

5477--A

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I N S E N A T E

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Introduced by Sens. ZELDIN, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to increasing disclosures by automobile broker businesses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (e) of subdivision 1 of section 738 of the gener-
2 al business law, as added by chapter 616 of the laws of 1988, is amended
3 to read as follows:
4 (e) A description of any other services and an itemization of the
5 charges for each. SUCH DESCRIPTION SHALL INCLUDE DISCLOSURE OF THE AUTO-
6 MOBILE DEALER FROM WHICH THE AUTOMOBILE WAS PURCHASED, AS WELL AS ALL
7 FEES, COMMISSIONS OR OTHER VALUABLE CONSIDERATIONS PAID BY AN AUTOMOBILE
8 DEALER TO THE AUTOMOBILE BROKER BUSINESS FOR SELLING, ARRANGING, ASSIST-
9 ING OR EFFECTING THE SALE OF AN AUTOMOBILE AS AGENT, BROKER, OR INTERME-
10 DIARY BETWEEN THE CONSUMER AND THE AUTOMOBILE DEALER.
11 S 2. The general business law is amended by adding a new section 740-a
12 to read as follows:
13 S 740-A. AUTOMOBILE BROKER BUSINESS SURETY BOND. 1. AUTOMOBILE BROKER
14 BUSINESSES SHALL OBTAIN AND CONTINUE IN EFFECT A SURETY BOND IN AN
15 AMOUNT OF SEVENTY-FIVE THOUSAND DOLLARS EXECUTED BY A SURETY COMPANY
16 AUTHORIZED TO TRANSACT BUSINESS IN THE STATE BY THE INSURANCE DEPARTMENT
17 OF THE STATE OR ITS SUCCESSOR. THE BONDS SHALL BE APPROVED AS TO FORM
18 BY THE SECRETARY OF STATE AND SHALL BE CONDITIONED ON THE AUTOMOBILE
19 BROKER BUSINESS' PAYMENT OF ALL VALID BANK DRAFTS, INCLUDING CHECKS,
20 DRAWN FOR THE PURCHASE OF MOTOR VEHICLES AND SAFEKEEPING OF ALL CUSTOMER
21 DEPOSITS RELATED TO THE SALE OF A MOTOR VEHICLE BETWEEN THE TIME OF

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

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1 RECEIPT OF SUCH CUSTOMER DEPOSIT AND THE TRANSFER OF GOOD TITLE TO THE
2 VEHICLE TO THE CUSTOMER.

3 2. RECOVERY AGAINST A BOND MAY BE MADE BY A PERSON, INCLUDING THE
4 STATE, WHO OBTAINS A JUDGMENT AGAINST THE AUTOMOBILE BROKER BUSINESS FOR
5 AN ACT OR OMISSION ON WHICH THE BOND IS CONDITIONED IF THE ACT OR OMIS-
6 SION OCCURRED DURING THE TERM OF THE BOND. THE TOTAL LIABILITY IMPOSED
7 ON THE SURETY UNDER THIS SECTION FOR ALL BREACHES OF THE BOND CONDITION
8 IS LIMITED TO THE FACE AMOUNT OF THE BOND. SUCH LIABILITY MAY INCLUDE,
9 BUT IS NOT LIMITED TO, THE AMOUNT OF THE VALID BANK DRAFTS, INCLUDING
10 CHECKS, DRAWN BY THE AUTOMOBILE BROKER BUSINESS FOR THE PURCHASE OF
11 MOTOR VEHICLES. IN NO EVENT SHALL THE SURETY ON A BOND BE LIABLE FOR
12 TOTAL CLAIMS IN EXCESS OF THE BOND AMOUNT, REGARDLESS OF THE NUMBER OR
13 NATURE OF CLAIMS MADE AGAINST THE BOND OR THE NUMBER OF YEARS THE BOND
14 REMAINED IN FORCE.

15 3. ANY SURETY ISSUING A BOND PURSUANT TO THIS SUBDIVISION SHALL BE
16 REQUIRED TO PROVIDE SIXTY DAYS' NOTICE TO THE SECRETARY OF STATE PRIOR
17 TO THE EFFECTIVE DATE OF CANCELLATION OF THE BOND.

18 S 3. The general business law is amended by adding a new section 741-a
19 to read as follows:

20 S 741-A. ADVERTISING. AUTOMOBILE BROKER BUSINESSES SHALL CLEARLY AND
21 CONSPICUOUSLY DISCLOSE THE FOLLOWING IN ALL ADVERTISEMENTS IN ANY MEDI-
22 UM, AND IN ANY PRINT ADVERTISEMENT SUCH DISCLOSURES SHALL NOT APPEAR IN
23 ANY FOOTNOTES AND SHALL BE SITUATED IN THE TOP HALF OF ANY SUCH ADVER-
24 TISEMENT IN AN EASILY READABLE TYPEFACE:

25 (A) THAT THE AUTOMOBILE BROKER BUSINESS IS NOT A LICENSED NEW MOTOR
26 VEHICLE DEALER AS DEFINED IN SECTION FOUR HUNDRED FIFTEEN OF THE VEHICLE
27 AND TRAFFIC LAW;

28 (B) WHETHER ANY FEES MAY BE IMPOSED BY THE AUTOMOBILE BROKER BUSINESS
29 FOR SERVICES RENDERED. DETAILS OF SUCH COMPENSATION SHALL BE PROVIDED BY
30 THE AUTOMOBILE BROKER BUSINESS UPON REQUEST BY THE CONSUMER; AND

31 (C) THAT NO WARRANTY REPAIR SERVICES WILL BE PROVIDED BY THE AUTOMO-
32 BILE BROKER BUSINESS.

33 S 4. This act shall take effect on the ninetieth day after it shall
34 have become law.