

VETERAN CLAIM ASSISTANCE DISCLOSURE

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marie H. Poulson

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill provides for disclosure of compliance with federal laws governing assistance to claimants for veteran benefits, a notification requirement for providers of assistance, and requires the Department of Veterans' and Military Affairs to keep a list of accredited claim representatives.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 ENACTS:

31 71-13-101, Utah Code Annotated 1953

32 71-13-102, Utah Code Annotated 1953

33 71-13-103, Utah Code Annotated 1953

34 71-13-104, Utah Code Annotated 1953

35 71-13-105, Utah Code Annotated 1953

36 71-13-106, Utah Code Annotated 1953

37

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

39 Section 1. Section 71-13-101 is enacted to read:

40 **CHAPTER 13. VETERAN BENEFITS ASSISTANCE ACT**

41 **71-13-101. Title.**

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

43 Section 2. Section 71-13-102 is enacted to read:

44 **71-13-102. Definitions.**

45 As used in this chapter:

46 (1) "Accredited" means a service organization representative, agent, or attorney to
47 whom authority has been granted by the VA to provide assistance to claimants in the
48 preparation, presentation, and prosecution of claims for VA benefits.

49 (2) "Assistance" means an accredited individual providing claimant-specific
50 recommendations or preparing or submitting an application for VA benefits on behalf of a
51 claimant.

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

54 (4) "Claimant" means a person who has filed or has expressed to a service organization
55 representative, agent, or attorney an intention to file a written application for determination of
56 entitlement to benefits provided under United States Code, Title 38, and implementing
57 directives.

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

59 (6) "Executive director" means the executive director of the Utah Department of
60 Veterans' and Military Affairs.

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

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

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

68 (10) "VA benefits" means any payment, service, commodity, function, or status
69 entitlement which is determined under laws administered by the VA pertaining to veterans,
70 dependents, and survivors as well as other potential beneficiaries under United States Code,
71 Title 38.

72 (11) "Veteran" includes all eligible dependents.

73 Section 3. Section **71-13-103** is enacted to read:

74 **71-13-103. Disclosure requirement for assisting a claimant.**

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

76 (a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions,
77 Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the
78 provisions of C.F.R., Title 38 pertaining to authorized claim representation under an attorney;
79 and

80 (b) disclose in writing, in a format approved by the department that the claimant can
81 retain, the federal laws, regulations, and rules governing assistance for VA benefits.

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

83 (a) the individual's name;

84 (b) the individual's business address;

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

- 86 (d) the individual's registration number from the VA;
- 87 (e) a statement of the claimant's rights regarding the assistance for VA benefits,
- 88 including that there is no charge to the claimant or a member of the claimant's family for
- 89 assistance with the initial benefits application; and
- 90 (f) a statement that if, as a result of the individual providing assistance for a claim,
- 91 income is accrued to the assisting individual from the sale of a product or other services to the
- 92 claimant, the income is both justified and reasonable as compared with income from similar
- 93 products and services available in the state.

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

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

96 (a) signed by both the individual providing assistance and the claimant; and

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

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

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

100 (b) the department within five working days.

101 Section 4. Section **71-13-104** is enacted to read:

102 **71-13-104. Education requirements.**

103 (1) All individuals and attorneys providing assistance to a veteran shall complete three

104 hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month

105 period following the date of initial accreditation; and

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

107 following the initial 12-month period.

108 Section 5. Section **71-13-105** is enacted to read:

109 **71-13-105. Department responsibilities -- Notification -- Assistance -- Complaints**

110 **-- Claimant responsibilities.**

111 (1) The Utah Department of Veterans' and Military Affairs shall notify in writing each

112 veteran for whom the department has contact information that any individual or business

113 offering to assist veterans in applying for benefits shall disclose in writing to the veteran the

114 following:

115 (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing
116 assistance be accredited by the VA;

117 (b) federal law restricts charging a veteran a fee for assisting in the initial application
118 for VA benefits; and

119 (c) the department's website has a list with contact information of VA accredited claim
120 representatives.

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

122 (a) notify the Insurance Department regarding the federal law governing assistance for
123 VA benefits, and the Insurance Department shall notify all individual producers and
124 consultants licensed by the Insurance Department at the time of initial licensing and upon
125 license renewal of those same federal laws governing assistance for VA benefits;

126 (b) contact the Utah State Bar regarding federal law governing legal assistance for
127 claimants applying for benefits and request that the association provide continuing legal
128 education on federal laws governing assistance; and

129 (c) notify the Department of Health regarding federal law governing the assistance for
130 claimants applying for benefits, and the Department of Health shall notify all assisted living
131 and nursing care facilities of those federal laws.

132 (3) The executive director may establish procedures for processing complaints related
133 to assistance regarding a claim for VA benefits.

134 (4) For violations by accredited or non-accredited individuals who offer assistance with
135 VA benefits, the executive director may audit selected assisting individuals and referring
136 entities for compliance with this chapter and federal laws which govern the provision of
137 assistance to claimants.

138 Section 6. Section **71-13-106** is enacted to read:

139 **71-13-106. Exempt organizations.**

140 Accredited representatives of the following organizations are exempt from the
141 provisions of this chapter:

- 142 (1) American Legion;
- 143 (2) Veterans of Foreign Wars;
- 144 (3) Disabled American Veterans;
- 145 (4) Vietnam Veterans of America;
- 146 (5) American Veterans (AMVET);
- 147 (6) Military Order of the Purple Heart; and
- 148 (7) other VA recognized service organizations as determined by the executive director.