

House Bill 333

By: Representatives Mobley of the 69th and Mangham of the 75th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to
2 attorneys, so as to provide who may represent persons desiring immigration and nationality
3 services; to prohibit certain persons from practicing immigration and nationality law or from
4 providing services relating to immigration or naturalization matters; to define certain terms;
5 to provide that an attorney who practices immigration and nationality law in this state and
6 who is not licensed by the State Bar of Georgia shall disclose to all persons to whom service
7 is provided that he or she is not licensed by the State Bar of Georgia and shall disclose the
8 state in which he or she is licensed to practice law; to provide that it is unlawful for any
9 person to render for compensation any service constituting the unlawful practice of
10 immigration and nationality law or to otherwise violate any provision of this Act; to provide
11 for causes of action, remedies, and civil penalties; to provide that an act or practice in
12 violation of this Act constitutes an unfair and deceptive business practice, and a person in
13 violation of this Act shall be subject to the liabilities, penalties, and other provisions of the
14 "Fair Business Practices Act of 1975"; to provide for enforcement; to provide for criminal
15 penalties; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to attorneys, is
19 amended by adding at the end thereof a new Article 4 to read as follows:

20 "ARTICLE 4

21 15-19-70.

22 As used in this article, the term:

1 (1) 'Immigration or naturalization matter' includes all matters involving any law, action,
2 filing, or proceeding related to a person's immigration or citizenship status in the United
3 States.

4 (2) 'Original document' means any document of the United States government or any
5 department or agency of the United States government, any foreign government, any state
6 government or any political subdivision of any state, any United Nations document, or
7 any other document, including signed affidavits, that would demonstrate physical
8 presence by a person in the United States.

9 (3) 'Unauthorized practice of immigration and nationality law' means:

10 (A) The act of any person appearing in any case, either in person or through
11 preparation or filing of any brief or other document, paper, application, or petition on
12 behalf of another person or client before or with the immigration and naturalization
13 service or any officer of the immigration and naturalization service, the executive office
14 for immigration review, or the board of immigration appeals, without authorization
15 under this article; or

16 (B) The study of the facts of a case and the applicable laws, coupled with giving advice
17 and auxiliary activities, including the incidental preparation of papers, without
18 authorization under this article but does not include the lawful functions of a notary
19 public, nonprofit organization, or service consisting solely of assistance in the
20 completion of blank spaces on printed immigration and naturalization service forms by
21 a person whose remuneration, if any, is nominal and who does not hold himself or
22 herself out as qualified in legal matters or in immigration or naturalization matters.

23 15-19-71.

24 (a) A person desiring immigration and nationality services may be represented by any of
25 the following:

26 (1) Attorneys in the United States;

27 (2) A law student who is enrolled in an accredited law school or a law school graduate
28 who is not yet admitted to the bar, if both of the following apply:

29 (A) The student or graduate is appearing on an individual case basis at the request of
30 the person entitled to representation; and

31 (B) The student or graduate is permitted to appear by the official before whom the
32 student or graduate wishes to appear, including an immigration judge, an immigration
33 district director, an immigration officer in charge, a regional immigration commission,
34 the United States commissioner of immigration and naturalization, or the immigration
35 board. If in the official's opinion special circumstances warrant it, the official may

1 require that a law student be accompanied by a supervising faculty member or an
2 attorney;

3 (3) Any reputable person of good moral character, if all of the following apply:

4 (A) The person is appearing on an individual case basis, at the request of the person
5 entitled to representation;

6 (B) The person is appearing without direct or indirect remuneration and the person files
7 a written declaration to that effect;

8 (C) The person has a preexisting relationship with the person entitled to representation,
9 including that of a relative, neighbor, member of the clergy, business associate, or
10 personal friend, except that this requirement may be waived as a matter of
11 administrative discretion in cases in which adequate representation would not otherwise
12 be available; and

13 (D) If the person is appearing on behalf of a client, the person's appearance is
14 permitted by the official before whom the person wishes to appear, including an
15 immigration judge, an immigration district director, an immigration officer in charge,
16 a regional immigration commissioner, the United States commissioner of immigration
17 and naturalization, or the immigration board, except that this permission shall not be
18 granted with respect to any person who regularly engages in immigration and
19 nationality practice or preparation or holds himself or herself out to the public as
20 qualified to do so;

21 (4) A person who is representing an organization accredited by the board of immigration
22 appeals and who has been accredited by the immigration board; or

23 (5) An accredited official in the United States of the government to which an alien owes
24 allegiance, if the official appears solely in his or her official capacity and with the alien's
25 consent.

26 (b) Except as otherwise provided in this Code section, no other person or persons may
27 represent others in any case, prepare applications or forms, or give any legal advice relating
28 to any immigration or naturalization matter.

29 (c) Any person who misrepresents the services he or she may provide in immigration or
30 naturalization matters is in violation of this article.

31 (d) A person or organization may not retain an original document belonging to a client
32 unless authorized by the client.

33 (e) An attorney who practices immigration and nationality law in this state and who is not
34 licensed by the State Bar of Georgia shall not provide advice on issues of this state's law.
35 An attorney who practices immigration and nationality law in this state and who is not
36 licensed by the State Bar of Georgia shall disclose to all persons to whom service is
37 provided that he or she is not licensed by the State Bar of Georgia and shall disclose the

1 state in which he or she is licensed to practice law. This disclosure must be done in writing
2 at the time the attorney's services are retained.

3 (f) For purposes of this Code section, the term 'attorney' means any person who is a
4 member in good standing of the bar of the highest court of any state, possession, territory,
5 commonwealth, or district of the United States and who is not under any order of any court
6 suspending, enjoining, restraining, disbaring, or otherwise restricting the person in the
7 practice of law.

8 15-19-72.

9 (a) It is unlawful for any person to render for compensation any service constituting the
10 unauthorized practice of immigration and nationality law or to otherwise violate any
11 provision of this article.

12 (b) A person having an interest or right that is or may be adversely affected under this
13 article may initiate an action for civil remedies. The provisions of this article are in addition
14 to all other causes of action, remedies, and penalties that are available under state law.

15 (c)(1) The Attorney General of this state shall initiate appropriate proceedings to prevent
16 or to stop violations of this article.

17 (2) An act or practice in violation of this article constitutes an unfair and deceptive
18 business practice within the meaning of Code Section 10-1-393, and a person in violation
19 of this article shall be subject to the liabilities, penalties, and other provisions of Part 2
20 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'

21 (d) A person who violates any provision of this article is guilty of a misdemeanor;
22 provided, however, that upon a second or subsequent conviction of a violation of this
23 article, the defendant commits a felony and shall be punished by imprisonment for not less
24 than one nor more than three years or by a fine not to exceed \$5,000.00, or both."

25 SECTION 2.

26 All laws and parts of laws in conflict with this Act are repealed.