

Drafted by	City Clerk
Sponsored by/Referred by	Council President Acosta
Introduced on	March 9, 2015
Advertised on	March 10 and March 16, 2015

**BILL NO. 15 2015**  
**AN**  
**ORDINANCE**

AMENDING CHAPTER 339 OF THE READING CITY CODE, ENTITLED "LICENSES AND PERMITS," BY CREATING A NEW PART 3 ADDING DEFINITIONS, DUTIES, PENALTIES, EXCEPTIONS, PROHIBITED ACTS, LICENSING REQUIREMENTS AND OTHER RELATED ITEMS REGARDING PROVISION OF IMMIGRATION ASSISTANCE SERVICES; ALL UNDER CERTAIN TERMS AND CONDITIONS.

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS:

**SECTION 1.** Chapter 339 of The Reading City Code is hereby amended to add a new Part 3 as follows:

**PART 3. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.**

§ 339-301. Immigration Assistance Services.

Definitions. As used in this Section:

"BIA" means the Board of Immigration Appeals as determined under Title 8 (Aliens and Nationality) of the Code of Federal Regulations, as amended.

"Director" means the Director of the Administrative Services Department

"Compensation" means money, property, services, promise of payment, or anything else of value.

"CSC" means Customer Service Center.

"Department" means the Department of Administrative Services.

"Employed by" means that a person is on the payroll of the employer and the employer deducts from the employee's paycheck social security and withholding taxes, or receives compensation from the employer on a commission basis or as an independent contractor.

"Immigration matter" means any proceeding, filing or action affecting the status of any person which arises under immigration and naturalization law, regulations, procedure, executive order or presidential proclamation, including those which arise under actions or jurisdiction of the United States Department of Homeland Security, the Department of Justice, the United States Department of Labor, the United States Department of Revenue, the United States Department of State or any successor agencies or department(s).

"Immigration assistance service" means the business of providing any form of assistance, for a fee or other compensation, to any person in an "immigration matter."

"Provider" means any person or entity, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that provides immigration assistance services, but shall not include persons or entities exempt under Subsection (2).

§ 339-301. Exemptions. Nothing in this Part shall regulate any business to the extent that such regulation is prohibited by state or federal law. The requirements of this Part shall not apply to any of the following persons or entities if such person or entity can prove eligibility for an exemption as follows:

(a) Any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law, or any person working under the supervision of such person;

(b) Any organization recognized by the BIA that provides immigration assistance services via representatives accredited by such board to appear before the Department of Homeland Security or the Executive Office for Immigration Review, that does not charge a fee or charges nominal fees, as defined by the BIA;

(c) Any person employed by the federal government or by the Commonwealth of Pennsylvania and authorized to provide services in an immigration matter, when acting within the scope of such employment or authority;

(d) Any elected official who, acting within the scope of his or her official capacity, without a fee or other payment makes inquiries in an "immigration matter";

(e) Any City official or employee who, acting within the scope of his or her duties, without requiring a separate fee or other payment, makes inquiries in an "immigration matter" on behalf of an individual.

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§ 339-303. Provider Requirements.

(a) Registration. In addition to obtaining a business privilege license as required under Chapter 339, Part 2, a provider shall register with the CSC annually, pursuant to such registration process as may be established by the Department. A single registration shall include all locations at which a provider performs immigration-related services.

(1) At the time of registration, a provider must sign a form designated by the Department, attesting the provider's knowledge and consent to conduct business in accordance with the provisions of this Part, and acknowledging that any violation of the provisions of this Part by the provider may result in fines and penalties in addition to those stated in Part 339, as well as cease operations orders and suspension or revocation of the provider's business privilege license.

(2) At the time of registration, a provider must provide proof of a surety bond in the amount of \$50,000 in order to ensure payment of all final judgments and decrees entered against the provider for damages arising from the provision of immigration assistance services. The surety bond shall be in effect for the entire period in which the provider provides immigration assistance services, plus one year after the provider ceases all operations.

(b) Signs. All providers shall post signs at the provider's place of business, and every location where the provider regularly meets with customers. Signs shall be posted in a conspicuous interior location where the signs will be visible to customers who enter the office. Signs shall meet all of the following requirements:

(1) Each sign shall be at least 11 inches by 17 inches

(2) If the signs are placed on the exterior of the building or are located in a window the signs shall comply with Zoning and Historic Preservation regulations

(3) Notice signs shall contain the following statement:

(i) "This office is not an authorized government agency. I am not an attorney licensed to practice law or a representative accredited by the Board of Immigration Appeals. I cannot represent you before any immigration authority or agency and may not give legal advice or accept fees for legal advice. Advice on obtaining legal representation can be obtained from the Berks County Bar Association. Fingerprints taken at this location will not be accepted by the United States Department of Homeland Security for any purpose. You may cancel any contract within three (3) business days and get your money back for services not performed. If you have a complaint about this business, contact the City of Reading Customer Services Center."

(4) Notice signs shall be designed and approved by the

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Department or its designee and posted in a downloadable Portable Document Format (PDF) on the Department's website. The notice signs shall contain the statements required under this Section in English and any other language as determined by the Department. Providers shall reproduce the PDF from the Department website, without modification, and post as required herein.

(4) A fee sign, which contains a schedule of all services and fees regularly charged, shall be posted.

(c) Brochure. Before providing any services, a provider shall provide each customer with a brochure or handbill containing all disclosures in the form required under this section. Such brochure or handbill shall be designed and approved by the Department, and shall be posted on the Department's website in PDF Format. Providers shall reproduce and distribute the brochure exactly as obtained from the Department website, without modification. The brochure or handbill shall be in English and any other language as determined by the Department.

(d) Documents. Providers shall retain copies of all documents prepared or obtained in connection with services provided to a customer for a period of three (3) years after the date a written contract is executed by the provider and the customer, whether or not the contract is subsequently cancelled.

(1) Documents shall be retained at the provider's principal place of business and made available for confirmation of such retention by the Director or his representative upon demand, during normal business hours.

(e) Advertising. When advertising immigration assistance services by signs, pamphlets, newspapers, internet, television, radio or any other means, a provider shall post or otherwise include with the advertisement a notice in English and in every other language in which the person provides or offers to provide assistance. The notice shall be of a conspicuous size and shall state the following: "The individual offering to provide assistance to you is NOT an attorney licensed to practice law or a representative accredited by the Board of Immigration Appeals. The individual cannot represent you before any immigration authority or agency and may not give legal advice or accept fees for legal advice."

(1) No advertisement for immigration assistance services shall expressly or impliedly guarantee that the licensee will achieve any particular government action, including, but not limited to, the granting of employment authorization, lawful permanent residence status, citizenship, or any other form of immigration benefit or relief.

(2) Advertising posted at a provider's place of business shall be subject to confirmation of compliance with subsection (3) (e) by the Director or his representative, upon demand, during normal business hours.

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(3) All advertising in violation of this Section may be subject to penalties.

(f) Providers shall comply with all reasonable and lawful requests by the Department.

§ 339-304. Legal Duties of a Provider. Each provider may only perform the following immigration assistance services:

(a) Transcribing responses to a government agency form which is related to an immigration matter, but not advising a customer as to his or her answers on those forms;

(b) Translating information on forms, including the instructions, to a customer and translating the customer's answers to questions posed on those forms, but not advising a customer as to his or her answers on those forms;

(c) Securing for the customer supporting documents, requested by the customer, currently in existence, including but not limited to birth and marriage certificates, foreign passports, tax forms, police clearances and educational credentials, which may be needed to submit with government agency forms;

(d) Translating documents from a foreign language into English;

(e) Notarizing signatures on government agency forms, if the person performing the service is a notary public licensed in Pennsylvania;

(f) Arranging for the performance of medical testing and the obtaining of reports of such test results;

§ 339-305. Written Agreements.

(a) Each provider shall execute a written contract with the customer before providing any form of assistance in an immigration matter.

(1) The written contract shall include the following provisions:

(a) Name, address and telephone number of the provider;

(b) Itemization of all services to be provided and performed for the customer;

(c) Identification of all compensation and costs to be charged to the customer for the services to be performed;

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- (d) A statement that any originals of documents prepared, submitted or obtained may not be retained by the provider for any purpose, including payment of compensation or costs;
  - (e) A statement that the provider shall give the customer a copy of each document filed with a government entity;
  - (f) A statement that the customer is not required to obtain supporting documents through the provider, but may obtain such documents himself or herself;
  - (g) A statement, on the face of the contract and in print larger and more conspicuous than other print on the contract, in plain language and substantially similar to the following: "The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the Board of Immigration Appeals to provide representation to you and may not give legal advice or accept fees for legal advice.";
  - (h) A statement that the customer may rescind the contract within three (3) business days, which shall be conspicuously set forth in the contract in plain language substantially similar to the following: "You have three (3) business days to cancel this contract. Notice of cancellation must be in writing. If you cancel this contract within three (3) business days, you will get back your documents along with any fees that you have paid.";
  - (i) A statement conspicuously set forth in plain language substantially similar to "The individual providing assistance to you under this contract is prohibited from disclosing any information or filing any forms or documents with immigration or other authorities without your knowledge and consent.";
  - (j) A statement conspicuously set forth in plain language substantially similar to "A copy of all forms completed and documents accompanying the forms shall be kept by the service provider for three years. A copy of the
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customer's file shall be provided to the client on demand and without fee.";

(k) A statement that the provider has financial surety in effect for the benefit of any customer in the event that the customer is owed a refund, or is damaged by the actions of the provider, together with the name, address and telephone number of the surety. The statement should be in plain language and substantially similar to "The provider is required by law to have insurance, which is called a financial surety. If you are not given the services you agreed on, as the customer you may be able to get your money back through this insurance."

(2) The contract shall be in a language understood by the customer, an English language version of the contract shall also be provided.

(3) A copy of the contract shall be provided to the customer upon the customer's execution of the contract.

(4) Receipts shall be issued for all services provided, and any guarantee must be made in writing.

(5) The customer has the right to cancel the contract within three (3) business days after his or her execution of the contract, without fee or penalty.

(6) The contract may be cancelled at any time after execution. If the contract is cancelled after three (3) business days, the provider may retain fees for services rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen (15) days after cancellation.

(7) If any interpreter services are provided, the contract shall include an attestation from the interpreter affirming the accuracy of the translation and the translator's certification that he or she is competent to translate from the specified foreign language into English.

(8) Upon demand of the customer, providers must provide to the customer any documents prepared, submitted or obtained in relation to an immigration matter.

(9) Signature—Where a form has a section for the preparer to fill out, the provider must provide his or her own information and sign the form as the preparer.

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§ 339-306. Prohibited acts. It shall be unlawful for any provider, person, or business entity engaged in the business of immigration assistance services to:

(a.) In the course of dealing with customers or prospective customers:

(1) Make any statement that the person can or will obtain special favors from or has special influence with the United States Department of Homeland Security, the Department of Justice or any other government agency; or threaten to report the client to immigration or other authorities or undermine in any way the client's immigration status or attempt to secure lawful status;

(2) Make any guarantee or promise to a customer, regarding outcomes in an immigration matter;

(3) Demand or retain any compensation for service not performed or costs that are actually not incurred;

(4) Fail to provide a customer with copies of documents filed with a governmental entity, or refuse to promptly return documents supplied by, prepared by, or paid for by the customer upon the request of the customer, or upon termination of the contract, even if there is a fee dispute between the licensee and the customer;

(5) Give any legal advice concerning an immigration matter or otherwise engage in the practice of law, including, but not limited to, any advice regarding the selection of forms to be completed and submitted to any government agency in connection with an immigration matter;

(b) Represent or advertise, in connection with the provision of assistance in immigration matters, the title of lawyer or attorney at law, or equivalent terms in the English language, or any other language, including, but not limited to, "notary public," "accredited representatives of the Board of Immigration Appeals" or "immigration consultant," that could reasonably cause a customer to believe that the person possesses any form of license, accreditation, or official authorization to provide advice on an immigration matter. Provided, however, that a notary public licensed in Pennsylvania may use the term "notary public" if such use is accompanied by the statement that the person is not an attorney;

(c) State, imply, offer or otherwise represent that a person, business, agency, office or organization is authorized to provide fingerprinting services which will be accepted by the United States Department of Homeland Security (DHS) for the process of DHS applications or for any other purpose;

(d) Charge fees, directly or indirectly, for referring an individual to an attorney for any immigration matter. Provided, however, that a person may charge a fee

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for notarizing documents as permitted by the Pennsylvania laws regarding notary publics;

(f) Represent that a fee may be charged, or charge a fee, for the distribution, provision or submission of any official document or form issued or promulgated by a state or federal governmental entity, or for the referral of the customer to another person or entity that is qualified to provide services or assistance which the provider will not provide;

(g) Disclose any information to, or file any forms or documents with, immigration or other authorities without the knowledge or consent of the customer.

(h) Refuse to comply with any reasonable and lawful request from a Department inspector acting within the scope of responsibility under this Part.

(i) Perform, or offer to perform, any immigration assistance services or other act which requires a business privilege license under this Chapter and registration under this Part without a valid business privilege license issued by the Department and registration approved by the Department.

(j) Fail to adhere to any provision of this Part.

#### § 339-307. Penalties and Enforcement.

(a) Enforcement. In addition to any other penalty provided by law, any person who violates any provision of this Part shall be subject to appropriate Code enforcement proceeding and subject to fines and penalties specified. Each day that a violation of any provision of this Part continues shall constitute a separate and distinct offense. Any person who violates any provision of this Part shall further be liable in a private action as provided herein.

(b) Penalties. Upon the Department's determination that a provider is in violation of this Part hereof, or upon receipt of information of a provider's violation of this Part, the Department may take appropriate action against the individual or business entity, including:

(1) Suspension or Revocation of License.

Suspension or revocation of licenses granted under Part 339 Part 2 for all premises operated by the individual where violations have occurred. During any period of license suspension, each and every location of the individual's business shall cease operation as an immigration assistance service provider.

(2) Cease Operations Order. The Department may

issue a Cease Operations Order for each business location operated by the individual whose license(s) has been suspended in accordance with the same procedures as set out in Part 339, Part 2, provided that the Cease Operations Order shall identify the prohibited operations and shall state that the applicable license has been suspended for violation(s) of the Code.

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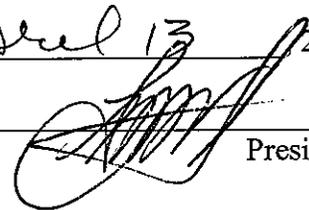
(3) No License. No new license shall be issued for a business location posted with a Cease Operation Order or a license suspension, so long as any person under a license suspension imposed by the Department, or any member of such person's immediate family, or, in the case of a corporation, the corporation or any affiliated business entities, retain a pecuniary interest in the property at that location.

§ 339-308. Private right of action. Any person aggrieved by any violation of this Section or any rule or regulation promulgated hereunder, may bring an action in an appropriate court against any person subject to this Part, for injunction against the violation or for such other or additional relief as may be appropriate to deter, prevent or compensate for the violation. Remedies for violation of this Ordinance shall be cumulative, and shall include costs, compensatory damages, and punitive damages, to the extent allowed by law. Any judgment obtained against a provider under this Part may be provided to the Department and provide a basis for a suspension of license and cease operations order.

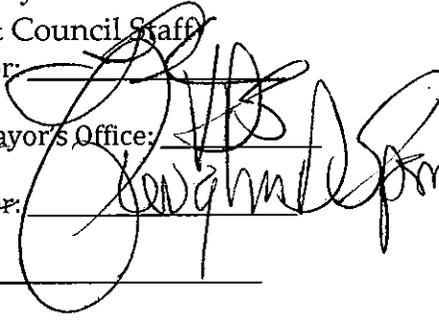
**SECTION 2.** The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any other remaining provisions of the Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of the City Council of the City of Reading that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions had not been included herein.

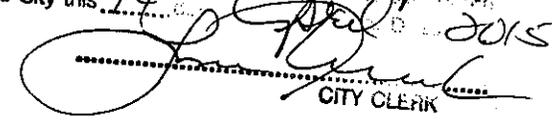
**SECTION 3.** This ordinance shall become effective six (6) months after its adoption and in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted: April 13 2015

  
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President of Council

Attest:   
\_\_\_\_\_  
City Clerk

(Adm Services & Council Staff)  
Submitted to Mayor: \_\_\_\_\_  
Date: 4/14/15  
Received by the Mayor's Office:   
Date: 4/14/15  
Approved by Mayor: \_\_\_\_\_  
Date: 4/14/15  
Vetoed by Mayor: \_\_\_\_\_  
Date: \_\_\_\_\_

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 13 day of April A. D. 20 15. Witness my hand and seal of said City this 14 day of April 2015  
  
CITY CLERK

City Clerk

**DATE:** March 4, 2015  
**FROM:** Linda A. Kelleher, City Clerk

Please place the following ad in the Reading Eagle Times in the Public Notice Section on March 10<sup>th</sup> and March 16<sup>th</sup>

**City of Reading  
Ordinance Introduction**

The City of Reading City Council introduced the following ordinances at their regular business meeting on Monday, March 9, 2015:

**Ordinance** – Amending Chapter 339 Of The Reading City Code, Entitled “Licenses And Permits,” by creating a New Part 3 adding definitions, duties, penalties, exceptions, prohibited acts, licensing requirements and other related items regarding provision of immigration assistance services provided by Notary Public businesses and individuals; all under certain terms and conditions

This ordinance is eligible for enactment at Council’s March 23, 2015 regular business meeting. For more information or for a copy of the complete ordinance please contact the City Clerk’s Office, City Hall, 815 Washington St, Rdg, PA during regular business hours or by E Mail at [Council@readingpa.org](mailto:Council@readingpa.org). A copy of the ordinance is also available on the City’s website on the Regular Meeting agenda March 9<sup>th</sup> and March 23<sup>rd</sup>.

Linda A. Kelleher CMC

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