

By: Miller of Fort Bend

H.B. No. 3600

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of persons who assist veterans in applying for benefits from the United States Department of Veterans Affairs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 434, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. VETERANS BENEFITS ASSISTANCE

Sec. 434.351. DEFINITIONS. In this subchapter:

(1) "Accredited," with respect to an individual, means the individual is authorized by the United States Department of Veterans Affairs through accreditation recognition to provide assistance to claimants in the preparation, presentation, or prosecution of claims for veterans benefits.

(2) "Assistance," with respect to an initial claim for veterans benefits, means providing claimant-specific advice, direction, and recommendations for or preparing or submitting an application or other forms for veterans benefits on behalf of a claimant.

(3) "Claimant" means an individual who has filed or has expressed to an individual who is a service organization representative, agent, or attorney and who is accredited an intention to file a written application for determination of entitlement to veterans benefits and implementing directives.

1 (4) "Commission" means the Texas Veterans Commission.

2 (5) "Referring person" means a business,
3 organization, or other person who provides or may provide a
4 state-licensed service to a claimant or potential claimant and that
5 has a financial interest in a successful award for veterans
6 benefits from the claimant.

7 (6) "Veterans benefits" means a payment, service,
8 commodity, function, or status, entitlement to which is determined
9 under a law administered by the United States Department of
10 Veterans Affairs pertaining to veterans, dependents, and survivors
11 and other potential beneficiaries under Title 38, Code of Federal
12 Regulations.

13 Sec. 434.352. EXEMPTION. (a) An accredited representative
14 of the following organizations is exempt from this subchapter:

- 15 (1) American Legion;
16 (2) Veterans of Foreign Wars; and
17 (3) Disabled American Veterans.

18 (b) An accredited representative of the commission is
19 exempt from Section 434.353.

20 Sec. 434.353. DISCLOSURE REQUIREMENTS FOR ASSISTING
21 CLAIMANT. (a) Each individual offering to provide or providing
22 assistance to a veteran with an initial claim for veterans benefits
23 shall certify the following in writing on a form approved by the
24 commission:

25 (1) that the individual has provided evidence from the
26 United States Department of Veterans Affairs to the claimant that
27 the individual is:

1 (A) currently accredited, in compliance with the
2 provisions of Title 38, Code of Federal Regulations; or

3 (B) nonaccredited and working as an accredited
4 attorney's representative in compliance with Title 38, Code of
5 Federal Regulations, relating to authorized claim representation
6 under an attorney;

7 (2) that the claimant or members of the claimant's
8 family did not make any payment, direct or indirect, including any
9 disguised fees, in consideration for providing assistance with an
10 initial claim for veterans benefits;

11 (3) that the individual did not coerce the claimant or
12 members of the claimant's family into any monetary arrangement that
13 benefits the individual providing assistance; and

14 (4) that if, as a result of the individual providing
15 assistance for a claim, income is accrued to the individual
16 providing assistance from the sale of a product or services to the
17 claimant or members of the claimant's family, the income is both
18 justified and reasonable as compared with income from similar
19 products or services available in the community.

20 (b) A referring person or the individual providing
21 assistance under this section shall provide to each claimant or
22 each member of the claimant's family a written disclosure of the
23 requirements of this subchapter in a form approved by the
24 commission.

25 (c) The disclosure form required by Subsection (b) must be
26 signed by the individual providing assistance with an initial claim
27 for veterans benefits or the referring person, as applicable, and

1 by the claimant or members of the claimant's family. The individual
2 providing assistance and referring person shall:

3 (1) provide copies of the disclosure form to the
4 claimant or members of the claimant's family receiving assistance
5 or a referral for assistance, as applicable, on the day the form is
6 completed and signed; and

7 (2) retain the disclosure form until the third
8 anniversary of the date the form is signed.

9 Sec. 434.354. COMPLAINT PROCEDURES; AUDITS. (a) The
10 commission shall establish procedures for processing complaints
11 related to the provision of assistance with an initial claim for
12 veterans benefits.

13 (b) The commission shall investigate each complaint filed
14 with the commission to determine whether an individual violated
15 this subchapter.

16 (c) If, after an investigation, the commission determines
17 that an individual has violated this subchapter, the commission
18 shall:

19 (1) report the violation for criminal prosecution to
20 the appropriate prosecuting attorney in the county in which the
21 violation occurred; and

22 (2) notify the United States Department of Veterans
23 Affairs of:

24 (A) an accredited individual's violation of
25 Title 38, Code of Federal Regulations; or

26 (B) a nonaccredited individual who is providing
27 assistance with an initial claim for veterans benefits in violation

1 of Title 38, Code of Federal Regulations.

2 (d) The commission shall randomly audit accredited
3 individuals and referring persons to determine compliance with this
4 subchapter.

5 Sec. 434.355. COMMISSION DUTIES. The commission shall
6 notify annually, or more often as necessary, each accredited
7 individual and referring person of the disclosure requirements of
8 this subchapter, including the requirement:

9 (1) to provide a disclosure form to each claimant or
10 members of the claimant's family as provided by Section 434.353;

11 (2) that a copy of the completed, signed disclosure
12 form be:

13 (A) provided to the commission; and

14 (B) retained for three years from the date of
15 signing; and

16 (3) that referring persons may refer individuals to
17 provide assistance with an initial claim for veterans benefits only
18 if those individuals are accredited or, if nonaccredited, are a
19 representative of an accredited attorney.

20 SECTION 2. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.