

SSB 5023 - H COMM AMD
By Committee on Judiciary

ADOPTED AS AMENDED 04/05/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.154.010 and 1989 c 117 s 1 are each amended to
4 read as follows:

5 The legislature finds and declares that ~~((assisting persons
6 regarding immigration matters))~~ the practice by nonlawyers and other
7 unauthorized persons of providing legal advice and legal services to
8 others in immigration matters substantially affects the public
9 interest. The practice~~((s))~~ of ~~((immigration assistants have a
10 significant impact on the residents of the state of Washington))~~
11 nonlawyers and other unauthorized persons providing immigration-related
12 legal advice and legal services for compensation may impact the ability
13 of their customers to reside and work within the United States and to
14 establish and maintain stable families and business relationships. The
15 legislature further finds and declares that the previous scheme for
16 regulating the behavior of nonlawyers and other unauthorized persons
17 who provide immigration-related services is inadequate to address the
18 level of unfair and deceptive practices that exists in the marketplace
19 and often contributes to the unauthorized practice of law. It is the
20 intent of the legislature, through this act, to ~~((establish rules of
21 practice and conduct for immigration assistants to promote honesty and
22 fair dealing with residents and to preserve public confidence))~~
23 prohibit nonlawyers and other unauthorized persons from providing
24 immigration-related services that constitute the practice of law.

25 **Sec. 2.** RCW 19.154.020 and 1989 c 117 s 2 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

1 (1) (~~"Immigration assistant" means every person who, for~~
2 ~~compensation or the expectation of compensation, gives nonlegal~~
3 ~~assistance on an immigration matter. That assistance is limited to:~~

4 ~~(a) Transcribing responses to a government agency form selected by~~
5 ~~the customer which is related to an immigration matter, but does not~~
6 ~~include advising a person as to his or her answers on those forms;~~

7 ~~(b) Translating a person's answer to questions posed on those~~
8 ~~forms;~~

9 ~~(c) Securing for a person supporting documents currently in~~
10 ~~existence, such as birth and marriage certificates, which may be needed~~
11 ~~to submit with those forms;~~

12 ~~(d) Making referrals to attorneys who could undertake legal~~
13 ~~representation for a person in an immigration matter.~~

14 (2)) "Immigration matter" means any proceeding, filing, or action
15 affecting the nonimmigrant, immigrant, or citizenship status of any
16 person (~~which arises~~) arising under immigration and naturalization
17 law, executive order, or presidential proclamation, or (~~which arises~~
18 ~~under~~) pursuant to any action of the United States citizenship and
19 immigration (~~and naturalization~~) services, the United States
20 department of labor, (~~or~~) the United States department of state, the
21 United States department of justice, the United States department of
22 homeland security, the board of immigration appeals, or any other
23 entity or agency having jurisdiction over immigration law.

24 ((3)) (2) "Compensation" means money, property, or anything else
25 of value.

26 (3) "Practice of law" has the definition given to it by the supreme
27 court of Washington whether by rule or decision, and includes all
28 exceptions and exclusions to that definition currently in place or
29 hereafter created, whether by rule or decision.

30 **Sec. 3.** RCW 19.154.060 and 1989 c 117 s 6 are each amended to read
31 as follows:

32 (~~Immigration assistants shall offer or provide only nonlegal~~
33 ~~assistance in an immigration matter as defined in RCW 19.154.020.)) (1)
34 Persons, other than those licensed to practice law in this state or
35 otherwise permitted to practice law or represent others under federal
36 law in an immigration matter, are prohibited from engaging in the
37 practice of law in an immigration matter for compensation.~~

1 (2) Persons, other than those licensed to practice law in this
2 state or otherwise permitted to practice law or represent others under
3 federal law in an immigration matter, are prohibited from engaging in
4 the following acts or practices, for compensation:

5 (a) Selecting or assisting another in selecting, or advising
6 another as to his or her answers on, a government agency form or
7 document in an immigration matter;

8 (b) Selecting or assisting another in selecting, or advising
9 another in selecting, a benefit, visa, or program to apply for in an
10 immigration matter;

11 (c) Soliciting to prepare documents for, or otherwise representing
12 the interests of, another in a judicial or administrative proceeding in
13 an immigration matter;

14 (d) Explaining, advising, or otherwise interpreting the meaning or
15 intent of a question on a government agency form in an immigration
16 matter;

17 (e) Charging a fee for referring another to a person licensed to
18 practice law;

19 (f) Selecting, drafting, or completing legal documents affecting
20 the legal rights of another in an immigration matter.

21 (3) Persons, other than those holding an active license to practice
22 law issued by the Washington state bar association or otherwise
23 permitted to practice law or represent others under federal law in an
24 immigration matter, are prohibited from engaging in the following acts
25 or practices, regardless of whether compensation is sought:

26 (a) Representing, either orally or in any document, letterhead,
27 advertisement, stationery, business card, web site, or other comparable
28 written material, that he or she is a notario publico, notario,
29 immigration assistant, immigration consultant, immigration specialist,
30 or using any other designation or title, in any language, that conveys
31 or implies that he or she possesses professional legal skills in the
32 area of immigration law;

33 (b) Representing, in any language, either orally or in any
34 document, letterhead, advertisement, stationery, business card, web
35 site, or other comparable written material, that he or she can or is
36 willing to provide services in an immigration matter, if such services
37 would constitute the practice of law.

1 (4)(a) The prohibitions of subsections (1) through (3) of this
2 section shall not apply to the activities of nonlawyer assistants
3 acting under the supervision of a person holding an active license to
4 practice law issued by the Washington state bar association or
5 otherwise permitted to practice law or represent others under federal
6 law in an immigration matter.

7 (b) This section does not prohibit a person from offering
8 translation services, regardless of whether compensation is sought.
9 Translating words contained on a government form from English to
10 another language and translating a person's words from another language
11 to English does not constitute the unauthorized practice of law.

12 (5) In addition to complying with the prohibitions of subsections
13 (1) through (3) of this section, persons licensed as a notary public
14 under chapter 42.44 RCW who do not hold an active license to practice
15 law issued by the Washington state bar association shall not use the
16 term notario publico, notario, immigration assistant, immigration
17 consultant, immigration specialist, or any other designation or title,
18 in any language, that conveys or implies that he or she possesses
19 professional legal skills in the areas of immigration law, when
20 advertising notary public services in the conduct of their business.
21 A violation of any provision of this chapter by a person licensed as a
22 notary public under chapter 42.44 RCW shall constitute unprofessional
23 conduct under the uniform regulation of business and professions act,
24 chapter 18.235 RCW.

25 **Sec. 4.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read
26 as follows:

27 (1) The legislature finds and declares that any violation of this
28 chapter substantially affects the public interest and is an unfair and
29 deceptive act or practice and unfair method of competition in the
30 conduct of trade or commerce as set forth in RCW 19.86.020.

31 (2) In addition to all remedies available in chapter 19.86 RCW, a
32 person injured by a violation of this chapter may bring a civil action
33 to recover the actual damages proximately caused by a violation of this
34 chapter, or one thousand dollars, whichever is greater.

35 **Sec. 5.** RCW 42.44.030 and 2002 c 86 s 287 are each amended to read
36 as follows:

1 (1) In addition to the unprofessional conduct specified in RCW
2 18.235.130, the director may deny appointment as a notary public to any
3 person based on the following conduct, acts, or conditions:

4 ~~((1))~~ (a) Has had disciplinary action taken against any
5 professional license in this or any other state; ~~((or~~

6 ~~(2))~~ (b) Has engaged in official misconduct as defined in RCW
7 42.44.160(1), whether or not criminal penalties resulted; or

8 (c) Has violated any of the provisions of chapter 19.154 RCW.

9 (2) The director shall deliver a certificate evidencing the
10 appointment to each person appointed as a notary public. The
11 certificate may be signed in facsimile by the governor, the secretary
12 of state, and the director or the director's designee. The certificate
13 must bear a printed seal of the state of Washington.

14 NEW SECTION. Sec. 6. A new section is added to chapter 19.154 RCW
15 to read as follows:

16 Nothing in this chapter shall apply to or regulate any business to
17 the extent such regulation is prohibited or preempted by federal law.

18 **Sec. 7.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to
19 read as follows:

20 This chapter shall be known and cited as the "immigration
21 ~~((assistant practices))~~ services fraud prevention act."

22 NEW SECTION. Sec. 8. The following acts or parts of acts are each
23 repealed:

24 (1) RCW 19.154.030 (Exemptions) and 1989 c 117 s 3;

25 (2) RCW 19.154.040 (Registration required) and 1989 c 117 s 4;

26 (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;

27 (4) RCW 19.154.070 (Written contract--Requirements--Right to
28 rescind) and 1989 c 117 s 7;

29 (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and

30 (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s
31 15.

32 NEW SECTION. Sec. 9. This act takes effect one hundred eighty
33 days after final adjournment of the legislative session in which it is
34 enacted."

1 Correct the title.

EFFECT: Adds language to explicitly state that translation services do not constitute the unauthorized practice of law.

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