

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0765.01 Jennifer Berman x3286

HOUSE BILL 16-1391

HOUSE SPONSORSHIP

Pabon, McCann, Moreno, Salazar

SENATE SPONSORSHIP

Lundberg,

House Committees
Judiciary

Senate Committees
Judiciary

SENATE
Amended 3rd Reading
April 25, 2016

A BILL FOR AN ACT

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

SENATE
Amended 2nd Reading
April 22, 2016

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

HOUSE
3rd Reading Unamended
April 14, 2016

Section 1 of the bill establishes that if a person, other than a licensed attorney or person authorized under federal law to represent others in immigration matters, engages in certain practices that amount to providing or offering to provide legal advice or legal services in an immigration matter, the person is engaged in a deceptive trade practice. The attorney general or a district attorney may seek civil penalties against

HOUSE
2nd Reading Unamended
April 13, 2016

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the person under the "Colorado Consumer Protection Act".

Section 2 adds to the notice a notary public must provide in any advertisement of his or her services that the notary is not an immigration consultant.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 6-1-726 as
3 follows:

4 **6-1-726. Immigration-related services provided by**
5 **nonattorneys - deceptive trade practice. (1) Legislative declaration.**

6 THE GENERAL ASSEMBLY HEREBY FINDS AND DETERMINES THAT THE
7 PRACTICE BY SOME NONATTORNEYS OF PROVIDING LEGAL ADVICE OR
8 SERVICES IN IMMIGRATION MATTERS NEGATIVELY IMPACTS THE PEOPLE
9 WHO USE THEIR SERVICES AND THE PUBLIC INTEREST IN PREVENTING
10 FRAUD AND PROVIDING ADEQUATE OPPORTUNITIES TO PURSUE
11 IMMIGRATION RELIEF. WHILE THE COLORADO SUPREME COURT REGULATES
12 THE PRACTICE OF LAW IN THIS STATE, THE GENERAL ASSEMBLY HEREBY
13 FINDS AND DECLARES THAT IT IS IN THE PUBLIC INTEREST TO PROHIBIT
14 NONATTORNEYS FROM ENGAGING IN DECEPTIVE TRADE PRACTICES IN
15 IMMIGRATION SERVICES IN ADDITION TO THE COLORADO SUPREME
16 COURT'S PROHIBITION AGAINST THE UNAUTHORIZED PRACTICE OF LAW.

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

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

21 (b) (I) "IMMIGRATION MATTER" MEANS A PROCEEDING, FILING, OR
22 OTHER ACTION THAT AFFECTS A PERSON'S IMMIGRANT, NONIMMIGRANT,
23 OR CITIZENSHIP STATUS THAT ARISES UNDER AN IMMIGRATION AND

1 NATURALIZATION LAW, EXECUTIVE ORDER, OR PRESIDENTIAL
2 PROCLAMATION OR PURSUANT TO AN ACTION OF THE UNITED STATES
3 CITIZENSHIP AND IMMIGRATION SERVICES, THE UNITED STATES
4 IMMIGRATION AND CUSTOMS ENFORCEMENT, THE UNITED STATES
5 DEPARTMENT OF LABOR, THE UNITED STATES DEPARTMENT OF STATE, THE
6 UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED STATES
7 DEPARTMENT OF HOMELAND SECURITY, THE BOARD OF IMMIGRATION
8 APPEALS, OR THEIR SUCCESSOR AGENCIES, OR ANY OTHER ENTITY HAVING
9 JURISDICTION OVER IMMIGRATION LAW.

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

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

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

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

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

25 (b) IF A PERSON OTHER THAN A PERSON LISTED IN SUBPARAGRAPH
26 (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3) ENGAGES IN OR
27 OFFERS TO ENGAGE IN ONE OR MORE OF THE FOLLOWING ACTS OR

1 PRACTICES IN AN IMMIGRATION MATTER FOR COMPENSATION, THE PERSON
2 ENGAGES IN A DECEPTIVE TRADE PRACTICE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (I) OFFER OR PROVIDE LANGUAGE TRANSLATION OR TYPING

- 1 SERVICES, REGARDLESS OF WHETHER COMPENSATION IS SOUGHT;
- 2 (II) SECURE OR OFFER TO SECURE EXISTING DOCUMENTS, SUCH AS
- 3 BIRTH AND MARRIAGE CERTIFICATES, FOR A PERSON SEEKING SERVICES; OR
- 4 (III) OFFER OTHER IMMIGRATION-RELATED SERVICES THAT:
- 5 (A) ARE NOT PROHIBITED UNDER THIS SUBSECTION (3), SECTION
- 6 12-55-110.3, C.R.S., OR ANY OTHER PROVISION OF LAW; AND
- 7 (B) DO NOT CONSTITUTE THE PRACTICE OF LAW.

8 **SECTION 2.** In Colorado Revised Statutes, 12-55-110.3, amend

9 (1) (a), (3) (b) (IV), and (3) (b) (V); and add (3) (b) (VI) as follows:

10 **12-55-110.3. Advertisements for services - unauthorized**

11 **practice of law - prohibited conduct - penalties.** (1) (a) A notary public

12 who is not a licensed attorney in the state of Colorado and who advertises,

13 including by signage, his or her services in a language other than English

14 shall include in the advertisement the following notice, both in English

15 and in the language of the advertisement:

16 I AM NOT AN ATTORNEY LICENSED TO PRACTICE

17 LAW IN THE STATE OF COLORADO AND I MAY

18 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR

19 LEGAL ADVICE. I AM NOT AN IMMIGRATION

20 CONSULTANT, NOR AM I AN EXPERT ON IMMIGRATION

21 MATTERS.

22 IF YOU SUSPECT FRAUD, YOU MAY CONTACT THE COLORADO

23 ATTORNEY GENERAL'S OFFICE OR THE COLORADO SUPREME

24 COURT.

25 (3) (b) A notary public who is not an attorney licensed to practice

26 law in Colorado is prohibited from:

27 (IV) Soliciting or accepting compensation to obtain relief of any

1 kind on behalf of another from any officer, agency, or employee of the
2 state of Colorado or of the United States; or

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

7 (VI) ENGAGING IN CONDUCT THAT CONSTITUTES A DECEPTIVE
8 TRADE PRACTICE PURSUANT TO SECTION 6-1-726, C.R.S.

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

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