

By Senator Torres

25-01488-24

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1                   A bill to be entitled  
2           An act relating to compensation for advising or  
3           assisting in veterans' benefits; creating s. 295.225,  
4           F.S.; providing a short title; providing definitions;  
5           prohibiting a person from receiving compensation for  
6           advising or assisting an individual with regard to a  
7           veterans' benefits matter except as authorized by law;  
8           providing requirements for advertising services  
9           related thereto; requiring a person who provides such  
10          services to an individual in return for compensation  
11          to enter into a written agreement with and provide a  
12          certain disclosure to such individual; providing  
13          disclosure requirements; requiring the person who  
14          provides such services to retain a copy of the  
15          disclosure for a certain period; prohibiting a person  
16          from guaranteeing an individual's receipt of benefits,  
17          receiving excessive or unreasonable compensation, or  
18          receiving compensation for referring an individual to  
19          another person; prohibiting a person from receiving  
20          compensation for services provided before the date on  
21          which a notice of disagreement is filed; providing  
22          that a violation is a deceptive and unfair trade  
23          practice; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

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27           Section 1. Section 295.225, Florida Statutes, is created to  
28 read:

29           295.225 Advising or assisting in veterans' benefits

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30 matters; receipt of compensation.—

31 (1) This act may be cited as the "Governing Unaccredited  
32 Representatives Defrauding (GUARD) VA Benefits Act."

33 (2) As used in this section, the term:

34 (a) "Compensation" means payment of any money, thing of  
35 value, or financial benefit.

36 (b) "Person" means an individual, corporation, business  
37 trust, estate, trust, partnership, limited liability company,  
38 association, joint venture, public corporation, government,  
39 governmental subdivision, agency, or instrumentality, or any  
40 other legal or commercial entity.

41 (c) "Veterans' benefits matter" means the preparation,  
42 presentation, or prosecution of any claim affecting any person  
43 who has filed or expressed an intent to file a claim for any  
44 benefit, program, service, commodity, function, or status the  
45 entitlement to which is determined under the laws and  
46 regulations administered by the Department of Veterans' Affairs  
47 or the United States Department of Veterans Affairs pertaining  
48 to veterans, their dependents, their survivors, and any other  
49 individual eligible for such benefits.

50 (3) A person may not receive compensation for advising or  
51 assisting an individual with regard to a veterans' benefits  
52 matter except as authorized by federal law and this section.

53 (4) A person who advertises services in advising or  
54 assisting an individual with regard to a veterans' benefits  
55 matter in return for compensation must provide the following  
56 disclosure in such advertisement:

57  
58 "This business is not sponsored by or affiliated with

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59 the United States Department of Veterans Affairs, the  
60 Florida Department of Veterans' Affairs, or any other  
61 federally chartered veterans' service organization.  
62 Other organizations, including, but not limited to,  
63 the Florida Department of Veterans' Affairs, your  
64 county or city veteran service office, and other  
65 federally chartered veterans' service organizations,  
66 may be able to provide you with these services free of  
67 charge. Products or services offered by this business  
68 are not necessarily endorsed by any of these  
69 organizations. You may qualify for other veterans'  
70 benefits beyond the services that this business  
71 offers."

72  
73 If such advertisement is written, including in an electronic  
74 format, the disclosure must appear in a readily visible location  
75 on the advertisement. If such advertisement is oral, the spoken  
76 statement of the disclosure must be clear and intelligible.

77 (5) (a) A person who provides services in advising or  
78 assisting an individual with regard to a veterans' benefits  
79 matter in return for compensation must, before providing such  
80 services:

81 1. Enter into a written agreement with such individual  
82 which provides the terms of the individual's payment of fees for  
83 the services provided, which adheres to all criteria specified  
84 in 38 C.F.R. s. 14.636, and which is signed by both parties.

85 2. Provide the following disclosure to the individual, both  
86 orally and in writing:

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88 "This business is not sponsored by or affiliated with  
89 the United States Department of Veterans Affairs, the  
90 Florida Department of Veterans' Affairs, or any other  
91 federally chartered veterans' service organization.  
92 Other organizations, including, but not limited to,  
93 the Florida Department of Veterans' Affairs, your  
94 county or city veteran service office, and other  
95 federally chartered veterans' service organizations,  
96 may be able to provide you with this service free of  
97 charge. Products or services offered by this business  
98 are not necessarily endorsed by any of these  
99 organizations. You may qualify for other veterans'  
100 benefits beyond the benefits for which you are  
101 receiving services here."

102  
103 The written disclosure must appear in at least 12-point font and  
104 must appear in a readily noticeable and identifiable location in  
105 the written agreement required under subparagraph 1. The  
106 individual must verbally acknowledge understanding of the oral  
107 disclosure and must sign the document in which the written  
108 disclosure appears in order to represent understanding of the  
109 disclosure. The person providing services must retain a copy of  
110 the written disclosure while providing such services to the  
111 individual and for at least 1 year after the date on which the  
112 service relationship terminates.

113 (b) A person may not:

114 1. Guarantee, either directly or by implication, that an  
115 individual is certain to receive specific veterans' benefits or  
116 that an individual is certain to receive a specific level,

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117 percentage, or amount of veterans' benefits.

118 2. Receive excessive or unreasonable fees as compensation  
119 for advising or assisting an individual with regard to a  
120 veterans' benefits matter. The provisions of 38 C.F.R. s. 14.636  
121 shall govern determinations of whether a fee is excessive or  
122 unreasonable.

123 3. Receive compensation for referring an individual to  
124 another person to advise or assist the individual with regard to  
125 a veterans' benefits matter.

126 (6) If an individual to whom a person provides services  
127 under this section in return for compensation files a notice of  
128 disagreement pursuant to Title 38 C.F.R., the person who  
129 provided such services may not receive compensation for any  
130 services provided to such individual before the date on which  
131 the notice is filed.

132 (7) A violation of this section is a deceptive and unfair  
133 trade practice and constitutes a violation of the Florida  
134 Deceptive and Unfair Trade Practices Act under part II of  
135 chapter 501.

136 Section 2. This act shall take effect upon becoming a law.