

§807-B. Authorized immigration and nationality law assistance

1. Short title. This section may be known and cited as "the Immigration and Nationality Law Assistance Act."

[PL 2005, c. 629, §1 (NEW).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compensation" means money, property, the reciprocal exchange of services or anything else of value. [PL 2005, c. 629, §1 (NEW).]

B. "Federally authorized immigration representative" means an attorney who is admitted to and in good standing before the bar of a state of the United States other than Maine, or other person who is authorized to represent another in immigration and nationality law matters to the extent allowed under federal law or regulations, including 8 Code of Federal Regulations, Sections 292.1 and 1292.1 (1996), with such representation specifically limited to federal immigration and nationality law matters. [RR 2005, c. 2, §2 (COR).]

C. "Immigration and nationality law assistance" means assistance on an immigration and nationality law matter. [PL 2005, c. 629, §1 (NEW).]

D. "Immigration form" means a form created by the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor, the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws for use in an immigration and nationality law matter. [PL 2005, c. 629, §1 (NEW).]

E. "Immigration and nationality law matter" means any application, proceeding, filing or other action before an agency of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with implementing federal immigration and nationality laws regarding the nonimmigrant, immigrant or citizenship status of or the admission to or removal from the United States of a person that arises from the application of a federal immigration and nationality law, executive order or presidential proclamation. [PL 2005, c. 629, §1 (NEW).]

F. "Nonlegal immigration and nationality law assistance" is limited to:

(1) Translating from English into a customer's primary language questions on an immigration form selected by the customer so that the customer can understand the questions and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use;

(2) Translating from a customer's primary language into English and otherwise transcribing to an immigration form the customer's answers to questions on that form and does not include advising the customer as to the appropriateness of the immigration form selected by the customer or suggesting which immigration form to use or as to the customer's answers on that immigration form;

(3) Securing or assisting the customer to secure supporting documents currently in existence, such as birth and marriage certificates, that may be needed for submission with immigration forms and does not include drafting of affidavits or other documents that may need to accompany immigration forms; and

(4) Making referrals for legal representation with respect to an immigration and nationality law matter to an attorney admitted to and in good standing before the bar of the State or to a federally authorized immigration representative duly authorized by federal law and regulations to undertake such representation. [PL 2005, c. 629, §1 (NEW).]

[RR 2005, c. 2, §2 (COR).]

3. Nonlegal immigration and nationality law assistance authorized. A person offering immigration and nationality law assistance may offer or provide only nonlegal immigration and nationality law assistance, except, however, that an attorney admitted to and in good standing before the bar of the State or a federally authorized immigration representative may provide immigration and nationality law assistance in the form of representation to the extent authorized by federal laws and regulations in immigration proceedings before agencies of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of Labor or the United States Department of State or other federal agency charged with carrying out the implementation of federal immigration and nationality laws.

Nothing in this section is intended to nor does it authorize either an attorney who is not admitted to and in good standing before the bar of the State or a federally authorized immigration representative to offer legal opinions or general legal advice regarding state laws or to represent another before any state court, administrative agency or other forum charged with interpreting or implementing state laws.

[PL 2005, c. 629, §1 (NEW).]

4. Prohibited activities. In the course of dealing with customers or prospective customers, a provider of immigration and nationality law assistance may not:

A. Make a statement that the provider of immigration and nationality law assistance can or will obtain special favors from or has special influence with an agency or a tribunal of the United States Government or of any state government; [PL 2005, c. 629, §1 (NEW).]

B. Retain compensation for services not performed; [PL 2005, c. 629, §1 (NEW).]

C. Refuse to return documents supplied by, prepared by, paid for by or obtained on behalf of the customer and requested by the customer, regardless of whether there is outstanding compensation owed to the provider of immigration and nationality law assistance by the customer or a fee dispute between the provider of immigration and nationality law assistance and the customer; [PL 2005, c. 629, §1 (NEW).]

D. Fail to complete and sign, in the space provided, an immigration form that requests the preparer's name, address, telephone number or signature, even if the provider of immigration and nationality law assistance has only provided nonlegal immigration and nationality law assistance in the preparation of the immigration form; [PL 2005, c. 629, §1 (NEW).]

E. Provide legal advice regarding immigration and nationality law matters, including selecting immigration forms for a customer or advising a customer as to the appropriateness of the forms the customer has selected or as to the customer's answers to the questions on the forms, unless the provider of immigration and nationality law assistance is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative; or [PL 2005, c. 629, §1 (NEW).]

F. Represent or advertise or provide notice in any way or manner, including, but not limited to, the assertion of a title or credential such as "notario," "immigration consultant," "immigration agent," "immigration assistant" or "attorney," that could cause a customer to believe that the provider of immigration and nationality law assistance is authorized to practice law in the State or possesses special skill or expertise in immigration and nationality law matters unless the provider is an attorney admitted to and in good standing before the bar of the State or is a federally authorized immigration representative. A federally authorized immigration representative whose principal place of business is in the State shall give verbal notice to customers that the federally authorized immigration representative is not an attorney admitted to the bar of the State and may not give general legal advice or representation under state law and shall also include language in any written advertisement, notice or contract for services that clearly conveys that the federally authorized

immigration representative is not an attorney admitted to practice law in the State and may not give general legal advice or assistance under state law. [PL 2005, c. 629, §1 (NEW).]
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5. Unfair method of competition or unfair and deceptive act or practice. A violation of this section substantially affects the public interest and constitutes an unfair method of competition and a deceptive act or practice in the conduct of trade or commerce for purposes of the Maine Unfair Trade Practices Act.
[PL 2005, c. 629, §1 (NEW).]

6. Civil violation. A violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged.
[PL 2005, c. 629, §1 (NEW).]

7. Civil action. In addition to any other remedy that may be available, a customer who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If the court finds a violation of this section, the court may award to the customer:

A. An amount equal to actual damages sustained by the customer as a result of the violation; [PL 2005, c. 629, §1 (NEW).]

B. An amount equal to 3 times the actual damages; and [PL 2005, c. 629, §1 (NEW).]

C. The costs of the action together with reasonable attorney's fees as determined by the court. [PL 2005, c. 629, §1 (NEW).]

[PL 2005, c. 629, §1 (NEW).]

8. Attorney General action; report. Whenever the Attorney General has reason to believe that a person within the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section. The Attorney General, by January 1, 2007, and every January 1st thereafter, shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the number and circumstances of all investigations that the Department of the Attorney General has initiated in the preceding year relating to violations of this section.

[PL 2005, c. 629, §1 (NEW).]

SECTION HISTORY

RR 2005, c. 2, §2 (COR). PL 2005, c. 629, §1 (NEW).

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