

1 ENGROSSED SENATE
2 BILL NO. 567

By: Simpson of the Senate

and

Hardin of the House

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6 An Act relating to veterans; creating the Veterans
7 Benefits Assistance Act; providing short title;
8 defining terms; providing requirements for
9 individuals providing certain assistance; providing
10 requirements of certain disclosure; prohibiting
11 certain exclusions; requiring certain copies;
12 directing referring entities to report certain
13 information; requiring certain form be produced;
14 specifying certain requirements be in writing;
15 providing for certain notice by certain date;
16 allowing for development of procedures; providing
17 method of investigating violations; providing certain
18 exemptions; providing for noncodification; providing
19 for codification; providing an effective date; and
20 declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Veterans
Benefits Assistance Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 42.1 of Title 72, unless there
is created a duplication in numbering, reads as follows:

As used in the Veterans Benefits Assistance Act:

1 1. "Accredited" means a service organization representative,
2 agent or attorney to whom authority has been granted by the United
3 States Department of Veterans Affairs (VA) to provide assistance to
4 claimants in the preparation, presentation, and prosecution of
5 claims for VA benefits;

6 2. "Claimant" means a person who has filed or has expressed to
7 a service organization representative, agent or attorney an
8 intention to file a written application for determination of
9 entitlement to benefits provided under Title 38, United States Code
10 (USC), and implementing directives;

11 3. "Assistance" means an accredited individual providing
12 claimant-specific recommendations for or preparing or submitting an
13 application for VA benefits on behalf of a claimant;

14 4. "Certify" means to submit in writing to a claimant or the
15 claimant's family certain disclosure forms provided by the
16 Department;

17 5. "Department" means the State Department of Veterans Affairs;

18 6. "Director" means the Director of the State Department of
19 Veterans Affairs;

20 7. "Referring entity" means an individual, business or
21 organization that provides or may provide a state-licensed service
22 to a claimant or potential claimant and that has a financial
23 interest in a successful award for VA benefits from the claimant;
24

1 8. "VA" means the United States Department of Veterans Affairs;
2 and

3 9. "VA benefits" means any payment, service, commodity,
4 function or status, entitlement to which is determined under laws
5 administered by VA pertaining to veterans, dependents, and survivors
6 as well as other potential beneficiaries under Title 38 USC.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 42.2 of Title 72, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Each individual offering assistance in applying for VA
11 benefits shall certify the following:

12 1. Is currently accredited, in compliance with the provisions
13 of Title 38, Code of Federal Regulations (CFR); or

14 2. If nonaccredited and under the direct supervision of an
15 accredited attorney in a law firm, is employed by the law firm and
16 is either a law student, a legal intern or a certified paralegal and
17 meets the provisions of Title 38 CFR pertaining to authorized claim
18 representation under an attorney; and

19 3. Has disclosed in writing, in a format approved by the
20 Department and that the claimant can retain, federal laws,
21 regulations and rules pertaining to application for VA benefits.

22 B. The disclosure required by Subsection A of this section
23 shall specifically include for the individual offering assistance
24 the following:

1 1. The individual's name;
2 2. The individual's business address;
3 3. The individual's business phone number;
4 4. The individual's accreditation registration number from VA;
5 5. A statement of the claimant's rights regarding assistance
6 for VA benefits, including that there is no charge to the claimant
7 or a member of the claimant's family for assistance with the initial
8 benefits application;

9 6. A statement that, in return for providing assistance for VA
10 benefits, the individual providing assistance did not coerce the
11 claimant or the claimant's family into any monetary arrangement that
12 directly or indirectly benefits the individual providing assistance;
13 and

14 7. A statement that if, as a result of the individual providing
15 assistance for a claim, income is accrued to the assisting
16 individual from the sale of a product or sale of other services to
17 the claimant, the income is both justified and reasonable as
18 compared with income from similar products and services available in
19 the state or the region.

20 C. No provisions of the form may be struck out or designated as
21 nonapplicable.

22 D. Disclosure forms, when completed, shall be:

23 1. Signed by both the individual providing assistance and the
24 claimant; and

1 2. Retained for three (3) years by the assisting individual.

2 E. Copies of the disclosure form shall be provided to:

3 1. The claimant on the day the form is completed and signed;

4 and

5 2. The Department within five (5) working days.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 42.3 of Title 72, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Referring entities shall report to the Director the names,
10 addresses, and contact information of all individuals and
11 organizations offering assistance for VA benefits that have been
12 recommended by the referring entity to customers or potential
13 customers of the referring entity.

14 B. Referring entities shall provide a form, approved by the
15 Director, to any claimants, potential claimants or members of a
16 claimant's family which contains the rights of claimants under this
17 chapter and under Title 38, Code of Federal Regulations.

18 C. The Director will work with applicable licensing authorities
19 over referring entities in this state to ensure that reporting and
20 disclosure requirements of this section are being met

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 42.4 of Title 72, unless there
23 is created a duplication in numbering, reads as follows:

1 A. The State Department of Veterans Affairs shall notify in
2 writing each veteran for whom the Department has contact information
3 that any individual or business offering to assist veterans in
4 applying for benefits shall disclose in writing to the veteran the
5 following:

6 1. Title 38, Code of Federal Regulations (CFR) requires that
7 any individual providing assistance be accredited by VA;

8 2. Title 38 CFR prohibits charging a claimant or a member of a
9 claimant's family a fee for assistance with an initial application
10 for VA benefits; and

11 3. The Department's website has a list with contact information
12 of VA accredited claim representatives.

13 B. Beginning July 1, 2015, and every three (3) years after, the
14 Director shall:

15 1. Notify the Insurance Department regarding this chapter
16 governing assistance for VA benefits, and the Insurance Department
17 shall notify all individual producers and consultants licensed by
18 the Insurance Department at the time of initial licensing and upon
19 license renewal of those same state requirements governing
20 assistance for VA benefits;

21 2. Contact the State Bar Association regarding this chapter
22 governing assistance for VA benefits; and

23 3. Notify the appropriate state licensing authorities for
24 referring entities regarding this chapter governing assistance for

1 VA benefits, and requiring the licensing authorities to notify all
2 referring entities of the requirements under this chapter.

3 C. The Director shall establish procedures for processing
4 complaints related to assistance regarding a claim for benefits.

5 D. For violations by accredited or nonaccredited individuals
6 who offer assistance with VA benefits, the Director shall:

7 1. Investigate to determine if a violation has occurred and, if
8 so, issue a warning notice if needed;

9 2. Upon notification of a second or more violation, file a
10 complaint with the appropriate state licensing authority or
11 authorities over that individual;

12 3. Report repeated violations to the State Attorney General's
13 Office for investigation of criminal acts or violation of state
14 consumer laws; and

15 4. Notify VA of conduct violations under Title 38 CFR.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 42.5 of Title 72, unless there
18 is created a duplication in numbering, reads as follows:

19 Representatives of the following organizations are exempt from
20 the provisions of this chapter:

- 21 1. American Legion;
- 22 2. Veterans of Foreign Wars;
- 23 3. Disabled American Veterans;
- 24 4. Vietnam Veterans of America;

1 5. American Veterans (AMVET);

2 6. Military Order of the Purple Heart; and

3 7. Other VA-recognized service organizations as determined by
4 the director.

5 SECTION 7. This act shall become effective July 1, 2015.

6 SECTION 8. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 Passed the Senate the 17th day of February, 2015.

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12 _____
13 Presiding Officer of the Senate

14 Passed the House of Representatives the ____ day of _____,
15 2015.

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17 _____
18 Presiding Officer of the House
19 of Representatives
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