
A BILL FOR AN ACT

RELATING TO VETERANS RIGHTS AND BENEFITS.

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

1 SECTION 1. The purpose of this Act is to establish
2 provisions governing any person who receives compensation for
3 advising or assisting another person with veterans benefits.

4 SECTION 2. Chapter 363, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 **"PART . VETERANS BENEFITS**

8 **§363- Prohibitions.** (a) No person shall receive
9 compensation for advising or assisting any individual with
10 regard to any veterans benefits matter, except as permitted
11 under federal law.

12 (b) No person shall receive compensation for referring any
13 individual to another person for the purpose of receiving advice
14 or assistance with regard to any veterans benefits matter.

15 (c) Before rendering any services, a person seeking to
16 receive compensation for advising or assisting any individual
17 with any veterans benefits matter, shall memorialize in a



1 written agreement all terms regarding the individual's payment
2 of fees for services rendered that adheres to all criteria
3 specified within title 38 Code of Federal Regulations section
4 14.636 and shall be signed by both parties.

5 (d) No person shall receive any compensation for any
6 services rendered before the date upon which a notice of
7 disagreement is filed with the Department of Veterans Affairs
8 with respect to the individual's case.

9 (e) No person shall guarantee, either directly or by
10 implication, that any individual is certain to receive specific
11 veterans benefits or that any individual is certain to receive a
12 specific level, percentage, or amount of veterans benefits.

13 (f) No person shall receive excessive or unreasonable fees
14 as compensation for advising or assisting any individual with
15 any veterans benefits matter. The factors articulated within
16 title 38 Code of Federal Regulations section 14.636 shall govern
17 determinations of whether a fee is excessive or unreasonable.

18 (g) Notwithstanding the foregoing, nothing in this section
19 shall be construed as prohibiting a division of fees between
20 attorneys which is otherwise proper under the Hawaii rules of
21 professional conduct.



1 **§363- Ethical standards.** Any person who receives
2 compensation for preparing, presenting, or prosecuting a claim
3 or action relating to veterans benefits or for advising or
4 assisting an individual with regard to any veterans benefits
5 matter before the Department of Veterans Affairs shall be held
6 to the same ethical standards as an attorney is held to under
7 the Hawaii rules of professional conduct regarding the
8 following:

- 9 (1) Advertising;
10 (2) Solicitation of new clients;
11 (3) Confidentiality;
12 (4) Duty of care;
13 (5) Duty of honesty; and
14 (6) Duty to zealously pursue what is in the best interest
15 of their client.

16 **§363- Disclosure.** (a) No person shall receive
17 compensation for advising or assisting any individual concerning
18 any veterans benefits matter without clearly providing, at the
19 outset of the business relationship, the following disclosure,
20 both orally and in writing:



1 "THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE
2 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE HAWAII
3 DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, OR
4 ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION.
5 OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII
6 DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR
7 LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY
8 CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE
9 YOU WITH THIS SERVICE FREE OF CHARGE. PRODUCTS OR SERVICES
10 OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF
11 THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER VETERANS
12 BENEFITS BEYOND THE BENEFITS FOR WHICH YOU ARE RECEIVING
13 SERVICES HERE."

14 (b) The written disclosure required by subsection (a)
15 shall appear in at least twelve-point font and shall appear in a
16 readily noticeable and identifiable place in the agreement with
17 the individual seeking services. The individual shall verbally
18 acknowledge understanding of the oral disclosure and shall sign
19 the document in which the written disclosure appears to indicate
20 understanding of these provisions. The person offering services
21 shall retain a copy of the written disclosure while providing



1 veterans benefits services for compensation to the individual
2 and for at least one year after the date on which the services
3 terminate.

4 **§363- Advertising.** (a) No person shall advertise
5 for-compensation services in veterans benefits matters unless
6 the advertisement includes the following disclosure:

7 "THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE
8 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE HAWAII
9 DEPARTMENT OF DEFENSE, THE HAWAII OFFICE OF VETERANS' SERVICES,
10 OR ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION.
11 OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII
12 DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR
13 LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY
14 CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE
15 YOU WITH THESE SERVICES FREE OF CHARGE. PRODUCTS OR SERVICES
16 OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF
17 THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER VETERANS
18 BENEFITS BEYOND THE SERVICES THAT THIS BUSINESS OFFERS."

19 (b) If the advertisement is printed, including but not
20 limited to advertisements visible to internet users, the
21 disclosure required by subsection (a) shall appear in a readily



1 visible place on the advertisement. If the advertisement is
2 verbal, the disclosure shall be spoken in a clear and
3 intelligible manner.

4 §363- Penalty. A violation of the provisions of this
5 part shall be an unfair or deceptive act or practice under
6 chapter 481A and a violation of section 480-2."

7 SECTION 3. Chapter 363, Hawaii Revised Statutes, is
8 amended by designating sections 363-1 to 363-13 as part I,
9 entitled "General Provisions".

10 SECTION 4. Section 363-1, Hawaii Revised Statutes, is
11 amended by adding three new definitions to be appropriately
12 inserted and to read as follows:

13 "Compensation" means payment of any money, thing of value,
14 or financial benefit.

15 "Person" means an individual, corporation, business trust,
16 estate, trust, partnership, limited liability company,
17 association, joint venture, public corporation, government or
18 governmental subdivision, agency, or instrumentality, or any
19 other legal or commercial entity.

20 "Veterans benefits matter" means the preparation,
21 presentation, or prosecution of any claim affecting any person



1 who has filed or expressed an intent to file a claim for any
2 benefit, program, service, commodity, function, or status,
3 entitlement to which is determined under the laws and
4 regulations administered by the United States Department of
5 Veterans Affairs or the department of defense pertaining to
6 veterans, their dependents, their survivors, and any other
7 individual eligible for such benefits."

8 SECTION 5. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 6. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 7. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Veterans Rights and Benefits; Advisors; Compensation;
Prohibitions

Description:

Establishes provisions governing any person who receives
compensation for advising or assisting another person with
veterans benefits. (PROPOSED HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

