

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3369

By: Jett

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 creating the Registration of Immigration Assistance  
9 Act; providing short title; stating purpose and  
10 intent; defining terms; providing services that are  
11 allowed to be performed; providing persons and  
12 organizations exempt from the Registration of  
13 Immigration Assistance Act; excluding businesses from  
14 the Registration of Immigration Assistance Act if  
15 regulation is prohibited or preempted by federal law;  
16 requiring registration; requiring payment of fee;  
17 depositing fee in certain fund; providing for the  
18 posting of certain signs; requiring certain notice;  
19 prohibiting certain acts; providing penalties;  
20 providing for promulgation and adoption of certain  
21 rules; providing for codification; and providing an  
22 effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 3031 of Title 59, unless there  
is created a duplication in numbering, reads as follows:

Sections 1 through 4 of this act shall be known and may be cited  
as the "Registration of Immigration Assistance Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3032 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 The purpose and intent of the Registration of Immigration  
5 Assistance Act is to establish and enforce standards of ethics in  
6 the profession of immigration assistance by private individuals who  
7 are not licensed attorneys.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3033 of Title 59, unless there  
10 is created a duplication in numbering, reads as follows:

11 As used in the Registration of Immigration Assistance Act:

12 1. "Compensation" means money, property, services, promise of  
13 payment, or anything else of value;

14 2. "Employed by" means that a person is on the payroll of the  
15 employer and the employer deducts from the employee's paycheck  
16 social security and withholding taxes or that a person receives  
17 compensation from the employer on a commission basis or as an  
18 independent contractor;

19 3. "Immigration assistance service" means any information or  
20 action provided or offered to customers or prospective customers  
21 related to immigration matters, excluding legal advice, recommending  
22 a specific course of legal action or providing any other assistance  
23 that requires legal analysis, legal judgment, or interpretation of  
24 the law; and

1 4. "Immigration matter" means any proceeding, filing, or action  
2 affecting the nonimmigrant, immigrant, or citizenship status of any  
3 person that arises under:

4 a. immigration and naturalization law, executive order,  
5 or presidential proclamation of the United States or  
6 any foreign country, or

7 b. action of the United States Department of Labor, the  
8 United States Department of State, the United States  
9 Department of Homeland Security, or the United States  
10 Department of Justice.

11 SECTION 4. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 3034 of Title 59, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. Any person who provides or offers to provide immigration  
15 assistance services may perform the following services:

16 1. Completing a government agency form, requested by the  
17 customer and appropriate to the needs of the customer only if the  
18 completion of that form does not involve a legal judgment for that  
19 particular matter;

20 2. Transcribing responses to a government agency form which is  
21 related to an immigration matter but not advising a customer as to  
22 answers on those forms;

1           3. Translating information on forms to a customer and  
2 translating the answers of the customer to questions posed on those  
3 forms;

4           4. Securing for the customer supporting documents currently in  
5 existence, such as birth and marriage certificates, which may be  
6 needed to be submitted with government agency forms;

7           5. Translating documents from a foreign language into English;

8           6. Notarizing signatures on government agency forms, if the  
9 person performing the service is a notary public commissioned in  
10 this state and is lawfully present in the United States;

11          7. Making referrals, without fee, to attorneys who could  
12 undertake legal representation for a person in an immigration  
13 matter;

14          8. Preparing or arranging for the preparation of photographs  
15 and fingerprints;

16          9. Arranging for the performance of medical testing and the  
17 obtaining of reports of such test results; and

18          10. Conducting English language and civics courses.

19          B. The following are exempt from the Registration of  
20 Immigration Assistance Act:

21           1. An attorney licensed to practice law in this state or an  
22 attorney licensed to practice law in any other state or territory of  
23 the United States or in any foreign country when acting with the  
24 approval of a judge having lawful jurisdiction over the matter;

1        2. A legal intern, clerk, paralegal, or person in a similar  
2 position if that person is employed by and under the direct  
3 supervision of a licensed attorney meeting the requirements in  
4 paragraph 1 of this subsection and rendering immigration assistance  
5 service in the course of employment;

6        3. A not-for-profit organization recognized by the Board of  
7 Immigration Appeals under 8 C.F.R., Section 292.2(a) and employees  
8 of those organizations accredited under 8 C.F.R., Section 292.2(d);  
9 and

10       4. Any organization employing or desiring to employ an alien or  
11 nonimmigrant alien, if the organization, its employees, or its  
12 agents provide advice or assistance in immigration matters to alien  
13 or nonimmigrant alien employees or potential employees without  
14 compensation from the individuals to whom such advice or assistance  
15 is provided.

16       C. Nothing in the Registration of Immigration Assistance Act  
17 shall regulate any business to the extent that regulation is  
18 prohibited or preempted by federal law.

19       D. Any person performing services regulated by the Registration  
20 of Immigration Assistance Act shall register with the Office of the  
21 Secretary of State and as may be required by a local governing  
22 authority. The person shall pay the Secretary of State a  
23 registration fee of Fifteen Dollars (\$15.00). The fee shall be  
24 deposited to the credit of the Revolving Fund for the Office of the

1 Secretary of State created pursuant to Section 276.1 of Title 62 of  
2 the Oklahoma Statutes.

3 E. Any person who provides or offers immigration assistance  
4 service and is not exempted under the Registration of Immigration  
5 Assistance Act shall post signs at the place of business of the  
6 person setting forth information in English and in every other  
7 language in which the person provides or offers to provide  
8 immigration assistance service. Each language shall be on a  
9 separate sign. Signs shall be posted in a location where the signs  
10 will be visible to customers. Each sign shall be at least twelve  
11 (12) inches by seventeen (17) inches and shall contain the following  
12 statement:

13 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE  
14 LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

15 F. Every person engaged in immigration assistance service who  
16 is not an attorney who advertises immigration assistance service in  
17 a language other than English, whether by radio, television, signs,  
18 pamphlets, newspapers, or other written communication, with the  
19 exception of a single desk plaque, shall include in the document,  
20 advertisement, stationery, letterhead, business card, or other  
21 comparable written material the following notice in English and the  
22 language in which the written communication appears. This notice  
23 shall be of a conspicuous size, if in writing, and shall state: "I  
24 AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL

1 | ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such advertisement is  
2 | by radio or television, the statement may be modified but must  
3 | include substantially the same message.

4 | G. Any person who provides or offers immigration assistance  
5 | service and is not exempted under the Registration of Immigration  
6 | Assistance Act shall not, in any document, advertisement,  
7 | stationery, letterhead, business card, or other comparable written  
8 | material, literally translate from English into another language  
9 | terms or titles including, but not limited to, notary public,  
10 | notary, licensed, attorney, lawyer, or any other term that implies  
11 | the person is an attorney.

12 | H. No person engaged in providing immigration services who is  
13 | not exempted under the Registration of Immigration Assistance Act  
14 | shall do any of the following:

15 | 1. Accept payment in exchange for providing legal advice or any  
16 | other assistance that requires legal analysis, legal judgment, or  
17 | interpretation of the law;

18 | 2. Refuse to return documents supplied by, prepared on behalf  
19 | of, or paid for by the customer upon the request of the customer.

20 | These documents must be returned upon request even if there is a fee  
21 | dispute between the immigration assistant and the customer;

22 | 3. Represent or advertise, in connection with the provision of  
23 | assistance in immigration matters, other titles or credentials,  
24 | including but not limited to "notary public" or "immigration

1 consultant", that could cause a customer to believe that the person  
2 possesses special professional skills or is authorized to provide  
3 advice on an immigration matter; provided, that a certified notary  
4 public may use the term "notary public" if the use is accompanied by  
5 the statement that the person is not an attorney;

6 4. Provide legal advice, recommend a specific course of legal  
7 action, or provide any other assistance that requires legal  
8 analysis, legal judgment, or interpretation of the law; or

9 5. Make any misrepresentation or false statement, directly or  
10 indirectly, to influence, persuade, or induce patronage.

11 I. Any person violating the provisions of the Registration of  
12 Immigration Assistance Act shall be subject to a fine of up to One  
13 Thousand Dollars (\$1,000.00) per violation. A fine charged pursuant  
14 to the Registration of Immigration Assistance Act shall not preempt  
15 or preclude additional appropriate civil or criminal penalties.

16 J. Any person who violates any provision of the Registration of  
17 Immigration Assistance Act shall be guilty of a misdemeanor for a  
18 first offense and a felony for a second or subsequent offense  
19 committed within five (5) years of a previous conviction for the  
20 same offense.

21 K. The Secretary of State may promulgate and adopt rules for  
22 registration pursuant to subsection D of this section.

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SECTION 5. This act shall become effective January 1, 2010.

52-2-9258 SD 01/10/10