

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.

1 "Employed by" means that a person is on the payroll of the  
2 employer and the employer deducts from the employee's paycheck  
3 social security and withholding taxes, or receives  
4 compensation from the employer on a commission basis or as an  
5 independent contractor.

6 "Reasonable costs" means actual costs or, if actual costs  
7 cannot be calculated, reasonably estimated costs of such things  
8 as photocopying, telephone calls, document requests, and  
9 filing fees for immigration forms, and other nominal costs  
10 incidental to assistance in an immigration matter.

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

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

26 (1) An attorney licensed to practice law in any state

1 or territory of the United States, or of any foreign  
2 country when authorized by the Illinois Supreme Court, to  
3 the extent the attorney renders immigration assistance  
4 service in the course of his or her practice as an  
5 attorney.

6 (2) A legal intern, as described by the rules of the  
7 Illinois Supreme Court, employed by and under the direct  
8 supervision of a licensed attorney and rendering  
9 immigration assistance service in the course of the  
10 intern's employment.

11 (3) A not-for-profit organization recognized by the  
12 Board of Immigration Appeals under 8 C.F.R. 292.2(a) and  
13 employees of those organizations accredited under 8 C.F.R.  
14 292.2(d).

15 (4) Any organization employing or desiring to employ a  
16 documented or undocumented immigrant ~~an alien~~ or  
17 nonimmigrant alien, where the organization, its employees  
18 or its agents provide advice or assistance in immigration  
19 matters to documented or undocumented immigrant ~~alien~~ or  
20 nonimmigrant alien employees or potential employees  
21 without compensation from the individuals to whom such  
22 advice or assistance is provided.

23 Nothing in this Section shall regulate any business to the  
24 extent that such regulation is prohibited or preempted by State  
25 or federal law.

26 All other persons providing or offering to provide

1 immigration assistance service shall be subject to this  
2 Section.

3 (b) Any person who provides or offers to provide  
4 immigration assistance service may perform only the following  
5 services:

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

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

13 (3) Translating information on forms to a customer and  
14 translating the customer's answers to questions posed on  
15 those forms.

16 (4) Securing for the customer supporting documents  
17 currently in existence, such as birth and marriage  
18 certificates, which may be needed to be submitted with  
19 government agency forms.

20 (5) Translating documents from a foreign language into  
21 English.

22 (6) Notarizing signatures on government agency forms,  
23 if the person performing the service is a notary public of  
24 the State of Illinois.

25 (7) Making referrals, without fee, to attorneys who  
26 could undertake legal representation for a person in an

1 immigration matter.

2 (8) Preparing or arranging for the preparation of  
3 photographs and fingerprints.

4 (9) Arranging for the performance of medical testing  
5 (including X-rays and AIDS tests) and the obtaining of  
6 reports of such test results.

7 (10) Conducting English language and civics courses.

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

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

25 No person subject to this Act shall charge fees directly or  
26 indirectly for referring an individual to an attorney or for

1 any immigration matter not authorized by this Article, provided  
2 that a person may charge a fee for notarizing documents as  
3 permitted by the Illinois Notary Public Act.

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

7 (d) Except as provided otherwise in this subsection, before  
8 providing any assistance in an immigration matter a person  
9 shall provide the customer with a written contract that  
10 includes the following:

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

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

14 (3) A statement that documents submitted in support of  
15 an application for nonimmigrant, immigrant, or  
16 naturalization status may not be retained by the person for  
17 any purpose, including payment of compensation or costs.

18 This subsection does not apply to a not-for-profit  
19 organization that provides advice or assistance in immigration  
20 matters to clients without charge beyond a reasonable fee to  
21 reimburse the organization's or clinic's reasonable costs  
22 relating to providing immigration services to that client.

23 (e) Any person who provides or offers immigration  
24 assistance service and is not exempted from this Section, shall  
25 post signs at his or her place of business, setting forth  
26 information in English and in every other language in which the

1 person provides or offers to provide immigration assistance  
2 service. Each language shall be on a separate sign. Signs shall  
3 be posted in a location where the signs will be visible to  
4 customers. Each sign shall be at least 11 inches by 17 inches,  
5 and shall contain the following:

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

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

12 (3) The fee schedule.

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

16 (5) Additional information the Attorney General may  
17 require by rule.

18 Every person engaged in immigration assistance service who  
19 is not an attorney who advertises immigration assistance  
20 service in a language other than English, whether by radio,  
21 television, signs, pamphlets, newspapers, or other written  
22 communication, with the exception of a single desk plaque,  
23 shall include in the document, advertisement, stationery,  
24 letterhead, business card, or other comparable written  
25 material the following notice in English and the language in  
26 which the written communication appears. This notice shall be

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

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

15 If not subject to penalties under subsection (a) of Section  
16 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations  
17 of this subsection shall result in a fine of \$1,000. Violations  
18 shall not preempt or preclude additional appropriate civil or  
19 criminal penalties.

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

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

24 (h) A customer has the right to rescind a contract within  
25 72 hours after his or her signing of the contract.

26 (i) Any documents identified in paragraph (3) of subsection



1 (c) shall be returned upon demand of the customer.

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

5 (1) Make any statement that the person can or will  
6 obtain special favors from or has special influence with  
7 the United States Immigration and Naturalization Service  
8 or any other government agency.

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

10 (2.5) Accept payment in exchange for providing legal  
11 advice or any other assistance that requires legal  
12 analysis, legal judgment, or interpretation of the law.

13 (3) Refuse to return documents supplied by, prepared on  
14 behalf of, or paid for by the customer upon the request of  
15 the customer. These documents must be returned upon request  
16 even if there is a fee dispute between the immigration  
17 assistant and the customer.

18 (4) Represent or advertise, in connection with the  
19 provision assistance in immigration matters, other titles  
20 of credentials, including but not limited to "notary  
21 public" or "immigration consultant," that could cause a  
22 customer to believe that the person possesses special  
23 professional skills or is authorized to provide advice on  
24 an immigration matter; provided that a notary public  
25 appointed by the Illinois Secretary of State may use the  
26 term "notary public" if the use is accompanied by the

1 statement that the person is not an attorney; the term  
2 "notary public" may not be translated to another language;  
3 for example "notario" is prohibited.

4 (5) Provide legal advice, recommend a specific course  
5 of legal action, or provide any other assistance that  
6 requires legal analysis, legal judgment, or interpretation  
7 of the law.

8 (6) Make any misrepresentation of false statement,  
9 directly or indirectly, to influence, persuade, or induce  
10 patronage.

11 (k) (Blank)

12 (l) (Blank)

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

18 Upon his own information or upon the complaint of any  
19 person, the Attorney General or any State's Attorney, or a  
20 municipality with a population of more than 1,000,000, may  
21 maintain an action for injunctive relief and also seek a civil  
22 penalty not exceeding \$50,000 in the circuit court against any  
23 person who violates any provision of this Section. These  
24 remedies are in addition to, and not in substitution for, other  
25 available remedies.

26 If the Attorney General or any State's Attorney or a

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

15 (n) No unit of local government, including any home rule  
16 unit, shall have the authority to regulate immigration  
17 assistance services unless such regulations are at least as  
18 stringent as those contained in this amendatory Act of 1992. It  
19 is declared to be the law of this State, pursuant to paragraph  
20 (i) of Section 6 of Article VII of the Illinois Constitution of  
21 1970, that this amendatory Act of 1992 is a limitation on the  
22 authority of a home rule unit to exercise powers concurrently  
23 with the State. The limitations of this Section do not apply to  
24 a home rule unit that has, prior to the effective date of this  
25 amendatory Act, adopted an ordinance regulating immigration  
26 assistance services.

1           (o) This Section is severable under Section 1.31 of the  
2 Statute on Statutes.

3           (p) The Attorney General shall issue rules not inconsistent  
4 with this Section for the implementation, administration, and  
5 enforcement of this Section. The rules may provide for the  
6 following:

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

10                (2) Standard forms for use in the administration of  
11 this Section.

12                (3) Any additional requirements deemed necessary.

13                (Source: P.A. 93-1001, eff. 8-23-04; 94-238, eff. 7-14-05.)