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

5445

2009-2010 Regular Sessions

I N S E N A T E

May 6, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to actions for unlawful practice of law

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

Section 1. The opening paragraph of subdivision 1 of section 476-a of the judiciary law, as amended by chapter 709 of the laws of 1965, is amended to read as follows:

The attorney-general may maintain an action upon his OR HER own information or upon the complaint of a private person or of a bar association organized and existing under the laws of this state against any person, partnership, corporation, or association, and any employee, agent, director, or officer thereof who commits any act or engages in any conduct prohibited by law as constituting the unlawful practice of the law. THE TERM "ACTION" AS USED IN THIS SUBDIVISION SHALL BE CONSTRUED TO INCLUDE BOTH CIVIL ACTIONS AND CRIMINAL ACTIONS.

S 2. Subdivision 2 of section 476-a of the judiciary law, as added by chapter 310 of the laws of 1962, is amended to read as follows:

2. Such [an] A CIVIL action may also be maintained by a bar association organized and existing under the laws of the state of New York, upon an application to the supreme court of the state of New York, or a justice thereof, for leave to bring the same by such bar association on good cause shown therefor and proof that a written request was made upon the attorney-general to bring such an action and that more than twenty days have elapsed since the making of such request and he OR SHE has failed or refused to bring such an action.

S 3. Section 476-b of the judiciary law, as added by chapter 310 of the laws of 1962, is amended to read as follows:

S 476-b. Injunction to restrain defendant from unlawful practice of the law. In [an] A CIVIL action brought as prescribed in section four

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

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hundred seventy-six-a OF THIS ARTICLE, the final judgment in favor of the plaintiff shall perpetually restrain the defendant from the commission or continuance of the act complained of. A temporary restraining order to restrain the commission or continuance thereof may be granted upon proof, by affidavit, that the defendant has violated any of the provisions of such section. The provisions of statute or rule relating generally to injunctions as provisional remedies in actions apply to such a temporary restraining order and the proceedings thereupon, except that the plaintiff shall not be required to file any undertaking before the issuance of such temporary restraining order, shall not be liable for costs and shall not be liable for damages sustained by reason of the restraining order in cases where judgment is rendered in favor of the person, firm or corporation sought to be enjoined.

S 4. This act shall take effect immediately.