

STATE OF NEW YORK

8150

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. BYNOE -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the veterans' services law, the general business law, the penal law, and the state finance law, in relation to enacting the "governing unaccredited representatives defrauding (GUARD) VA benefits act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "governing unaccredited representatives defrauding (GUARD) VA bene-
3 fits act".

4 § 2. The veterans' services law is amended by adding a new section
5 29-e to read as follows:

6 § 29-e. Protecting veterans from fraud and unaccredited represen-
7 tatives.

8 1. For the purposes of this section, the following terms shall have
9 the following meanings:

10 (a) "Unaccredited representative" shall mean any person lacking the
11 authority granted by the VA to representatives, agents, and attorneys to
12 assist claimants in the preparation, presentation, and prosecution of
13 claims for VA benefits under title 38 of the United States code and
14 title 38 of the code of federal regulations.

15 (b) "Veterans' benefits matter" shall have the same meaning as defined
16 by section three hundred forty-nine-f of the general business law.

17 (c) "Veterans' benefits matter frauds" shall mean any type of consumer
18 fraud, scam, or deceptive business practice, including but not limited
19 to those using mail, television, internet, telemarketing, recorded
20 message telephone calls commonly known as robocalls, solicitations and
21 marketing that target or adversely affect intended recipients including
22 but not limited to any violation of chapter 59 of title 38 of the United

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11765-02-5

1 States code or section three hundred forty-nine-f of the general busi-
2 ness law.

3 (d) "Intended recipients" shall include veterans, service members, and
4 the family members and caregivers of such individuals.

5 (e) "Entity" shall have the same meaning as defined by section three
6 hundred forty-nine-f of the general business law.

7 (f) "Claimant" means any individual applying for, or submitting a
8 claim for, any benefit under the laws administered by the U.S. secretary
9 of veterans affairs.

10 (g) "VA" means the United States department of veterans affairs.

11 2. The commissioner shall establish an informational outreach program
12 to raise awareness of veterans' benefits matter frauds. Such program
13 shall disseminate to intended recipients:

14 (a) general information on veterans' benefits matter frauds, including
15 descriptions of the most common types of fraud, scams and other decep-
16 tive business practices, and measures intended recipients can take to
17 protect against such veterans' benefits matter frauds;

18 (b) information on how to report veterans' benefits matter frauds to
19 the division of consumer protection, the attorney general and other
20 appropriate federal, state, and local authorities;

21 (c) general information on seeking representation in a veterans' bene-
22 fits matter, including how to verify VA accreditation and identify unac-
23 credited representatives and best practices for seeking representation
24 or assistance with a veterans' benefits matter;

25 (d) information on when an entity may lawfully seek reasonable compen-
26 sation or fees in connection with a veterans' benefits matter;

27 (e) publicly available information about enforcement actions taken
28 against unaccredited representatives and entities engaging in veterans'
29 benefits matter frauds targeting or adversely affecting intended recipi-
30 ents; and

31 (f) information on the rights and remedies available to victims of
32 veterans' benefits matter frauds targeting or adversely affecting
33 intended recipients.

34 3. The program shall include the following elements:

35 (a) public service announcements;

36 (b) establishment of a toll-free telephone hotline and email address
37 to receive complaints regarding veterans' benefits matter frauds target-
38 ing or adversely affecting intended recipients;

39 (c) maintaining a page on the department's website to serve as a
40 resource for information regarding veterans' benefits matter frauds that
41 target or adversely affect intended recipients, which shall include but
42 not be limited to:

43 (i) warnings about potential predatory practices including a warning
44 about individuals who seek to act in violation of chapter 59 of title 38
45 of the United States code or section three hundred forty-nine-f of the
46 general business law;

47 (ii) a link to the online tool of the VA through which a claimant may
48 report an individual acting in violation of chapter 59 of title 38 of
49 the United States code or section three hundred forty-nine-f of the
50 general business law;

51 (iii) a link to the online tool of the VA through which a claimant may
52 search for a recognized agent, attorney, or other entity recognized by
53 the VA for the preparation, presentation, or prosecution of any claim
54 under laws administered by the U.S. secretary of veterans affairs; and

55 (iv) a link to a website or an online tool of the VA providing final
56 decisions on discipline of agents, attorneys, and entities, described in

1 subparagraph (iii) of this paragraph, by the U.S. secretary of veterans
2 affairs for violations of chapter 59 of title 38 of the United States
3 code; and

4 (d) providing seminars three times per year at locations throughout
5 the state to advise intended recipients of the information under subdivi-
6 vision two of this section.

7 4. The commissioner shall collaborate with relevant state agencies and
8 officials including the division of consumer protection, the secretary
9 of state, the attorney general, local directors and veterans' service
10 organizations to monitor the market for veterans' benefits matter
11 frauds, and shall coordinate and consult with other relevant agencies as
12 appropriate regarding the requirements of this section and to ensure the
13 latest information regarding veterans' benefits matter fraud is dissem-
14 inated to intended recipients.

15 5. The commissioner, in consultation with the secretary of state and
16 the attorney general, shall establish standard protocols and procedures
17 for employees of the department and local veterans' service agencies for
18 handling any complaints of veterans' benefits matter fraud that may be
19 reported to such employees.

20 6. A description of the program's activities and the commissioner's
21 recommendations to the legislature regarding such program shall be
22 included in the annual report required under subdivision seventeen of
23 section four of this article.

24 § 3. Paragraph (a) of subdivision 2 of section 349-f of the general
25 business law, as added by chapter 183 of the laws of 2019, is amended to
26 read as follows:

27 (a) No entity shall [~~receive compensation for advising or assisting~~
28 ~~any party with~~] solicit, contract for, charge, or receive, or attempt to
29 solicit, contract for, charge, or receive, any fee or compensation with
30 respect to any veterans' benefits matter, except as permitted under
31 title 38 of the United States code and the corresponding provisions
32 within title 38 of the United States code of federal regulations with
33 respect to veterans' benefits matters before the United States depart-
34 ment of veterans affairs, or as permitted under state law or rules
35 issued by the commissioner of veterans' services with respect to veter-
36 ans' benefits matters before the department of veterans' services.

37 § 4. Paragraph a of subdivision 4 of section 349-f of the general
38 business law, as added by chapter 183 of the laws of 2019, is amended to
39 read as follows:

40 (a) Any violation of this section shall constitute a deceptive act in
41 the conduct of business, trade, or commerce, and except as otherwise
42 provided in this section, shall be subject to the provisions of section
43 three hundred [~~forty-nine~~] forty-nine of this article, including any
44 right of action and corresponding penalties described within such
45 section.

46 § 5. Subdivision 4 of section 349-f of the general business law is
47 amended by adding a new paragraph (c) to read as follows:

48 (c) Notwithstanding any provision of section three hundred forty-nine
49 of this article to the contrary:

50 (i) An individual who is harmed by an entity as a result of an enti-
51 ty's violation of this section may bring an action in their own name
52 against an entity to enjoin such unlawful act or practice, an action to
53 recover their actual damages or twenty-five hundred dollars, whichever
54 is greater, or both such actions, in addition to any other remedy avail-
55 able in law or equity. The court may award costs and reasonable attor-
56 ney's fees to a prevailing plaintiff.

1 (ii) Whenever the court shall determine that a violation of this
2 section has occurred, the court may impose a civil penalty of not more
3 than ten thousand dollars for each violation.

4 (iii) Any violation of paragraph (a) of subdivision two of this
5 section shall be a class A misdemeanor, and upon conviction thereof,
6 shall be punishable by a fine of not more than one thousand dollars, or
7 by imprisonment for not more than one year, or by both such fine and
8 imprisonment; provided however, a second or subsequent offense shall be
9 punishable by a fine of not more than three thousand dollars or by
10 imprisonment for not more than one year, or by both such fine and impri-
11 sonment. In addition, the court may order as part of the sentence
12 imposed restitution or reparation to the victim of the crime pursuant to
13 section 60.27 of the penal law. The attorney general shall have the
14 power to prosecute any violation of paragraph (a) of subdivision two of
15 this section.

16 (iv) The civil and criminal remedies set forth in this section shall
17 not preclude any individual or entity or government authority from seek-
18 ing relief under any other statutory or common law right to relief.

19 § 6. Subdivision 5 of section 349-f of the general business law is
20 renumbered subdivision 6 and a new subdivision 5 is added to read as
21 follows:

22 5. (a) In addition to any liability for damages or a civil penalty
23 imposed pursuant to sections three hundred forty-nine, three hundred
24 fifty-c and three hundred fifty-d of this chapter, regarding deceptive
25 practices and false advertising, and subdivision twelve of section
26 sixty-three of the executive law, regarding proceedings by the attorney
27 general for equitable relief against fraudulent or illegal consumer
28 fraud, a person or entity who engages in any conduct prohibited by such
29 provisions of law, and whose conduct is perpetrated against one or more
30 persons seeking or using services in connection with a veterans' bene-
31 fits matter, may be liable for an additional civil penalty not to exceed
32 ten thousand dollars, in accordance with paragraph (b) of this subdivi-
33 sion.

34 (b) In determining whether to impose a supplemental civil penalty
35 pursuant to paragraph (a) of this subdivision, and the amount of any
36 such penalty, the court shall consider, in addition to other appropriate
37 factors as determined by the court, the extent to which the following
38 factors are present:

39 (i) whether the defendant knew that such defendant's conduct was
40 directed to one or more persons seeking or using services in connection
41 with a veteran's benefits matter or whether such defendant knowingly
42 acted with disregard for the rights of a person seeking or using
43 services in connection with a veterans' benefits matter;

44 (ii) whether the defendant's conduct:

45 (1) caused a person seeking or using services to suffer loss or encum-
46 brance of a primary residence, loss of employment or source of income,
47 substantial loss of property or assets essential to the health or
48 welfare of the person seeking or using services in connection with a
49 veteran's benefits matter; or

50 (2) whether one or more persons seeking or using services in
51 connection with a veteran's benefits matter were substantially more
52 vulnerable to such defendant's conduct because of disability, impaired
53 understanding, or any other perceived disadvantage, and actually
54 suffered physical or economic damage resulting from such defendant's
55 conduct.

1 (c) Restitution ordered pursuant to the provisions of law listed in
2 paragraph (a) of this subdivision or pursuant to any other section of
3 law shall be given priority over the imposition of civil penalties
4 ordered by the court under this subdivision.

5 § 7. The penal law is amended by adding a new section 190.90 to read
6 as follows:

7 § 190.90 Unlawful compensation in a veterans' benefits matter.

8 A person is guilty of unlawful compensation in a veterans' benefits
9 matter when such person knowingly and willfully violates paragraph (a)
10 of subdivision two of section three hundred forty-nine-f of the general
11 business law.

12 Unlawful compensation in a veterans' benefits matter is a class A
13 misdemeanor.

14 § 8. The state finance law is amended by adding a new section 99-tt to
15 read as follows:

16 § 99-tt. Veterans' services fund. 1. There is hereby established in
17 the joint custody of the commissioner of taxation and finance, the
18 commissioner of veterans' services, and the comptroller, a special fund
19 to be known as the "veterans' services fund".

20 2. Such fund shall consist of all civil penalties imposed pursuant to
21 section three hundred forty-nine-f of the general business law, any
22 additional moneys appropriated, credited or transferred to such fund by
23 the legislature, and the amounts of moneys received and deposited into
24 the fund from grants, gifts and bequests during the preceding calendar
25 year, as certified by the comptroller. Nothing in this section shall
26 prevent the state from soliciting and receiving grants, gifts or
27 bequests for the purposes of the fund as defined in this section and
28 depositing them into the fund according to law. Any interest earned by
29 the investment of moneys in such fund shall be added to such fund,
30 become part of such fund, and be used for the purposes of such fund.

31 3. On or before the first day of February each year, the commissioner
32 of veterans' services shall provide a written report to the temporary
33 president of the senate, speaker of the assembly, chair of the senate
34 finance committee, chair of the assembly ways and means committee, chair
35 of the senate committee on veterans, homeland security and military
36 affairs, chair of the assembly veterans' affairs committee, the state
37 comptroller and the public. Such report shall include how the moneys of
38 the fund were utilized during the preceding calendar year, and shall
39 include:

40 (a) the amount of money dispersed from the fund and the award process
41 used for such disbursements;

42 (b) recipients of awards from the fund;

43 (c) the amount awarded to each;

44 (d) the purposes for which such awards were granted; and

45 (e) a summary financial plan for such moneys which shall include esti-
46 mates of all receipts and all disbursements for the current and succeed-
47 ing fiscal years, along with the actual results from the prior fiscal
48 year.

49 4. On or before the first day of February of each calendar year, the
50 comptroller shall certify to the governor, the temporary president of
51 the senate, the speaker of the assembly, the chair of the senate finance
52 committee and the chair of the assembly ways and means committee, the
53 amount of money deposited in the veterans' services fund during the
54 preceding calendar year as the result of revenue derived pursuant to
55 section three hundred forty-nine-f of the general business law, and from
56 all grants, gifts and bequests.

1 5. Moneys of the fund shall be expended only for the award of grants
2 to veterans' service organizations certified by the United States
3 department of veterans affairs to assist claimants in the preparation,
4 presentation, and prosecution of claims for United States department of
5 veterans affairs benefits, as determined by the department of veterans'
6 services.

7 6. Moneys shall be paid out of the fund on the audit and warrant of
8 the comptroller on vouchers approved and certified by the commissioner
9 of veterans' services. Any interest received by the comptroller on
10 moneys on deposit in the veterans' services fund shall be retained in
11 and become part of such fund.

12 § 9. Severability clause. If any clause, sentence, paragraph, subdivi-
13 sion, or section of this act shall be adjudged by any court of competent
14 jurisdiction to be invalid, such judgment shall not affect, impair, or
15 invalidate the remainder thereof, but shall be confined in its operation
16 to the clause, sentence, paragraph, subdivision, or section thereof
17 directly involved in the controversy in which such judgment shall have
18 been rendered. It is hereby declared to be the intent of the legislature
19 that this act would have been enacted even if such invalid provisions
20 had not been included herein.

21 § 10. This act shall take effect on the one hundred eightieth day
22 after it shall have become a law. Effective immediately, the addition,
23 amendment and/or repeal of any rule or regulation necessary for the
24 implementation of this act on its effective date are authorized to be
25 made and completed on or before such effective date.