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I N S E N A T E

March 4, 2014

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to implementing the immigrant assistance service enforcement act

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

1 Section 1. This act shall be known and may be cited as the "immigrant
2 assistance service enforcement act".

3 S 2. Subdivision 2 of section 460-a of the general business law, as
4 added by chapter 463 of the laws of 2004, is amended to read as follows:

5 2. "Provider" means any person, including but not limited to a corpo-
6 ration, partnership, limited liability company, sole proprietorship or
7 natural person, that provides immigrant assistance services, but shall
8 not include (a) any person duly admitted to practice law in this state
9 and any person working directly under the supervision of the person
10 admitted; (b) any not-for-profit tax exempt organization that provides
11 immigrant assistance without a fee or other payment from individuals or
12 at nominal fees as defined by the federal board of immigration appeals,
13 and the employees of such organization when acting within the scope of
14 such employment; (c) any organization recognized by the federal board of
15 immigration appeals that provides services via representatives accred-
16 ited by such board to appear before the bureau of citizenship and immi-
17 gration services and/or executive office for immigration review, that
18 does not charge a fee or charges nominal fees as defined by the board of
19 immigration appeals; [or] (d) any authorized agency under subdivision
20 ten of section three hundred seventy-one of the social services law and
21 the employees of such organization when acting within the scope of such
22 employment; OR (E) ANY INDIVIDUAL PROVIDING REPRESENTATION IN AN IMMI-
23 GRATION-RELATED PROCEEDING UNDER FEDERAL LAW FOR WHICH FEDERAL LAW OR
24 REGULATION DEFINES THE AUTHORITY TO APPEAR.

25 S 3. Section 460-h of the general business law, as added by chapter
26 463 of the laws of 2004, is amended to read as follows:

27 S 460-h. Enforcement. Upon any violation of this article, an applica-
28 tion may be made by the attorney general in the name of the people of

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

LBD14270-01-4

1 the state to a court having jurisdiction to issue an injunction, and
2 upon notice to the respondent of not fewer than five days, to enjoin and
3 restrain the continuance of the violation. If it shall appear to the
4 satisfaction of the court or justice that the defendant has, in fact,
5 violated this article, an injunction may be issued by such court or
6 justice, enjoining and restraining any further violation, without
7 requiring proof that any person has, in fact, been injured or damaged
8 thereby. In any such proceeding, the court may make allowances to the
9 attorney general as provided in paragraph six of subdivision (a) of
10 section eighty-three hundred three of the civil practice law and rules,
11 and direct restitution. Whenever the court shall determine that a
12 violation of this article has occurred, the court may impose a civil
13 penalty of not more than [seven thousand five hundred dollars] TEN THOU-
14 SAND DOLLARS for each violation.

15 S 4. The general business law is amended by adding two new sections
16 460-k and 460-l to read as follows:

17 S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS COMMITTED
18 AGAINST USERS OF IMMIGRANT ASSISTANCE SERVICES. 1. (A) IN ADDITION TO
19 ANY LIABILITY FOR DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO
20 SECTIONS THREE HUNDRED FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE
21 HUNDRED FIFTY-D OF THIS CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE
22 ADVERTISING, AND SUBDIVISION TWELVE OF SECTION SIXTY-THREE OF THE EXECU-
23 TIVE LAW, REGARDING PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE
24 RELIEF AGAINST FRAUDULENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY
25 WHO ENGAGES IN ANY CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND
26 WHOSE CONDUCT IS PERPETRATED AGAINST ONE OR MORE PERSONS SEEKING OR
27 USING IMMIGRANT ASSISTANCE SERVICES, MAY BE LIABLE FOR AN ADDITIONAL
28 CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS, IN ACCORDANCE WITH
29 PARAGRAPH (B) OF THIS SUBDIVISION.

30 (B) IN DETERMINING WHETHER TO IMPOSE A SUPPLEMENTAL CIVIL PENALTY
31 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AND THE AMOUNT OF ANY
32 SUCH PENALTY, THE COURT SHALL CONSIDER, IN ADDITION TO OTHER APPROPRIATE
33 FACTORS, THE EXTENT TO WHICH THE FOLLOWING FACTORS ARE PRESENT:

34 (1) WHETHER THE DEFENDANT KNEW THAT HIS OR HER CONDUCT WAS DIRECTED TO
35 ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES OR
36 WHETHER THE DEFENDANT KNOWINGLY ACTED WITH DISREGARD OF THE RIGHTS OF A
37 PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES;

38 (2) WHETHER THE DEFENDANT'S CONDUCT: (I) CAUSED A PERSON SEEKING OR
39 USING IMMIGRANT ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A
40 PRIMARY RESIDENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL
41 LOSS OF PROPERTY OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE
42 PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES; OR (II) WHETHER
43 ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES WERE
44 SUBSTANTIALLY MORE VULNERABLE TO THE DEFENDANT'S CONDUCT BECAUSE OF
45 IMPAIRED UNDERSTANDING, OR ANY OTHER PERCEIVED DISADVANTAGE, AND ACTUAL-
46 LY SUFFERED PHYSICAL OR ECONOMIC DAMAGE RESULTING FROM THE DEFENDANT'S
47 CONDUCT.

48 2. RESTITUTION ORDERED PURSUANT TO THE PROVISIONS OF LAW LISTED IN
49 SUBDIVISION ONE OF THIS SECTION OR PURSUANT TO ANY OTHER SECTION OF LAW
50 SHALL BE GIVEN PRIORITY OVER THE IMPOSITION OF CIVIL PENALTIES ORDERED
51 BY THE COURT UNDER THIS SECTION.

52 S 460-L. REQUIREMENTS FOR REGISTRATION OF IMMIGRANT ASSISTANCE SERVICE
53 PROVIDERS. 1. ANY PERSON, FIRM OR CORPORATION SEEKING A CERTIFICATE OF
54 REGISTRATION AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER SHALL FILE WITH
55 THE DEPARTMENT OF STATE AN APPLICATION FOR REGISTRATION IN SUCH FORM AND
56 DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, INCLUDING THE FOLLOWING:

1 (A) THE NAME AND RESIDENCE ADDRESS OF THE APPLICANT;

2 (B) THE BUSINESS NAME, IF OTHER THAN APPLICANT;

3 (C) THE PLACE, INCLUDING THE CITY, TOWN OR VILLAGE, WITH THE STREET
4 AND NUMBER, WHERE THE BUSINESS IS TO BE LOCATED;

5 (D) THE BUSINESS TELEPHONE NUMBER OF THE APPLICANT;

6 (E) THE LENGTH OF TIME THAT THE APPLICANT HAS BEEN AN IMMIGRANT
7 ASSISTANCE SERVICE PROVIDER;

8 (F) A STATEMENT INDICATING WHETHER THE APPLICANT HAS:

9 (1) BEEN CONVICTED OF ANY CRIME OR IS A DEBTOR ON ANY UNPAID CIVIL
10 JUDGMENT RELATING TO WORK AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER;
11 AND

12 (2) AT ANY TIME IN THE PAST BEEN ISSUED A REGISTRATION PURSUANT TO
13 THIS SECTION, AND IF SO, WHETHER SUCH REGISTRATION WAS EVER REVOKED OR
14 SUSPENDED;

15 (G) SATISFACTORY EVIDENCE OF GOOD MORAL CHARACTER;

16 (H) (1) COPIES OF CONTRACTS REQUIRED PURSUANT TO SECTION FOUR HUNDRED
17 SIXTY-B OF THIS ARTICLE; (2) SIGNS REQUIRED PURSUANT TO SECTION FOUR
18 HUNDRED SIXTY-C OF THIS ARTICLE; AND (3) SURETIES REQUIRED PURSUANT TO
19 SECTION FOUR HUNDRED SIXTY-G OF THIS ARTICLE; AND

20 (I) A SWORN STATEMENT BY THE APPLICANT THAT THE INFORMATION SET FORTH
21 IN THE APPLICATION IS CURRENT AND ACCURATE.

22 2. IN DETERMINING WHETHER TO ISSUE OR RENEW A REGISTRATION, THE SECRE-
23 TARY OF STATE MAY CONSIDER THE CHARACTER, COMPETENCY AND INTEGRITY OF
24 THE APPLICANT.

25 3. THE SECRETARY OF STATE MAY REFUSE TO ISSUE A REGISTRATION TO ANY
26 PERSON, FIRM OR CORPORATION WHOM HE OR SHE FINDS HAS BEEN CONVICTED OF
27 ANY CRIME OR FAILED TO PAY ANY FINAL CIVIL JUDGMENT RELATING TO WORK AS
28 AN IMMIGRANT ASSISTANCE SERVICE PROVIDER, IN ACCORDANCE WITH THE
29 PROVISIONS OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW.

30 4. (A) A REGISTRATION ISSUED OR RENEWED UNDER THE PROVISIONS OF THIS
31 SECTION SHALL ENTITLE A PERSON TO ACT AS A REGISTERED IMMIGRANT ASSIST-
32 ANCE SERVICE PROVIDER IN THE STATE OF NEW YORK FOR A PERIOD OF TWO YEARS
33 FROM THE EFFECTIVE DATE OF THE REGISTRATION. ANY REGISTRATION GRANTED
34 UNDER THIS SECTION MAY BE RENEWED BY THE DEPARTMENT OF STATE UPON APPLI-
35 CATION AND PAYMENT OF THE FEE FOR SUCH RENEWAL BY THE HOLDER THEREOF, IN
36 SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

37 (B) THE SECRETARY OF STATE SHALL HAVE THE AUTHORITY TO ASSIGN STAG-
38 GERED EXPIRATION DATES FOR REGISTRATIONS AT THE TIME OF RENEWAL. IF THE
39 ASSIGNED DATE RESULTS IN A TERM THAT EXCEEDS TWENTY-FOUR MONTHS, THE
40 APPLICANT SHALL PAY AN ADDITIONAL PRO-RATED ADJUSTMENT TOGETHER WITH THE
41 REGULAR RENEWAL FEE.

42 (C) THE SECRETARY OF STATE SHALL ISSUE EACH IMMIGRANT ASSISTANCE
43 SERVICE PROVIDER A UNIQUE REGISTRATION NUMBER.

44 5. (A) EACH ORIGINAL APPLICATION OR APPLICATION FOR RENEWAL FOR REGIS-
45 TRATION AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER SHALL BE ACCOMPANIED
46 BY A FEE OF TWO HUNDRED FIFTY DOLLARS FOR EACH BIENNIAL REGISTRATION
47 PERIOD.

48 (B) NOTICE IN WRITING IN THE MANNER AND FORM PRESCRIBED BY THE DEPART-
49 MENT OF STATE SHALL BE GIVEN TO THE DEPARTMENT AT ITS OFFICES IN ALBANY
50 WITHIN TEN DAYS OF CHANGES OF NAME OR ADDRESS BY REGISTERED IMMIGRANT
51 ASSISTANCE SERVICE PROVIDERS. THE FEE FOR FILING EACH CHANGE OF NAME OR
52 ADDRESS NOTICE SHALL BE TEN DOLLARS.

53 (C) IN THE CASE OF LOSS, DESTRUCTION OR DAMAGE, THE DEPARTMENT OF
54 STATE MAY, UPON SUBMISSION OF A REQUEST IN SUCH FORM AND MANNER AS THE
55 DEPARTMENT MAY PRESCRIBE, ISSUE A DUPLICATE REGISTRATION UPON PAYMENT OF
56 A FEE OF TEN DOLLARS.

1 6. THE FEES ESTABLISHED BY THIS SECTION SHALL NOT BE REFUNDABLE.

2 7. EACH IMMIGRANT ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSINESS
3 SHALL INCLUDE HIS OR HER REGISTRATION NUMBER IN EVERY SERVICE CONTRACT
4 AND SHALL ADDITIONALLY EXHIBIT PROOF OF SUCH REGISTRATION UPON THE
5 REQUEST OF ANY INTERESTED PARTY.

6 8. NO PERSON, FIRM OR CORPORATION SHALL:

7 (A) PRESENT, OR ATTEMPT TO PRESENT, AS HIS, HER OR ITS OWN, THE REGIS-
8 TRATION OF ANOTHER;

9 (B) KNOWINGLY GIVE FALSE EVIDENCE OF A MATERIAL NATURE TO THE DEPART-
10 MENT OF STATE FOR THE PURPOSE OF PROCURING A REGISTRATION;

11 (C) FALSELY REPRESENT THEMSELVES TO BE A REGISTERED IMMIGRANT ASSIST-
12 ANCE SERVICE PROVIDER;

13 (D) USE OR ATTEMPT TO USE A REGISTRATION WHICH HAS EXPIRED;

14 (E) OFFER TO PERFORM OR PERFORM ANY IMMIGRANT ASSISTANCE SERVICE WITH-
15 OUT HAVING A CURRENT REGISTRATION AS IS REQUIRED UNDER THIS SECTION;

16 (F) REPRESENT IN ANY MANNER THAT HIS, HER OR ITS REGISTRATION CONSTI-
17 TUTES AN ENDORSEMENT OF THE QUALITY OF SERVICE OR COMPETENCY OF THE
18 PROVIDER; OR

19 (G) ENGAGE IN ANY VIOLATION OF SECTION FOUR HUNDRED SIXTY-E OF THIS
20 ARTICLE.

21 9. REGISTRATIONS ISSUED TO IMMIGRANT ASSISTANCE SERVICE PROVIDERS
22 SHALL NOT BE TRANSFERABLE OR ASSIGNABLE.

23 10. AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE SHALL NOT BE
24 REQUIRED TO REGISTER AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER.

25 11. (A) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES AND REGU-
26 LATIONS AS ARE DEEMED NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTI-
27 CLE, AND SHALL PROVIDE WRITTEN NOTIFICATION OF THE PROVISIONS OF THIS
28 ARTICLE TO ALL IMMIGRANT ASSISTANCE SERVICE PROVIDERS REGISTERED PURSU-
29 ANT TO THIS ARTICLE.

30 (B) THE OFFICE OF THE ATTORNEY GENERAL SHALL HAVE THE POWER TO ENFORCE
31 THE PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON
32 REFERRAL BY THE SECRETARY OF STATE, TO INVESTIGATE ANY VIOLATION THEREOF
33 OR TO INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS
34 OF ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPO-
35 RATION APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRANT ASSISTANCE
36 SERVICE PROVIDER, IF IN THE OPINION OF THE ATTORNEY GENERAL SUCH INVES-
37 TIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE
38 OBLIGED, ON REQUEST OF THE SECRETARY OF STATE OR THE ATTORNEY GENERAL,
39 TO SUPPLY IN A MANNER CONSISTENT WITH SUBDIVISION NINE OF SECTION FOUR
40 HUNDRED SIXTY-B OF THIS ARTICLE SUCH INFORMATION, BOOKS, PAPERS OR
41 RECORDS AS MAY BE REQUIRED CONCERNING HIS, HER OR ITS BUSINESS, BUSINESS
42 PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSINESS PRACTICES OR METH-
43 ODS. FAILURE TO COMPLY WITH A LAWFUL REQUEST OF THE SECRETARY OF STATE
44 OR THE ATTORNEY GENERAL SHALL BE A GROUND FOR DENYING AN APPLICATION FOR
45 A REGISTRATION, OR FOR REVOKING, SUSPENDING, OR FAILING TO RENEW A
46 REGISTRATION ISSUED UNDER THIS ARTICLE. NOTHING IN THIS PARAGRAPH SHALL
47 BE CONSTRUED TO LIMIT THE POWER OF THE ATTORNEY GENERAL TO INVESTIGATE
48 ANY MATTER PURSUANT TO ANY OTHER PROVISIONS OF LAW.

49 (C) THE DEPARTMENT OF STATE SHALL AFTER NOTICE AND HEARING HAVE THE
50 POWER TO REVOKE OR SUSPEND ANY REGISTRATION, OR IN LIEU THEREOF TO
51 IMPOSE A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PAYABLE TO THE DEPART-
52 MENT, OR REPRIMAND ANY REGISTRANT OR DENY AN APPLICATION FOR A REGISTRA-
53 TION OR RENEWAL THEREOF UPON PROOF:

54 (1) THAT THE APPLICANT OR REGISTRANT HAS VIOLATED ANY OF THE
55 PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED
56 PURSUANT TO THIS ARTICLE;

1 (2) THAT THE APPLICANT OR REGISTRANT HAS PRACTICED FRAUD, DECEIT OR
2 MISREPRESENTATION;

3 (3) THAT THE APPLICANT OR REGISTRANT HAS MADE A MATERIAL MISSTATEMENT
4 IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION;

5 (4) THAT THE APPLICANT OR REGISTRANT HAS DEMONSTRATED INCOMPETENCE OR
6 UNTRUSTWORTHINESS IN HIS OR HER ACTIONS.

7 12. THE DEPARTMENT OF STATE SHALL, BEFORE DENYING AN APPLICATION FOR A
8 REGISTRATION OR BEFORE REVOKING OR SUSPENDING ANY REGISTRATION, OR
9 IMPOSING ANY FINE OR REPRIMAND, AND AT LEAST FIFTEEN DAYS PRIOR TO THE
10 DATE SET FOR THE HEARING, AND UPON DUE NOTICE TO THE COMPLAINANT OR
11 OBJECTOR, NOTIFY IN WRITING THE APPLICANT FOR, OR THE HOLDER OF SUCH
12 REGISTRATION OF ANY CHARGE MADE AND SHALL AFFORD SUCH APPLICANT OR
13 REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFER-
14 ENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY OF SAME
15 PERSONALLY TO THE APPLICANT OR REGISTRANT, OR BY MAILING SAME BY CERTI-
16 FIED OR FIRST CLASS MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF SUCH
17 APPLICANT OR REGISTRANT. SUCH HEARING SHALL BE SCHEDULED WITHIN SIXTY
18 DAYS OF RECEIPT OF THE COMPLAINT.

19 13. THE HEARING ON SUCH CHARGES SHALL BE AT SUCH TIME AND PLACE AS THE
20 DEPARTMENT OF STATE SHALL PRESCRIBE AND SHALL BE CONDUCTED BY SUCH OFFI-
21 CER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF STATE MAY DESIGNATE,
22 WHO SHALL HAVE THE POWER TO SUBPOENA AND BRING BEFORE THE OFFICER OR
23 PERSON SO DESIGNATED ANY PERSON IN THIS STATE, AND ADMINISTER AN OATH TO
24 AND TAKE TESTIMONY OF ANY PERSON OR CAUSE HIS OR HER DEPOSITION TO BE
25 TAKEN. A SUBPOENA ISSUED UNDER THIS SECTION SHALL BE REGULATED BY THE
26 CIVIL PRACTICE LAW AND RULES. SUCH OFFICER OR PERSON IN THE DEPARTMENT
27 OF STATE DESIGNATED TO TAKE SUCH TESTIMONY SHALL NOT BE BOUND BY COMMON
28 LAW OR STATUTORY RULES OF EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF
29 PROCEDURE.

30 14. IN THE EVENT THAT THE DEPARTMENT OF STATE SHALL DENY THE APPLICA-
31 TION FOR, OR REVOKE OR SUSPEND ANY SUCH REGISTRATION, OR IMPOSE ANY FINE
32 OR REPRIMAND, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY
33 SIGNED. THE ORIGINAL OF SUCH DETERMINATIONS, WHEN SO SIGNED, SHALL BE
34 FILED IN THE OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE MAILED
35 TO THE APPLICANT OR REGISTRANT AND TO THE COMPLAINANT WITHIN TWO DAYS
36 AFTER SUCH FILING.

37 15. THE DEPARTMENT OF STATE, ACTING BY THE OFFICE OR PERSON DESIGNATED
38 TO CONDUCT THE HEARING PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION
39 OR BY SUCH OTHER OFFICER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF
40 STATE MAY DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF
41 ANY REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE
42 OR TERRITORY OF A FELONY, OR OF ANY MISDEMEANOR INVOLVING HIS OR HER
43 WORK AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER FOR A PERIOD NOT
44 EXCEEDING THIRTY DAYS PENDING A HEARING AND A DETERMINATION OF CHARGES
45 MADE AGAINST HIM OR HER. IF SUCH HEARING IS ADJOURNED AT THE REQUEST OF
46 THE REGISTRANT, OR BY REASON OF ANY ACT OR OMISSION BY HIM OR HER OR ON
47 HIS OR HER BEHALF, SUCH SUSPENSION MAY BE CONTINUED FOR THE ADDITIONAL
48 PERIOD OF SUCH ADJOURNMENT.

49 16. THE ACTION OF THE DEPARTMENT OF STATE IN GRANTING OR REFUSING TO
50 GRANT OR TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR
51 SUSPENDING OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR
52 IMPOSING ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEED-
53 ING INSTITUTED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
54 RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER
55 OF A REGISTRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED.

1 17. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMIGRANT
2 ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE REQUIRED
3 TO PAY A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS. PROVIDED
4 THAT, THE DEPARTMENT OF STATE MAY REDUCE SUCH PENALTY IF SUCH PERSON,
5 FIRM OR CORPORATION AGAINST WHOM SUCH PENALTY IS ASSESSED OBTAINS A
6 REGISTRATION AS REQUIRED BY THIS SECTION, PROVIDED THAT APPLICATION FOR
7 SUCH REGISTRATION IS MADE NOT MORE THAN TEN DAYS AFTER THE IMPOSITION OF
8 SUCH PENALTY AND THE IMMIGRANT ASSISTANCE SERVICE PROVIDER HAS NEVER
9 PREVIOUSLY BEEN FINED FOR FAILURE TO REGISTER IN NEW YORK OR IN ANY
10 OTHER STATE THAT REQUIRES REGISTRATION.

11 (B) AN IMMIGRANT ASSISTANCE SERVICE PROVIDER MAY NOT MAINTAIN A CIVIL
12 ACTION TO RECOVER PAYMENT FOR IMMIGRANT ASSISTANCE OFFERED OR PERFORMED
13 IF SUCH CONTRACTOR WAS NOT REGISTERED AS REQUIRED UNDER THIS SECTION AT
14 THE TIME SUCH WORK WAS OFFERED OR PERFORMED.

15 (C) MONEY COLLECTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION
16 SHALL BE DESIGNATED FOR THE FUNDING OF INVESTIGATIONS OF IMMIGRATION
17 SERVICE PROVIDER FRAUD.

18 18. THE PROVIDER'S NAME, BUSINESS NAME, IF DIFFERENT THAN THE PROVID-
19 ER, THE BUSINESS LOCATION OR LOCATIONS, THE BUSINESS TELEPHONE NUMBER OR
20 NUMBERS AND THE DATE THE PROVIDER WAS FIRST REGISTERED SHALL BE AVAIL-
21 ABLE TO THE PUBLIC ON THE DEPARTMENT OF STATE'S WEBSITE. THE DEPARTMENT
22 SHALL ENSURE THAT A CONSUMER IS ABLE TO VERIFY THIS INFORMATION BY CALL-
23 ING THE DEPARTMENT OF STATE'S TOLL-FREE PHONE NUMBER.

24 19. THE DEPARTMENT OF STATE SHALL MAKE PUBLIC ON ITS WEBSITE AND KEEP
25 UPDATED AT LEAST ANNUALLY, OR MAKE AVAILABLE IN RESPONSE TO THE REQUEST
26 OF ANY CUSTOMER, A LIST OF PROVIDERS REGISTERED AS IMMIGRATION PROVIDERS
27 PURSUANT TO THIS ARTICLE.

28 S 5. The opening paragraph and subdivision 8 of section 460-b of the
29 general business law, as added by chapter 463 of the laws of 2004, are
30 amended to read as follows:

31 NO IMMIGRANT ASSISTANCE SERVICE SHALL BE PROVIDED, UNDER PENALTY OF
32 LAW, UNLESS SUCH SERVICE PROVIDER HAS REGISTERED WITH THE DEPARTMENT OF
33 STATE. No immigrant assistance service shall be provided until the
34 customer has executed a written contract with the provider who will
35 provide such services. The contract shall be in a language understood by
36 the customer, either alone or with the assistance of an available inter-
37 preter, and, if that language is not English, an English language
38 version of the contract must also be provided. A copy of the contract
39 shall be provided to the customer upon the customer's execution of the
40 contract. The customer has the right to cancel the contract within three
41 business days after his or her execution of the contract, without fee or
42 penalty. The right to cancel the contract within three days without
43 payment of any fee may be waived when services must be provided imme-
44 diately to avoid a forfeiture of eligibility or other loss of rights or
45 privileges, and the customer furnishes the provider with a separate
46 dated and signed statement, by the customer or his or her represen-
47 tative, describing the need for services to be provided within three
48 days and expressly acknowledging and waiving the right to cancel the
49 contract within three days. The contract may be cancelled at any time
50 after execution. If the contract is cancelled after three days, or with-
51 in three days if the right to cancel without fee has been waived, the
52 provider may retain fees for services rendered, and any additional
53 amounts actually expended on behalf of the customer. All other amounts
54 must be returned to the customer within fifteen days after cancellation.
55 The written contract shall be in plain language, in at least twelve
56 point type and shall include the following:

1 8. The statement: "The individual providing assistance to you under
2 this contract is not an attorney licensed to practice law or accredited
3 by the board of immigration appeals to provide representation to you
4 before the bureau of citizenship and immigration services, the depart-
5 ment of labor[, the department of state] or any immigration authorities
6 and may not give legal advice or accept fees for legal advice".
7 S 6. This act shall take effect on the one hundred eightieth day after
8 it shall have become a law. Effective immediately, the addition, amend-
9 ment and/or repeal of any rule or regulation necessary for the implemen-
10 tation of this act on its effective date are authorized to be made and
11 completed on or before such effective date.