Code, imprisoned not more than one year,
10 or both.

11 **SEC. 6. CIVIL ENFORCEMENT.**

12 (a) AGGRIEVED PARTIES.—Any individual aggrieved
13 by reason of any violation of section 4 or 5 may commence
14 a civil action in any appropriate United States district
15 court for the relief set forth in subsection (d).

16 (b) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—
17 If the Attorney General has reasonable cause to believe
18 that any individual or group of individuals is being, has
19 been, or may be injured by reason of any violation of sec-
20 tion 4 or 5, the Attorney General may commence a civil
21 action in any appropriate United States district court for
22 the relief set forth in subsections (d) and (e).

23 (c) CIVIL ACTIONS BY STATE ATTORNEYS GEN-
24 ERAL.—If the attorney general of a State has reasonable
25 cause to believe that any individual or group of individuals

1 is being, has been, or may be injured by reason of any
2 violation of section 4 or 5, such attorney general may com-
3 mence a civil action in the name of such State, as parens
4 patriae on behalf of individuals residing in such State, in
5 any appropriate United States district court for the relief
6 set forth in subsections (d) and (e).

7 (d) RELIEF.—In any civil action brought under this
8 section, the court may award appropriate relief, including
9 temporary, preliminary, or permanent injunctive relief and
10 compensatory and punitive damages, as well as the costs
11 of suit and reasonable fees for attorneys and expert wit-
12 nesses. Injunctive relief may include, where appropriate,
13 an order temporarily or permanently enjoining the defend-
14 ant from serving as an immigration consultant in any im-
15 migration matter.

16 (e) CIVIL PENALTIES.—In addition to the relief pro-
17 vided for in subsection (d) which the Attorney General or
18 any State attorney general may seek on behalf of an ag-
19 grieved individual or individuals, the court may also assess
20 a civil penalty not exceeding \$50,000 for a first violation
21 and \$100,000 for subsequent violations when sought by
22 the Attorney General or any State attorney general.

23 **SEC. 7. TASK FORCES.**

24 (a) ESTABLISHMENT OF TASK FORCES.—The Attor-
25 ney General shall establish task forces composed of Fed-

1 eral investigatory and prosecutorial personnel, and any
2 State or local personnel who may be assigned by the
3 States in which they are employed to serve, in the eight
4 districts determined by the Attorney General to contain
5 the largest numbers of aliens subject to violations of sec-
6 tions 4 and 5. Such task forces shall investigate, crimi-
7 nally prosecute, and bring civil suits based on violations
8 of sections 4 and 5, section 274C of the Immigration and
9 Nationality Act (8 U.S.C. 1324c), section 1546 of title 18,
10 United States Code, and any other applicable Federal,
11 State, or local law.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There is authorized to be
14 appropriated to the Secretary of Homeland Security
15 \$10,000,000 for fiscal year 2007 and each subse-
16 quent fiscal year to carry out this section.

17 (2) AVAILABILITY OF FUNDS.—Amounts appro-
18 priated pursuant to paragraph (1) are authorized to
19 remain available until expended.

20 **SEC. 8. OUTREACH BY SECRETARY OF HOMELAND SECU-**
21 **RITY.**

22 (a) OUTREACH PROGRAM.—The Secretary of Home-
23 land Security shall establish a program to inform aliens
24 about—

1 (1) the obligations of immigration consultants
2 under this Act;

3 (2) methods of law enforcement, redress, and
4 assistance under this Act and any other related law,
5 regulation, or program established by the Depart-
6 ment of Homeland Security or other Federal, State,
7 or local agency; and

8 (3) the hotline to be established under sub-
9 section (b).

10 (b) HOTLINE.—The Secretary of Homeland Security
11 shall establish a toll-free hotline to be used by aliens and
12 others with knowledge or information of violations of sec-
13 tions 4 and 5, section 274C of the Immigration and Na-
14 tionality Act (8 U.S.C. 1324c), section 1546 of title 18,
15 United States Code, or any other applicable Federal,
16 State, or local law. Callers may provide information anon-
17 ymously. In situations determined appropriate by the Sec-
18 retary of Homeland Security, callers or information pro-
19 vided by callers shall be forwarded to appropriate Federal
20 or State law enforcement authorities.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There is authorized to be
23 appropriated to the Secretary of Homeland Security
24 \$7,000,000 for fiscal year 2007 and each subsequent
25 fiscal year in order to carry out this section.

1 (2) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated pursuant to paragraph (1) are authorized to
3 remain available until expended.

4 **SEC. 9. CONFIDENTIALITY.**

5 (a) IN GENERAL.—Except as otherwise provided in
6 this section, neither the Secretary of Homeland Security
7 nor any other official or employee of the Department of
8 Homeland Security or of any bureau or agency thereof
9 may use the information provided by any individual (in-
10 cluding an alien not lawfully present in the United States)
11 in relation to a violation of sections 4 and 5 for any pur-
12 pose other than to carry out this Act. If such information
13 is provided by an alien not lawfully present in the United
14 States, such information shall not be used for the purpose
15 of identifying or removing the alien from the United
16 States or imposing other sanctions against the alien.

17 (b) EXCEPTION.—Subsection (a) shall not apply if
18 the Secretary of Homeland Security or other official or
19 employee of the Department of Homeland Security or of
20 any bureau or agency thereof determines that the informa-
21 tion referred to in such subsection was not provided in
22 good faith in conjunction with a credible report relating
23 to a violation of this Act, but was provided in order to
24 evade the application of Federal immigration law.

1 (c) CRIMINAL PENALTY.—Whoever knowingly uses
2 information in violation of this section shall be fined not
3 more than \$10,000.

4 **SEC. 10. NONPREEMPTION OF MORE PROTECTIVE STATE**
5 **AND LOCAL LAWS.**

6 The provisions of this Act shall supersede State and
7 local laws, regulations, and municipal ordinances only to
8 the extent that such State and local laws, regulations, and
9 municipal ordinances impede the application of any provi-
10 sion of this Act. States and localities may impose require-
11 ments supplementing the requirements imposed by this
12 Act.

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