



SPONSOR: Rep. Hilovsky & Rep. Dorsey Walker & Sen. Buckson
Reps. Carson, Gray, Morris, Morrison, D. Short,
Vanderwende, Wilson-Anton; Sens. Hansen, Hocker,
Hoffner, Lawson, Pettyjohn, Sokola, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 272

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO VETERANS' BENEFITS AND TRADE PRACTICES.

1 WHEREAS, veterans seeking assistance or advice to understand and file Veterans Administration benefit claims
2 sometimes pay burdensome fees for such help outside of the traditional Veterans Administration (V.A.) accredited
3 agencies; and

4 WHEREAS, businesses that are not V.A. accredited may not adhere to established professional and ethical
5 standards and may coerce veterans into unethical contracts and may mislead veterans; and

6 WHEREAS, non-V.A. accredited businesses sometimes use predatory practices to promise or guarantee, for a fee,
7 that a veteran will receive increased benefits, an increase in a disability rating, or receive expedited claims service; and

8 WHEREAS, some non-V.A. accredited businesses have requested from veterans' access to a veteran's personal
9 V.A. file and thereby expose the veteran's personal information; and

10 WHEREAS, non-V.A. businesses sometimes fail to disclose that services may be fully available at no charge to
11 the veteran through the V.A. or V.A. accredited agencies and that other services beyond the scope of the business may be
12 available to the veteran from the V.A. or its accredited agencies; and

13 WHEREAS, the V.A. accredited agencies include V.A. accredited attorneys, claims agents, organizations like the
14 American Legion, VFW, and American Veterans.

15 NOW, THEREFORE:

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

17 Section 1. Amend Chapter 25, Title 6 of the Delaware Code by making deletions as shown by strike through and
18 insertions as shown by underline as follows:

19 Subchapter XII. Veterans' Benefits and Trade Practices

20 § 2599. Prohibition from receiving compensation for advising or assisting with veterans' benefits.

21 (a)(1) No person shall receive compensation for advising or assisting any individual with regard to any veterans'
22 benefits matter, except as permitting under federal law.

23 (2) No person shall receive compensation for referring any individual to another person to advise or assist this
24 individual with any veterans' matter.

25 (3) A person seeking to receive compensation for advising or assisting any individual with any veterans' benefits
26 matter shall, before rendering any services, memorialize all terms regarding the individual's payment of fees for services
27 rendered in a written agreement, signed by both parties, that adheres to all criteria specified within 38 C.F.R.s.14.636.

28 (4) No person shall receive any compensation for any services rendered before the date on which a notice of
29 disagreement is filed with respect to the individual's case.

30 (5) No person shall receive excessive or unreasonable fees as compensation for advising or assisting any
31 individual with any veterans' benefits matter. The factors articulated within 38 C.F.R. s.14.636 shall govern determinations
32 of whether a fee is excessive or unreasonable.

33 (b)(1) No person shall advise or assist for compensation any individual concerning any veterans' benefits matter
34 without clearly providing, at the outset of the business relationship, the following disclosure, both orally and in writing:

35 "This business is not sponsored by or affiliated with the United States Department of Veterans Affairs or any State
36 of Delaware agency, department, or commission, or any other federally chartered veterans' service organization. Other
37 organizations may be able to provide you with this service free of charge. Products or services offered by this business are
38 not necessarily endorsed by any of these organizations. You may qualify for other veterans' benefits beyond the benefits for
39 which you are receiving services here."

40 The written disclosure shall appear in at least twelve-point font and shall appear in a readily noticeable and
41 identifiable place in the person's agreement with the individual seeking services. The individual shall verbally acknowledge
42 understanding of the oral disclosure and shall sign the document in which the written disclosure appears, to represent
43 understanding of these provisions. The person offering services shall retain a copy of the written disclosure while providing
44 veterans' benefits services for the compensation to the individual and for at least 1 year after the date on which the service
45 relationship terminates.

46 (2) No person shall advertise for-compensation services in veterans' benefits matters without including the
47 following disclosure:

48 "This business is not sponsored by, or affiliated with, the United States Department of Veterans Affairs or any
49 State of Delaware agency, department, or commission, or any other federally chartered veterans' service organization.
50 Other organizations, and other federally chartered veterans' service organizations, may be able to provide you with these
51 services free of charge. Products or services offered by this business are not necessarily endorsed by any of these
52 organization. You may qualify for other veterans' benefits beyond the services that this business offers."

If the advertisement is printed, including but not limited to advertisements visible to internet users, the disclosure shall appear in a readily visible place on the advertisement. If the advertisement is verbal, the spoken statement of the disclosure shall be clear and intelligible.

§ 2599A. Remedies.

(a) A private cause of action shall be available to any victim of a violation of § 2599 of this subchapter. Such cause of action may be brought in any court of competent jurisdiction in this state without prior action by the Attorney General as provided for in this section.

(b) The Attorney General shall have standing to seek on behalf of the state, injunctive relief, restitution for any victim, and any remedy enumerated in this section for any violation of § 2589 of this subchapter.

(c) If a court of competent jurisdiction finds that any person has willfully violated this subchapter, upon petition to the court by the Attorney General in the original complaint or at any time following the court's finding of a willful violation, the person shall forfeit and pay to the state a civil penalty of not more than \$10,000 for each violation. For purposes of this subchapter, a willful violation occurs when the person committing the violation knew or should have known that the conduct was of the nature prohibited by this subchapter.

(d) The court may award reasonable attorneys' fees to plaintiff if the court finds that defendant has willfully violated any agreement to cease and desist such actions in violation of § 2599 of this subchapter or any court order enjoining the defendant from violating § 2599 of this subchapter.

(e) If any person is found to have violated § 2599 of this subchapter, and said violation is committed against an elder person or a person with a disability, in addition to any civil penalty imposed, the court may impose an additional civil penalty not to exceed \$10,000 for each violation.

(f) The civil penalties imposed under this subchapter shall be deposited with the State Treasurer and placed into the Consumer Protection Fund as created by § 2527 of this title and shall be subject to appropriation by the General Assembly.

§ 2599B. Definitions.

As used in this subchapter, unless the context otherwise requires:

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

(2) "Elder person" means a person who is 65 years of age or older.

(3) "Person" means an individual, corporation, government, or governmental subdivision or agency, statutory trust, business trust, estate, trust, partnership, unincorporated association, 2 or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

(4) "Person with a disability" means a person who has a disability as defined in § 4602 of this title.

(5) "Veterans' benefits matter" means the preparation, presentation, or prosecution of any claim affecting any person who has filed or expressed an intent to file a claim for any benefit, program, service, commodity, function, or status, entitlement to which is determined under the laws and regulations administered by the United States Department of

87 Veterans Affairs or any State of Delaware agency, department, or commission pertaining to veterans, their dependents, their
88 survivors, and any other individual eligible for such benefits.
89 Section 2. This Act takes effect upon its enactment into law.

SYNOPSIS

This act regulates persons who receive compensation for advising or assisting with veterans' benefits earned by serving our nation in the military. This bill would not prohibit persons or business entities from receiving compensation for advice to Veterans that is unrelated to veteran claims or services available to veterans from the V.A. or its accredited agencies. Investment, insurance, banking, and other advice or services not provided by the V.A., or its accredited agencies may be obtained by veterans and fees charged for such services.