

VETERAN BENEFIT ASSISTANCE DISCLOSURE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill provides for disclosure of federal laws governing assistance to veterans when they are applying for benefits, a notification requirement for those providers of assistance, and requires the Department of Veterans' and Military Affairs to keep a list of accredited providers.

Highlighted Provisions:

This bill:

- ▶ creates definitions;
- ▶ requires anyone providing assistance to be federally accredited;
- ▶ provides disclosure requirements for any person assisting a veteran to apply for benefits;
- ▶ specifies that the disclosure shall include the federal prohibition for charging a fee for assistance;
- ▶ requires that disclosures be in writing and copies provided to the veteran;
- ▶ creates certain duties for the executive director of the Department of Veterans and Military Affairs in processing benefit assistance complaints by veterans; and
- ▶ exempts veteran's service organizations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

71-12-1, Utah Code Annotated 1953**71-12-2**, Utah Code Annotated 1953**71-12-3**, Utah Code Annotated 1953**71-12-4**, Utah Code Annotated 1953

33 71-12-5, Utah Code Annotated 1953

34 71-12-6, Utah Code Annotated 1953

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36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section 71-12-1 is enacted to read:

38 **71-12-1. Title.**

39 This chapter shall be known as the "Veteran Benefits Assistance Act."

40 Section 2. Section 71-12-2 is enacted to read:

41 **71-12-2. Definitions.**

42 As used in this chapter:

43 (1) "Accredited" means an individual has been authorized by Title 38, Code of Federal

44 Regulations to provide assistance to veterans and their dependents through the U.S.

45 Department of Veterans Affairs accreditation program for claiming veteran benefits.

46 (2) "Assistance" means preparation, presentation, and prosecution of claim for veteran
47 benefits on behalf of a veteran or the veteran's dependents.

48 (3) "Certify" means to submit in writing to a veteran or the veteran's dependents certain
49 disclosure forms provided by the department.

50 (4) "Claimant" means a veteran or a veteran's dependent who has expressed an intent to
51 an accredited agent, an accredited attorney, or an accredited representative of a veterans'
52 service organization the veteran's intent to file a claim for veteran benefits.

53 (5) "Department" means the Utah Department of Veterans' and Military Affairs.

54 (6) "Executive director" means the Executive Director of the Utah Department of
55 Veterans' and Military Affairs.

56 (7) "Non-compliant referral" means referring a veteran or a veteran's dependent's
57 original claim for veteran benefits for assistance to an individual who is in violation of the
58 provisions of this chapter.

59 (8) "Referring entity" means an individual, business, or organization licensed in this
60 state who refers for assistance or assists a veteran or a veteran's dependents with an original
61 claim for veteran benefits.

62 (9) "VA" means the United States Department of Veterans Affairs.

63 (10) "Veteran" includes all eligible dependents.

64 Section 3. Section **71-12-3** is enacted to read:

65 **71-12-3. Disclosure requirement for assisting a veteran benefit claimant.**

66 (1) Each person offering to assist veterans in applying for benefits shall:

67 (a) be federally accredited, in compliance with the provisions of Title 38, Code of
68 Federal regulations, or employed and directly supervised by a federally accredited person; and

69 (b) disclose in writing, in a format approved by the department that the veteran can
70 retain, the federal law governing assistance to veterans for obtaining benefits.

71 (2) The disclosure required by Subsection (1)(b) shall specifically include:

72 (a) the individual's name;

73 (b) the individual's business address;

74 (c) the individual's business phone number;

75 (d) the individual's registration number from the VA;

76 (e) a statement of the veteran's rights regarding the individual's assistance, including
77 that there is no charge for assistance with the initial benefits application;

78 (f) any charges that might apply for subsequent assistance; and

79 (g) a statement that if, as a result of the individual providing assistance to the veteran,
80 income is accrued to the assisting individual from the sale of a product or other services to the
81 veteran, the income is both justified and reasonable as compared with income from similar
82 products and services available in the state.

83 (3) No provisions of the form may be struck out or designated as nonapplicable.

84 (4) Disclosure forms, when completed, shall be:

85 (a) signed by both the individual providing assistance and the veteran being assisted;

86 and

87 (b) retained for three years by the assisting individual.

88 (5) Copies of the disclosure form shall be provided to:

89 (a) the veteran on the day the form is completed and signed; and

90 (b) the department within five working days.

91 Section 4. Section **71-12-4** is enacted to read:

92 **71-12-4. Education requirements.**

93 (1) All individuals and attorneys providing assistance to a veteran shall complete three
94 hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month

95 period following the date of initial accreditation; and

96 (2) an additional three hours of qualifying continuing education every two years

97 following the initial 12 month period.

98 Section 5. Section **71-12-5** is enacted to read:

99 **71-12-5. Department responsibilities -- Notification -- Assistance -- Complaints --**
100 **Claimant responsibilities.**

101 (1) The Utah Department of Veterans' and Military Affairs shall notify in writing each
102 veteran for whom the department has contact information that any individual or business
103 offering to assist veterans in applying for benefits shall disclose in writing to the veteran the
104 following:

105 (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 requires that anyone assisting a veteran to
106 apply for benefits be federally accredited;

107 (b) federal law prohibits charging a veteran a fee for assisting with the initial
108 application for benefits; and

109 (c) the department's website has a list with contact information of federally accredited
110 advisors.

111 (2) Beginning July 1, 2015, and every three years after, the department shall:

112 (a) notify the Insurance Department regarding the federal law governing assistance for
113 veterans applying for benefits, and the Insurance Department shall notify all individual
114 producers and consultants licensed by the Insurance Department at the time of initial licensing
115 and upon license renewal of those same federal laws governing assistance for veterans applying
116 for benefits;

117 (b) contact the Utah Bar Association regarding federal law governing legal assistance
118 for veterans applying for benefits and request that the association provide continuing legal
119 education on federal laws governing assistance; and

120 (c) notify the Utah Department of Health regarding federal law governing the
121 assistance for veterans applying for benefits, and requiring the Department of Health to notify
122 all assisted living and nursing care facilities of those federal laws.

123 (3) The executive director shall establish procedures for processing complaints related
124 to assistance regarding a veteran's claim for benefits.

125 (4) For violations by accredited or non-accredited individuals who offer assistance to a

126 veteran, the director shall:

127 (a) investigate to determine if a violation has occurred and, if so, issue a warning notice
128 if needed;

129 (b) upon notification of a second or more violation, file a complaint with the
130 appropriate state licensing entity;

131 (c) report repeated violations to the Utah Attorney General's Office for investigation of
132 criminal acts; and

133 (d) notify the VA in accordance with Title 38, Code of Federal Regulations.

134 Section 6. Section **71-12-6** is enacted to read:

135 **71-12-6. Exempt organizations.**

136 Representatives of the following organizations are exempt from the provisions of this
137 chapter:

138 (1) American Legion;

139 (2) Veterans of Foreign Wars;

140 (3) Disabled American Veterans;

141 (4) Vietnam Veterans of America;

142 (5) American Veterans (AMVET);

143 (6) Military Order of the Purple Heart; and

144 (7) other VA recognized service organizations.