

S T A T E O F N E W Y O R K

10162--B

I N A S S E M B L Y

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Introduced by M. of A. BRODSKY, ESPAILLAT, CAHILL, ZEBROWSKI, BROOK-KRASNY, CASTRO, BENJAMIN, PERRY, COLTON, ALESSI, CHRISTENSEN, POWELL, TITUS, PHEFFER -- Multi-Sponsored by -- M. of A. BRENNAN, CRESPO, CYMBROWITZ, GOTTFRIED, HOOPER, JACOBS, MENG, P. RIVERA, SKARTADOS -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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. Section 460-h of the general business law, as added by chapter
4 463 of the laws of 2004, is amended to read as follows:
5 S 460-h. Enforcement. Upon any violation of this article, an applica-
6 tion may be made by the attorney general in the name of the people of
7 the state to a court having jurisdiction to issue an injunction, and
8 upon notice to the respondent of not fewer than five days, to enjoin and
9 restrain the continuance of the violation. If it shall appear to the
10 satisfaction of the court or justice that the defendant has, in fact,
11 violated this article, an injunction may be issued by such court or
12 justice, enjoining and restraining any further violation, without
13 requiring proof that any person has, in fact, been injured or damaged
14 thereby. In any such proceeding, the court may make allowances to the
15 attorney general as provided in paragraph six of subdivision (a) of
16 section eighty-three hundred three of the civil practice law and rules,
17 and direct restitution. Whenever the court shall determine that a
18 violation of this article has occurred, the court may impose a civil
19 penalty of not more than [seven thousand five hundred dollars] FIFTEEN
20 THOUSAND DOLLARS for each violation.
21 S 3. Section 460-i of the general business law, as added by chapter
22 463 of the laws of 2004, is amended to read as follows:
23 S 460-i. Violations. Any violation of any provision of this article
24 shall be a class A misdemeanor, and upon conviction the court may order

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

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1 as part of the sentence imposed restitution or reparation to the victim
2 of the crime pursuant to section 60.27 of the penal law. THREE
3 VIOLATIONS OR MORE, OF THIS ARTICLE BY THE SAME INDIVIDUAL OR ENTITY
4 SHALL BE A CLASS E FELONY, AND UPON CONVICTION THE COURT MAY ORDER AS
5 PART OF THE SENTENCE IMPOSED RESTITUTION OR REPARATION TO THE VICTIM OF
6 THE CRIME PURSUANT TO SECTION 60.27 OF THE PENAL LAW.

7 S 4. The general business law is amended by adding two new sections
8 460-k and 460-l to read as follows:

9 S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS AGAINST USERS OF
10 IMMIGRANT ASSISTANCE SERVICES. 1. DEFINITION. AS USED IN THIS SECTION,
11 USERS OF IMMIGRANT SERVICES IS DEFINED AS ANY INDIVIDUAL WHO IS SEEKING
12 ANY KIND OF ASSISTANCE SERVICE, LEGAL OR OTHERWISE, FROM AN IMMIGRANT
13 ASSISTANCE SERVICE AS DEFINED IN SECTION FOUR HUNDRED SIXTY-A OF THIS
14 ARTICLE.

15 2. SUPPLEMENTAL CIVIL PENALTY. (A) IN ADDITION TO ANY LIABILITY FOR
16 DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO SECTIONS THREE HUNDRED
17 FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE HUNDRED FIFTY-D OF THIS
18 CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE ADVERTISING, AND SUBDI-
19 VISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, REGARDING
20 PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE RELIEF AGAINST FRAUDU-
21 LENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY WHO ENGAGES IN ANY
22 CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND WHOSE CONDUCT IS
23 PERPETRATED AGAINST ONE OR MORE USERS OF IMMIGRANT ASSISTANCE SERVICES,
24 MAY BE LIABLE FOR AN ADDITIONAL CIVIL PENALTY NOT TO EXCEED TEN THOUSAND
25 DOLLARS, IF THE FACTORS IN PARAGRAPH (B) OF THIS SUBDIVISION ARE PRES-
26 ENT.

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

31 (1) WHETHER THE DEFENDANT KNEW THAT THE DEFENDANT'S CONDUCT WAS
32 DIRECTED TO ONE OR MORE USERS OF IMMIGRANT ASSISTANCE SERVICES OR WHETH-
33 ER THE DEFENDANT'S CONDUCT WAS IN WILLFUL DISREGARD OF THE RIGHTS OF A
34 USER OF IMMIGRANT ASSISTANCE SERVICES;

35 (2) WHETHER THE DEFENDANT'S CONDUCT: (A) CAUSED A USER OF IMMIGRANT
36 ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A PRIMARY RESI-
37 DENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL LOSS OF PROP-
38 erty OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE USER OF IMMI-
39 GRANT ASSISTANCE SERVICES; OR (B) WHETHER ONE OR MORE USERS OF IMMIGRANT
40 ASSISTANCE SERVICES WERE SUBSTANTIALLY MORE VULNERABLE TO THE DEFEND-
41 ANT'S CONDUCT BECAUSE OF LANGUAGE BARRIERS, IMPAIRED UNDERSTANDING, OR
42 ANY OTHER PERCEIVED DISADVANTAGE, AND ACTUALLY SUFFERED PHYSICAL OR
43 ECONOMIC DAMAGE RESULTING FROM THE DEFENDANT'S CONDUCT.

44 3. THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY A SPECIAL FUND TO
45 BE KNOWN AS THE IMMIGRANT ASSISTANCE SERVICE STABILITY FUND, WHICH SHALL
46 CONSIST OF AND INTO WHICH SHALL BE PAID FIFTY PERCENT OF ALL MONEYS
47 DERIVED FROM SUPPLEMENTAL CIVIL PENALTIES IMPOSED PURSUANT TO THIS
48 SECTION. THE MONEYS IN SUCH FUND SHALL BE ADMINISTERED BY THE DEPART-
49 MENT OF LAW AND SHALL BE EXPENDED SOLELY FOR THE INVESTIGATION OF AND
50 PROSECUTION OF CONSUMER FRAUDS AGAINST USERS OF IMMIGRANT ASSISTANCE
51 SERVICES. THE MONEYS IN THE FUND SHALL BE PAID OUT ON THE AUDIT AND
52 WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE
53 ATTORNEY GENERAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
54 CONTRARY, ANY BALANCE IN SAID FUND ON MARCH THIRTY-FIRST OF ANY FISCAL
55 YEAR SHALL NOT REVERT TO THE GENERAL FUND OF THE STATE.

1 4. RESTITUTION ORDERED PURSUANT TO THE PROVISIONS OF LAW LISTED IN
2 SUBDIVISION TWO OF THIS SECTION SHALL BE GIVEN PRIORITY OVER THE IMPOSI-
3 TION OF CIVIL PENALTIES DESIGNATED BY THE COURT UNDER THIS SECTION.

4 S 460-L. REQUIREMENTS FOR REGISTRATION OF IMMIGRANT ASSISTANCE SERVICE
5 PROVIDERS. 1. ANY PERSON, FIRM OR CORPORATION SEEKING A CERTIFICATE OF
6 REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL FILE
7 WITH THE DEPARTMENT AN APPLICATION FOR REGISTRATION IN SUCH FORM AND
8 DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, INCLUDING THE FOLLOWING:

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

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

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

13 (D) THE BUSINESS TELEPHONE OF THE APPLICANT;

14 (E) THE LENGTH OF TIME THAT THE APPLICANT HAS BEEN AN IMMIGRATION
15 ASSISTANCE SERVICE PROVIDER;

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

17 (I) BEEN CONVICTED OF ANY CRIME OR IS A DEBTOR ON ANY UNPAID CIVIL
18 JUDGMENT RELATING TO WORK AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER;
19 AND

20 (II) AT ANY TIME IN THE PAST BEEN ISSUED A REGISTRATION PURSUANT TO
21 THIS SECTION, AND IF SO, WHETHER SUCH REGISTRATION WAS EVER REVOKED OR
22 SUSPENDED;

23 (G) SATISFACTORY EVIDENCE OF GOOD MORAL CHARACTER; AND

24 (H) A SWORN STATEMENT BY THE APPLICANT THAT THE INFORMATION SET FORTH
25 IN THE APPLICATION IS CURRENT AND ACCURATE.

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

29 3. THE SECRETARY OF STATE MAY REFUSE TO ISSUE A REGISTRATION TO ANY
30 PERSON, FIRM OR CORPORATION WHOM HE OR SHE FINDS HAS BEEN CONVICTED OF
31 ANY CRIME, OR FAILED TO PAY ANY FINAL CIVIL JUDGMENT, RELATING TO WORK
32 AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER, IF SUCH REFUSAL WILL, IN
33 THE JUDGMENT OF THE SECRETARY OF STATE, BEST PROMOTE THE INTERESTS OF
34 THE PEOPLE OF THIS STATE.

35 4. (A) A REGISTRATION ISSUED OR RENEWED UNDER THE PROVISIONS OF THIS
36 SECTION SHALL ENTITLE A PERSON TO ACT AS A REGISTERED IMMIGRATION
37 ASSISTANCE SERVICE PROVIDER IN THE STATE OF NEW YORK FOR A PERIOD OF TWO
38 YEARS FROM THE EFFECTIVE DATE OF THE REGISTRATION. ANY REGISTRATION
39 GRANTED UNDER THIS SECTION MAY BE RENEWED BY THE DEPARTMENT UPON APPLI-
40 CATION AND PAYMENT OF THE FEE FOR SUCH RENEWAL BY THE HOLDER THEREOF, IN
41 SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

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

47 (C) THE SECRETARY OF STATE SHALL ISSUE EACH IMMIGRATION ASSISTANCE
48 SERVICE PROVIDER A UNIQUE REGISTRATION NUMBER.

49 5. (A) EACH ORIGINAL APPLICATION OR APPLICATION FOR RENEWAL FOR REGIS-
50 TRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL BE ACCOMPA-
51 NIED BY A FEE OF FIFTY DOLLARS FOR EACH BIENNIAL REGISTRATION PERIOD.

52 (B) NOTICE IN WRITING IN THE MANNER AND FORM PRESCRIBED BY THE DEPART-
53 MENT SHALL BE GIVEN TO THE DEPARTMENT AT ITS OFFICES IN ALBANY WITHIN
54 TEN DAYS OF CHANGES OF NAME OR ADDRESS BY REGISTERED IMMIGRATION ASSIST-
55 ANCE SERVICE PROVIDERS. THE FEE FOR FILING EACH CHANGE OF NAME OR
56 ADDRESS NOTICE SHALL BE TEN DOLLARS.

1 (C) IN THE CASE OF LOSS, DESTRUCTION OR DAMAGE, THE DEPARTMENT MAY,
2 UPON SUBMISSION OF A REQUEST IN SUCH FORM AND MANNER AS THE DEPARTMENT
3 MAY PRESCRIBE, ISSUE A DUPLICATE REGISTRATION UPON PAYMENT OF A FEE OF
4 TEN DOLLARS.

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

6 7. EACH IMMIGRATION ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSI-
7 NESS SHALL EXHIBIT HIS OR HER CERTIFICATE UPON THE REQUEST OF ANY INTER-
8 ESTED PARTY.

9 8. NO PERSON, FIRM OR CORPORATION SHALL:

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

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

14 (C) FALSELY REPRESENT THEMSELVES TO BE A REGISTERED IMMIGRATION
15 ASSISTANCE SERVICE PROVIDER;

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

17 (E) OFFER TO PERFORM OR PERFORM ANY IMMIGRATION ASSISTANCE SERVICE
18 WITHOUT HAVING A CURRENT REGISTRATION AS IS REQUIRED UNDER THIS SECTION;
19 OR

20 (F) REPRESENT IN ANY MANNER THAT HIS, HER OR ITS REGISTRATION CONSTI-
21 TUTES AN ENDORSEMENT OF THE QUALITY OF SERVICE OR COMPETENCY OF THE
22 PROVIDER.

23 9. REGISTRATIONS ISSUED TO IMMIGRATION ASSISTANCE SERVICE PROVIDERS
24 SHALL NOT BE TRANSFERABLE OR ASSIGNABLE.

25 10. (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 IMMIGRATION ASSISTANCE SERVICE PROVIDERS REGISTERED
29 PURSUANT TO THIS ARTICLE.

30 (B) THE SECRETARY OF STATE SHALL HAVE THE POWER TO ENFORCE THE
31 PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON THE
32 SECRETARY'S INITIATIVE, TO INVESTIGATE ANY VIOLATION THEREOF OR TO
33 INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY
34 PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPORATION
35 APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRATION ASSISTANCE
36 SERVICE PROVIDER, IF IN THE OPINION OF THE SECRETARY OF STATE SUCH
37 INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE
38 OBLIGED, ON REQUEST OF THE SECRETARY OF STATE, TO SUPPLY SUCH INFORMA-
39 TION, BOOKS, PAPERS OR RECORDS AS MAY BE REQUIRED CONCERNING HIS, HER OR
40 ITS BUSINESS, BUSINESS PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSI-
41 NESS PRACTICES OR METHODS. FAILURE TO COMPLY WITH A LAWFUL REQUEST OF
42 THE SECRETARY SHALL BE A GROUND FOR DENYING AN APPLICATION FOR A REGIS-
43 TRATION, OR FOR REVOKING, SUSPENDING, OR FAILING TO RENEW A REGISTRATION
44 ISSUED UNDER THIS ARTICLE.

45 (C) THE DEPARTMENT SHALL HAVE THE POWER TO REVOKE OR SUSPEND ANY
46 REGISTRATION, OR IN LIEU THEREOF TO IMPOSE A FINE NOT EXCEEDING ONE
47 THOUSAND DOLLARS PAYABLE TO THE DEPARTMENT, OR REPRIMAND ANY REGISTRANT
48 OR DENY AN APPLICATION FOR A REGISTRATION OR RENEWAL THEREOF UPON PROOF:

49 (I) THAT THE APPLICANT OR REGISTRANT HAS VIOLATED ANY OF THE
50 PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED
51 PURSUANT TO THIS ARTICLE;

52 (II) THAT THE APPLICANT OR REGISTRANT HAS PRACTICED FRAUD, DECEIT OR
53 MISREPRESENTATION;

54 (III) THAT THE APPLICANT OR REGISTRANT HAS MADE A MATERIAL MISSTATE-
55 MENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION;

1 (IV) THAT THE APPLICANT OR REGISTRANT HAS DEMONSTRATED INCOMPETENCE OR
2 UNTRUSTWORTHINESS IN HIS OR HER ACTIONS.

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

15 12. THE HEARING ON SUCH CHARGES SHALL BE AT SUCH TIME AND PLACE AS THE
16 DEPARTMENT SHALL PRESCRIBE AND SHALL BE CONDUCTED BY SUCH OFFICER OR
17 PERSON IN THE DEPARTMENT AS THE SECRETARY OF STATE MAY DESIGNATE, WHO
18 SHALL HAVE THE POWER TO SUBPOENA AND BRING BEFORE THE OFFICER OR PERSON
19 SO DESIGNATED ANY PERSON IN THIS STATE, AND ADMINISTER AN OATH TO AND
20 TAKE TESTIMONY OF ANY PERSON OR CAUSE HIS OR HER DEPOSITION TO BE TAKEN.
21 A SUBPOENA ISSUED UNDER THIS SECTION SHALL BE REGULATED BY THE CIVIL
22 PRACTICE LAW AND RULES. SUCH OFFICER OR PERSON IN THE DEPARTMENT DESIG-
23 NATED TO TAKE SUCH TESTIMONY SHALL NOT BE BOUND BY COMMON LAW OR STATU-
24 TORY RULES OF EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF PROCEDURE.

25 13. IN THE EVENT THAT THE DEPARTMENT SHALL DENY THE APPLICATION FOR,
26 OR REVOKE OR SUSPEND ANY SUCH REGISTRATION, OR IMPOSE ANY FINE OR REPRI-
27 MAND, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY SIGNED. THE
28 ORIGINAL OF SUCH DETERMINATIONS, WHEN SO SIGNED, SHALL BE FILED IN THE
29 OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE MAILED TO THE
30 APPLICANT OR REGISTRANT AND TO THE COMPLAINANT WITHIN TWO DAYS AFTER
31 SUCH FILING.

32 14. THE DEPARTMENT, ACTING BY THE OFFICE OR PERSON DESIGNATED TO
33 CONDUCT THE HEARING PURSUANT TO SUBDIVISION FOURTEEN OF THIS SECTION OR
34 BY SUCH OTHER OFFICER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF
35 STATE MAY DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF
36 ANY REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE
37 OR TERRITORY OF A FELONY OR OF ANY MISDEMEANOR FOR A PERIOD NOT EXCEED-
38 ING THIRTY DAYS PENDING A HEARING AND A DETERMINATION OF CHARGES MADE
39 AGAINST HIM OR HER. IF SUCH HEARING IS ADJOURNED AT THE REQUEST OF THE
40 REGISTRANT, OR BY REASON OF ANY ACT OR OMISSION BY HIM OR HER OR ON HIS
41 OR HER BEHALF, SUCH SUSPENSION MAY BE CONTINUED FOR THE ADDITIONAL PERI-
42 OD OF SUCH ADJOURNMENT.

43 15. THE ACTION OF THE DEPARTMENT IN GRANTING OR REFUSING TO GRANT OR
44 TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR SUSPENDING
45 OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR IMPOSING ANY
46 FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEEDING INSTITUTED
47 UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE
48 INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER OF A REGIS-
49 TRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED OR THE PERSON
50 AGGRIEVED.

51 16. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMI-
52 GRATION ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE
53 REQUIRED TO PAY A CIVIL PENALTY IN THE SUM OF ONE THOUSAND DOLLARS PER
54 CONTRACT ENTERED INTO IN VIOLATION OF THIS SECTION. HOWEVER, ANY SUCH
55 PERSON, FIRM OR CORPORATION AGAINST WHOM SUCH PENALTY HAS BEEN ASSESSED
56 MAY AVOID ALL BUT FIVE HUNDRED DOLLARS OF SUCH PENALTY BY OBTAINING A

1 REGISTRATION AS REQUIRED BY THIS SECTION, PROVIDED THAT APPLICATION FOR
2 SUCH REGISTRATION IS MADE NOT MORE THAN TEN DAYS AFTER THE IMPOSITION OF
3 SUCH PENALTY AND THE IMMIGRATION ASSISTANCE SERVICE PROVIDER HAS NEVER
4 RECEIVED A PRIOR FINE FOR FAILURE TO REGISTER IN NEW YORK OR IN ANY
5 OTHER STATE THAT REQUIRES REGISTRATION.

6 (B) AN IMMIGRATION ASSISTANCE SERVICE PROVIDER MAY NOT MAINTAIN A
7 CIVIL ACTION TO RECOVER PAYMENT FOR WORK UNDER IMMIGRATION ASSISTANCE
8 SERVICE PROVIDER CONTRACT PERFORMED IF SUCH CONTRACTOR IS NOT REGISTERED
9 AS REQUIRED UNDER THIS SECTION.

10 17. ALL OF THIS INFORMATION EXCEPT THE PROVIDER'S HOME ADDRESS AND
11 TELEPHONE NUMBER SHALL BE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT OF
12 STATE'S WEBSITE. THE DEPARTMENT SHALL ENSURE THAT A CONSUMER IS ABLE TO
13 VERIFY THIS INFORMATION BY CALLING THE DEPARTMENT OF STATE'S TOLL-FREE
14 PHONE NUMBER.

15 18. THE DEPARTMENT OF STATE SHALL MAKE PUBLIC ON ITS WEBSITE AND KEEP
16 UPDATED AT LEAST ANNUALLY, OR MAKE AVAILABLE IN RESPONSE TO THE REQUEST
17 OF ANY CUSTOMER, A LIST OF PROVIDERS LICENSED AS IMMIGRATION PROVIDERS
18 PURSUANT TO THIS ARTICLE. EACH IMMIGRATION PROVIDER SHALL POST ITS
19 LICENSE AT ITS PLACE OF BUSINESS.

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

23 NO IMMIGRATION SERVICE SHALL BE PROVIDED, UNDER PENALTY OF LAW, UNLESS
24 THAT SERVICE PROVIDER HAS REGISTERED EITHER BY MAIL, OR ONLINE, WITH THE
25 DEPARTMENT OF STATE. No immigrant assistance service shall be provided
26 until the customer has executed a written contract with the provider who
27 will provide such services. The contract shall be in a language under-
28 stood by the customer, either alone or with the assistance of an avail-
29 able interpreter, and, if that language is not English, an English
30 language version of the contract must also be provided. A copy of the
31 contract shall be provided to the customer upon the customer's execution
32 of the contract. The customer has the right to cancel the contract with-
33 in three business days after his or her execution of the contract, with-
34 out fee or penalty. The right to cancel the contract within three days
35 without payment of any fee may be waived when services must be provided
36 immediately to avoid a forfeiture of eligibility or other loss of rights
37 or privileges, and the customer furnishes the provider with a separate
38 dated and signed statement, by the customer or his or her represen-
39 tative, describing the need for services to be provided within three
40 days and expressly acknowledging and waiving the right to cancel the
41 contract within three days. The contract may be cancelled at any time
42 after execution. If the contract is cancelled after three days, or with-
43 in three days if the right to cancel without fee has been waived, the
44 provider may retain fees for services rendered, and any additional
45 amounts actually expended on behalf of the customer. All other amounts
46 must be returned to the customer within fifteen days after cancellation.
47 The written contract shall be in plain language, in at least twelve
48 point type and shall include the following:

49 8. The statement: "The individual providing assistance to you under
50 this contract is not an attorney licensed to practice law or accredited
51 by the board of immigration appeals to provide representation to you
52 before the bureau of citizenship and immigration services, the depart-
53 ment of labor[, the department of state] or any immigration authorities
54 and may not give legal advice or accept fees for legal advice".

55 S 6. This act shall take effect on the one hundred eightieth day after
56 it shall have become a law.