

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

Highlighted Provisions:

This bill:

- ▶ creates definitions;
- ▶ reiterates the requirement that anyone providing assistance must 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 Utah Department of Veterans' and Military Affairs in processing benefit assistance complaints by veterans; and
- ▶ exempts veterans service organizations.

Money Appropriated in this Bill:

None



Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

71-13-101, Utah Code Annotated 1953**71-13-102**, Utah Code Annotated 1953**71-13-103**, Utah Code Annotated 1953**71-13-104**, Utah Code Annotated 1953**71-13-105**, Utah Code Annotated 1953**71-13-106**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **71-13-101** is enacted to read:**CHAPTER 13. VETERAN BENEFITS CLAIM ASSISTANCE ACT****71-13-101. Title.**This chapter is known as the "Veteran Benefits Claim Assistance Act."Section 2. Section **71-13-102** is enacted to read:**71-13-102. Definitions.**As used in this chapter:

(1) "Accredited" means an individual has been authorized by Code of Federal Regulations, Title 38, Pensions, Bonuses, and Veterans' Relief, to provide assistance to veterans and their dependents through the United States Department of Veterans Affairs accreditation program for claiming veteran benefits.

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

(3) "Claimant" means a veteran or a veteran's dependent who has expressed an intent to file a claim for veteran benefits.

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

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

(6) "Referring entity" means an individual, business, or organization licensed in this

state who refers for assistance or assists a veteran or a veteran's dependents with an original claim for veteran benefits.

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

(8) "Veteran" includes all eligible dependents.

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

71-13-103. Disclosure requirement for assisting a veteran benefit claimant.

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

(a) be federally accredited, in compliance with the provisions of Code of Federal Regulations, Title 38, Pensions, Bonuses, and Veterans' Relief, or employed and directly supervised by a federally accredited person; and

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

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

(a) the individual's name;

(b) the individual's business address;

(c) the individual's business phone number;

(d) the individual's VA registration number;

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

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

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

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

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

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

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

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

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

(b) the department within five working days.

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

71-13-104. Education requirements.

All individuals and attorneys providing assistance to a veteran shall complete:

(1) three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of initial accreditation; and

(2) an additional three hours of qualifying continuing education every two years following the initial 12 month period.

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

71-13-105. Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

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

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

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

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

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

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

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

(c) notify the Utah Department of Health regarding federal law governing the

121 assistance for veterans applying for benefits, and requiring the Utah Department of Health to
122 notify 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) The executive director may audit selected assisting individuals and referring
126 entities for compliance with this chapter and federal laws which govern the provision of
127 assistance to claimants.

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

129 **71-13-106. Exempt organizations.**

130 Representatives of the following organizations are exempt from the provisions of this
131 chapter:

132 (1) American Legion;

133 (2) Veterans of Foreign Wars;

134 (3) Disabled American Veterans;

135 (4) Vietnam Veterans of America;

136 (5) American Veterans (AMVET);

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

138 (7) other VA recognized service organizations.

Legislative Review Note

as of 1-29-15 10:26 AM

Office of Legislative Research and General Counsel