

STATEMENT OF

KURT SURBER
REPRESENTING

VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

MARYLAND ECONOMIC MATTERS COMMITTEE

WITH RESPECT TO

HB267 Veterans Benefits Matters - Claim Servicers - Prohibitions and Requirements

Annapolis, Maryland

January 21, 2025

Chair Wilson and members of the committee, thank you for the opportunity to provide remarks on this legislation. I have the honor to speak on behalf of VFW members from the state of Maryland in support of HB267 as written without amendments.

With the passage of the PACT Act, the VFW has observed an increase in online advertisements from predatory claims consultants we call “Claim Sharks” that target veterans’ earned VA benefits. These groups promise to increase veterans’ VA disability ratings. They argue that the high fees they charge in some way make them more effective in assisting veterans than the free services offered by VA-accredited Veterans Service Organizations (VSOs). Under VA regulations, fees charged for claims assistance are capped and usually apply only to a percentage of retroactive benefits. However, many of these unaccredited consultants use contracts that include a commitment by the veteran to pay the Claim Shark all or a significant portion of their increased benefits. If a veteran receives a disability percentage increase years later through working with a VSO, many of these companies often return seeking more money.

Several of these predatory companies have made statements that there is no avenue for them to seek VA accreditation, but this is completely untrue. There are no restrictions for these consultants to be accredited by VA, but they refuse to do so because they would no longer be able to charge exorbitant fees. They would also be subject to oversight by VA’s Office of General Counsel (OGC). Currently, these predatory companies have no accountability, no oversight, and no penalties.

Many of these companies enter into contracts well beyond the scope of what VA allows under the law – which is clearly why these companies do not file powers of attorney, consulting agreements, or fee agreements with VA’s OGC. Under VA regulations, fees are capped and

usually only include a percentage of retroactive benefits. In November, VA OGC sent a response to a bipartisan group of US Senators stating contracts may not obligate veterans to pay fees from their payments of Veteran benefits received from VA. And that this is a violation of the prohibition on the assignment of VA benefits under 38 USC 5301. Claim shark companies typically charge veterans 5 to 6 months of their future awarded benefits in their contracts. This is a violation of “assignment of benefits” thus making their contracts illegal.

In this letter, VA also stated, “The statute allowing for the payment of fees to VA-accredited attorneys and agents for the preparation, presentation or prosecution of VA benefit claims from past-due benefits, 38 U.S.C. § 5904, is considered an exception to the prohibition on assignments set forth in section 5301(a)(1). But, under current law, even this exception does not go as far as to allow for an attorney or agent to contract for the payment of fees from a claimant’s future benefits.”

Many claim sharks, such as Veteran Guardian, Veteran Benefits Guide, and Patriot Angels have received Cease and Desist letters from VA for providing claims assistance and illegally charging fees for those services. Criminal penalties were removed for violating this section of the law in 2006 which has allowed the claim sharks to operate in a legal loophole, where they are violating the law, but unable to be charged for doing so. HB267 will allow the State of Maryland to protect Maryland veterans from criminals and provide the enforcement authorities to the state Attorney General to enforce the law.

The VFW would like to thank Delegates Allen and Rogers, for their dedication to their fellow brothers and sisters in arms. We look forward to working with them and other members of this committee to get this bill to the Governor’s desk. And I stand ready to answer any questions you may have.