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# A BILL FOR AN ACT

RELATING TO VETERANS RIGHTS AND BENEFITS.

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

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

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

**"PART . VETERANS BENEFITS**

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

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

(c) Before rendering any services, a person seeking to receive compensation for advising or assisting any individual with any veterans benefits matter, shall memorialize in a written agreement all terms regarding the individual's payment

of fees for services rendered that adheres to all criteria specified within title 38 Code of Federal Regulations section 14.636 and shall be signed by both parties.

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

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

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

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

**§363- Ethical standards.** Any person who receives compensation for preparing, presenting, or prosecuting a claim or action relating to veterans benefits or for advising or assisting an individual with regard to any veterans benefits matter before the Department of Veterans Affairs shall be held to the same ethical standards as an attorney is held to under

the Hawaii rules of professional conduct regarding the following:

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

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

"THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, OR ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION. OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE YOU WITH THIS SERVICE FREE OF CHARGE. PRODUCTS OR SERVICES OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER

VETERANS BENEFITS BEYOND THE BENEFITS FOR WHICH YOU ARE RECEIVING SERVICES HERE."

(b) The written disclosure required by subsection (a) shall appear in at least twelve-point font and shall appear in a readily noticeable and identifiable place in the agreement with the individual seeking services. The individual shall verbally acknowledge understanding of the oral disclosure and shall sign the document in which the written disclosure appears to indicate understanding of these provisions. The person offering services shall retain a copy of the written disclosure while providing veterans benefits services for compensation to the individual and for at least one year after the date on which the services terminate.

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

"THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE HAWAII DEPARTMENT OF DEFENSE, THE HAWAII OFFICE OF VETERANS' SERVICES, OR ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION. OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE YOU WITH THESE SERVICES FREE OF CHARGE. PRODUCTS OR SERVICES OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER

VETERANS BENEFITS BEYOND THE SERVICES THAT THIS BUSINESS OFFERS."

(b) If the advertisement is printed, including but not limited to advertisements visible to internet users, the disclosure required by subsection (a) shall appear in a readily visible place on the advertisement. If the advertisement is verbal, the disclosure shall be spoken in a clear and intelligible manner.

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

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

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

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

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

"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 Veterans Affairs or the department of defense pertaining to veterans, their dependents, their survivors, and any other individual eligible for such benefits."

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

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

SECTION 7. New statutory material is underscored.

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)