

Article 28-C
Immigrant Assistance Services

§ 460-a. Definitions. For the purpose of this article the following terms shall have the following meanings:

1. "Immigrant assistance service" means providing assistance, for a fee or other compensation, to persons who have, or plan to, come to the United States from a foreign country, or their representatives, in relation to any proceeding, filing or action affecting the non-immigrant, immigrant or citizenship status of a person which arises under the immigration and nationality law, executive order or presidential proclamation, or which arises under actions or regulations of the United States bureau of citizenship and immigration services, the United States department of labor, or the United States department of state.

2. "Provider" means any person, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that provides immigrant assistance services, but shall not include (a) any person duly admitted to practice law in this state and any person working directly under the supervision of the person admitted; (b) any not-for-profit tax exempt organization that provides immigrant assistance without a fee or other payment from individuals or at nominal fees as defined by the federal board of immigration appeals, and the employees of such organization when acting within the scope of such employment; (c) any organization recognized by the federal board of immigration appeals that provides services via representatives accredited by such board to appear before the bureau of citizenship and immigration services and/or executive office for immigration review, that does not charge a fee or charges nominal fees as defined by the board of immigration appeals; or (d) any authorized agency under subdivision ten of section three hundred seventy-one of the social services law and the employees of such organization when acting within the scope of such employment.

§ 460-b. Immigrant assistance service contracts. No immigrant assistance service shall be provided until the customer has executed a written contract with the provider who will provide such services. The contract shall be in a language understood by the customer, either alone or with the assistance of an available interpreter, and, if that language is not English, an English language version of the contract must also be provided. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The customer has the right to cancel the contract within three business days after his or her execution of the contract, without fee or penalty. The right to cancel the contract within three days without payment of any fee may be waived when services must be provided immediately to avoid a forfeiture of eligibility or other loss of rights or privileges, and the customer furnishes the provider with a separate dated and signed statement, by the customer or his or her representative, describing the need for services to be provided within three days and expressly acknowledging and waiving the right to cancel the contract within three days. The contract may be cancelled at any time after execution. If the contract is cancelled after three days, or within three days if the right to cancel without fee has been waived, the provider may retain fees for services

rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen days after cancellation. The written contract shall be in plain language, in at least twelve point type and shall include the following:

1. The name, address and telephone number of the provider.
2. Itemization of all services to be provided to the customer, as well as the fees and costs to be charged to the customer.
3. A statement that original documents required to be submitted in connection with an application made to the federal bureau of citizenship and immigration services or for other certifications, benefits or services provided by government may not be retained by the immigrant assistance service provider for any reason, including payment of fees or costs.
4. A statement that the provider shall give the customer a copy of each document filed with a governmental entity.
5. A statement that the customer is not required to obtain supporting documents through the immigrant assistance service provider, but may obtain such documents himself or herself.
6. The statement: "You have three (3) business days to cancel this contract. Notice of cancellation must be in writing, signed by you and mailed by registered or certified United States mail to (specify address). If you cancel this contract within three days, you will get back your documents and any fees that you paid".
7. A statement that the immigration services provider has financial surety in effect for the benefit of any customer in the event that the customer is owed a refund, or is damaged by the actions of the provider, together with the name, address and telephone number of the surety.
8. The statement: "The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the board of immigration appeals to provide representation to you before the bureau of citizenship and immigration services, the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice".
9. The statement: "The individual providing assistance to you under this contract is prohibited from disclosing any information or filing any forms or documents with immigration or other authorities without your knowledge and consent."
10. The statement: "A copy of all forms completed and documents accompanying the forms shall be kept by the service provider for three years. A copy of the customers file shall be provided to the client on demand and without fee."

§ 460-c. Posting of signs. Every provider shall post signs, at every location where such provider meets with customers, setting forth information in English and in every other language in which the person provides or offers to provide immigrant assistance. There shall be a separate sign for each language, and each shall be posted in a location where it will be visible to customers.

1. One sign shall be at least eleven inches by seventeen inches, and shall contain the following in not less than sixty point type:

"THE INDIVIDUAL PROVIDING ASSISTANCE TO YOU UNDER THIS CONTACT IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION TO YOU BEFORE THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE".

2. A separate sign shall be posted in a location visible to customers in conspicuous size type and which contains the schedule of fees for services offered and the statement: "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND GET BACK YOUR DOCUMENTS AND ANY MONEY YOU PAID."

§ 460-d. Notice in advertisements. Every provider who advertises immigrant assistance services, whether by signs, pamphlets, newspapers, or any other written communication shall post or otherwise include with such advertisement a notice in the language in which the advertisement appears. This notice shall be of a conspicuous size and shall state:

"THE INDIVIDUAL PROVIDING ASSISTANCE TO YOU IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION TO YOU BEFORE THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE".

§ 460-e. Prohibited acts. No provider shall:

1. Give legal advice, or otherwise engage in the practice of law.
2. Assume, use or advertise the title of lawyer or attorney at law, or equivalent terms in the English language or any other language, or represent or advertise other titles or credentials, including but not limited to "notary public", "accredited representative of the board of immigration appeals" or "immigration consultant," that could cause a customer to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided that a notary public licensed by the secretary of state may use the term "notary public."
3. State or imply that the person can or will obtain special favors from or has special influence with the bureau of citizenship and immigration services or any other governmental entity, or threaten to report the client to immigration or other authorities or undermine in any way the client's immigration status or attempt to secure lawful status.
4. Demand or retain any fees or compensation for services not performed, or costs that are not actually incurred.
5. Advise, direct or permit a customer to answer questions on a government document, or in a discussion with a government official, in a specific way where the provider knows or has reasonable cause to believe that the answers are false or misleading.
6. Disclose any information to, or file any forms or documents with, immigration or other authorities without the knowledge or consent of the customer.

7. Fail to provide customers with copies of documents filed with a governmental entity or refuse to return original documents supplied by, prepared on behalf of, or paid for by the customer, upon the request of the customer, or upon termination of the contract. Original documents must be returned promptly upon request and upon cancellation of the contract, even if there is a fee dispute between the immigration assistance service provider and the customer.

8. Make any misrepresentation or false statement, directly or indirectly.

9. Make any guarantee or promise to a customer, unless there is a basis in fact for such representation, and the guarantee or promise is in writing.

10. Represent that a fee may be charged, or charge a fee for the distribution, provision or submission of an official document or form issued or promulgated by a state or federal governmental entity, or for a referral of the customer to another person or entity that is qualified to provide services or assistance which the immigrant assistance service provider will not provide.

§ 460-f. Retention of documents. Every provider shall retain copies of all documents prepared or obtained in connection with a customer's request for assistance for a period of three years after a written contract is executed by the provider and the customer, whether or not such contract is subsequently cancelled.

§ 460-g. Surety requirement. Every provider shall maintain in full force and effect a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the state of New York, in the principal amount of fifty thousand dollars; provided, however, that every provider that receives in excess of two hundred fifty thousand dollars in total fees and other compensation for providing immigrant assistance service during any twelve-month period shall maintain in full force and effect a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the state of New York, in the principal amount of twenty percent of such total fees and compensation. Such surety shall be for the benefit of any customer who does not receive a refund of fees from the provider to which he or she is entitled, or is otherwise injured by the provider. The attorney general on behalf of the customer or the customer in his or her own name, may maintain an action against the provider and the surety.

§ 460-h. Enforcement. Upon any violation of this article, an application may be made by the attorney general in the name of the people of the state to a court having jurisdiction to issue an injunction, and upon notice to the respondent of not fewer than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine

that a violation of this article has occurred, the court may impose a civil penalty of not more than seven thousand five hundred dollars for each violation.

§ 460-i. Violations. Any violation of any provision of this article shall be a class A misdemeanor, and upon conviction the court may order as part of the sentence imposed restitution or reparation to the victim of the crime pursuant to section 60.27 of the penal law.

§ 460-j. Other remedies. The civil and criminal remedies set forth in this article shall not preclude any individual or entity or government authority from seeking relief under any other statutory or common law right to relief.