

5305

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MORELLE, DelMONTE, BRADLEY, HOYT, CLARK, MILLMAN, BOYLAND, HOOPER, TITUS, MAYERSOHN -- Multi-Sponsored by -- M. of A. BENJAMIN, CAHILL, CHRISTENSEN, COLTON, FIELDS, GALEF, HEASTIE, KOON, MCENENY, PEOPLES, PHEFFER, N. RIVERA, ROBINSON, SCHIMMINGER, SWEENEY -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the university of the state of New York; and to repeal section 224 of such law relating thereto

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 as the "integrity of higher educa-
2 tion degrees, and education consumer protection act of 2009".
3 S 2. Section 224 of the education law is REPEALED and a new section
4 224 is added to read as follows:
5 S 224. PROHIBITIONS. 1. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION:
6 (A) "AUTHORIZED INSTITUTION" MEANS
7 (I) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
8 ENTITY WHICH HOLDS COLLEGE, UNIVERSITY, OR OTHER DEGREE GRANTING POWER
9 BY SPECIAL CHARTER FROM THE LEGISLATURE OF THIS STATE, OR THE REGENTS,
10 OR
11 (II) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
12 ENTITY WHICH IS LOCATED WITHOUT THE STATE, MAINTAINS NO PRESENCE WITHIN
13 THIS STATE, AS DETERMINED BY THE DEPARTMENT, AND IS ACCREDITED BY AT
14 LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPART-
15 MENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDI-
16 TATION AT THE POST SECONDARY LEVEL, OR
17 (III) ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER
18 ENTITY WHICH IS LOCATED WITHOUT THE UNITED STATES AND, AT THE DETERMI-
19 NATION OF THE DEPARTMENT MEETS THE MINIMAL STANDARDS OF AN ACCREDITING
20 COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A

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

LBD07955-02-9

1 RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECOND-
2 ARY LEVEL.

3 (B) "AUTHORIZED PROGRAM" MEANS ANY SERIES OF ACADEMIC COURSES, OR ANY
4 ACADEMIC PROGRAM WHICH LEADS TO A DEGREE WHEN SUCH PROGRAM IS:

5 (I) APPROVED BY THE DEPARTMENT OR THE REGENTS FOR SUCH PURPOSE, OR

6 (II) OFFERED BY OR THROUGH AN INSTITUTION LOCATED WITHOUT THE STATE,
7 AND MAINTAINS NO PRESENCE WITHIN THE STATE, AS DETERMINED BY THE DEPART-
8 MENT, AND IS CONDUCTED AND COMPLETED WHOLLY WITHOUT THE STATE, AND THE
9 PROGRAM IS ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED
10 BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR
11 THE PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL, OR

12 (III) OFFERED BY AN INSTITUTION LOCATED WITHOUT THE UNITED STATES AND
13 THE PROGRAM, AT THE DETERMINATION OF THE DEPARTMENT MEETS THE MINIMAL
14 STANDARDS OF AN ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES
15 DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF
16 ACCREDITATION AT THE POST SECONDARY LEVEL.

17 (C) "AUTHORIZED DEGREE" MEANS AN ACADEMIC DEGREE WHICH IS:

18 (I) ISSUED OR CONFERRED BY AN AUTHORIZED INSTITUTION, OR

19 (II) ISSUED OR CONFERRED UPON COMPLETION OF, AND IN RECOGNITION OF
20 SUCH COMPLETION, AN AUTHORIZED PROGRAM, OR

21 (III) AUTHORIZED BY THE DEPARTMENT UPON A DETERMINATION THAT THE
22 INSTITUTION WHICH CONFERRED THE DEGREE, OR THE PROGRAM WHICH LED TO THE
23 DEGREE MEETS THE ACADEMIC STANDARDS OF THIS STATE, OR OF AN ACCREDITING
24 COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A
25 RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECOND-
26 ARY LEVEL.

27 2. NO INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER ENTI-
28 TY SHALL, IN THIS STATE, CONFER ANY DEGREE OR USE, ADVERTISE, OR TRANS-
29 ACT BUSINESS UNDER THE NAMED UNIVERSITY OR COLLEGE, OR USING ANY OTHER
30 TITLE OR DESCRIPTIVE MATERIAL INDICATING OR TENDING TO INDICATE THAT
31 SUCH INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION OR OTHER ENTITY
32 CONDUCTS, CARRIES ON, OR IS A SCHOOL OF LAW, MEDICINE, DENTISTRY, PHAR-
33 MACY, VETERINARY MEDICINE, NURSING, OPTOMETRY, PODIATRY, ARCHITECTURE,
34 ENGINEERING, EDUCATION, PSYCHOLOGY, OR CHIROPRACTIC UNLESS IT IS AN
35 AUTHORIZED INSTITUTION, OR ALL PROGRAMS OFFERED OR ADVERTISED IN THIS
36 STATE ARE AUTHORIZED PROGRAMS. THE FIRST VIOLATION OF THIS SUBDIVISION
37 IS A MISDEMEANOR, ANY SUBSEQUENT VIOLATION IS A FELONY.

38 3. NO INSTITUTION SHALL ADVERTISE ANY DEGREE OR ACADEMIC PROGRAM LEAD-
39 ING TO A DEGREE IN THIS STATE, OR SOLICIT STUDENTS IN THIS STATE UNLESS
40 IT IS AN AUTHORIZED INSTITUTION OR ALL PROGRAMS OFFERED ARE AUTHORIZED
41 PROGRAMS. THE FIRST VIOLATION OF THIS SUBDIVISION IS A MISDEMEANOR, ANY
42 SUBSEQUENT VIOLATION IS A FELONY. PROVIDED HOWEVER, ANY NEWSPAPER OR
43 OTHER ADVERTISING MEDIUM WHICH CARRIES SUCH ADVERTISEMENTS SHALL BE
44 EXEMPT FROM THIS SUBDIVISION.

45 4. NO PERSON WITH INTENT TO DECEIVE, SHALL REPRESENT HIMSELF OR
46 HERSELF TO HAVE RECEIVED ANY DEGREE UNLESS HE OR SHE HAS RECEIVED AN
47 AUTHORIZED DEGREE. NEITHER SHALL ANY PERSON APPEND TO HIS OR HER NAME
48 ANY LETTERS IN THE SAME FORM REGISTERED TO THE REGENTS AS ENTITLED TO
49 THE PROTECTION ACCORDED TO UNIVERSITY DEGREES UNLESS HE OR SHE SHALL
50 HAVE RECEIVED AN AUTHORIZED DEGREE. THE FIRST VIOLATION OF THIS SUBDI-
51 VISION IS A MISDEMEANOR, ANY SUBSEQUENT VIOLATION IS A FELONY.

52 5. IT SHALL BE A DEFENSE TO ANY CHARGE BROUGHT UNDER SUBDIVISION FOUR
53 OF THIS SECTION THAT THE PERSON REPRESENTING HIMSELF OR HERSELF TO HOLD
54 SUCH DEGREE DID SO BASED ON A GOOD FAITH BELIEF THAT HIS OR HER DEGREE
55 WAS AN AUTHORIZED DEGREE, WAS CONFERRED BY AN AUTHORIZED INSTITUTION OR
56 UPON COMPLETION OF AN AUTHORIZED PROGRAM.

6. NO PERSON, ASSOCIATION, PARTNERSHIP, CORPORATION, OR ENTITY GOVERNMENTAL OR PRIVATE, SHALL BE REQUIRED TO ACCEPT A DEGREE FOR ANY PURPOSE, EXCEPTING THAT SUCH DEGREE BE AN AUTHORIZED DEGREE.

7. COUNTERFEITING OR FALSELY MAKING OR WITHOUT AUTHORITY MAKING OR ALTERING IN ANY MATERIAL RESPECT ANY DIPLOMA OR CERTIFICATE, OR ANY RECORD OF POST SECONDARY ACADEMIC PERFORMANCE OR ACADEMIC TRANSCRIPT, ISSUED UNDER SEAL SHALL BE A FELONY.

8. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO, THREE, FOUR OR SIX OF THIS SECTION, THE DEPARTMENT, BOARDS OF EDUCATION, SCHOOL AUTHORITIES, OR AUTHORIZED SCHOOLS SHALL NOT BE REQUIRED TO ACCEPT FOR PURPOSES OF CERTIFICATION, RECERTIFICATION, LICENSURE, APPOINTMENT, PROMOTIONAL INCREMENT, OR SALARY DIFFERENTIAL FOR PEDAGOGIC PERSONNEL, ANY DIPLOMA, DEGREE OR COURSE CREDIT FROM A UNIVERSITY, COLLEGE, ACADEMY, SCHOOL OR OTHER INSTITUTION OF LEARNING LOCATED OUTSIDE OF THE STATE OF NEW YORK IF SUCH DIPLOMA, DEGREE, OR COURSE CREDIT WAS GRANTED WITHOUT THE REQUIREMENT OF ON-CAMPUS ATTENDANCE AND IF SUCH INSTRUCTION AND TESTING WAS TRANSACTED PRIMARILY BY CORRESPONDENCE. ANY PERSON MAKING APPLICATION FOR CERTIFICATION, RECERTIFICATION, LICENSURE, APPOINTMENT, PROMOTIONAL INCREMENT OR SALARY DIFFERENTIAL MAY BE REQUIRED BY THE COMMISSIONER, OR BY BOARDS OF EDUCATION, SCHOOL AUTHORITIES, OR AUTHORIZED SCHOOL OFFICERS TO SUBMIT A SIGNED STATEMENT OR AFFIDAVIT AS PART OF SUCH APPLICATION TO IDENTIFY ANY DIPLOMA, DEGREE OR COURSE CREDIT WHICH WAS GRANTED BY A UNIVERSITY, COLLEGE, ACADEMY, SCHOOL OR OTHER INSTITUTION OF LEARNING LOCATED OUTSIDE OF THE STATE IF SUCH DIPLOMA, DEGREE, OR COURSE CREDIT WAS GRANTED WITHOUT THE REQUIREMENT OF ON-CAMPUS ATTENDANCE AND IF SUCH INSTRUCTION AND TESTING WAS TRANSACTED PRIMARILY BY CORRESPONDENCE. A WILLFUL AND WRONGFUL MISREPRESENTATION ON SUCH APPLICATION SHALL CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE RULES OF THE REGENTS, THE REGULATIONS OF THE COMMISSIONER, OR THE BY-LAWS, RULES OR REGULATIONS OF SUCH SCHOOL AUTHORITIES. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO ANY DIPLOMA, DEGREE OR COURSE CREDIT EARNED BEFORE SEPTEMBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN.

9. THE REGENTS SHALL PROMULGATE ANY NECESSARY REGULATIONS FOR THE PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS SECTION.

S 3. The education law is amended by adding a new section 115 to read as follows:

S 115. AUTHORIZED INSTITUTIONS AND DEGREES. THE DEPARTMENT SHALL:

1. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC, OF ALL AUTHORIZED INSTITUTIONS AND PROGRAMS AS PROVIDED FOR IN SECTION TWO HUNDRED TWENTY-FOUR OF THIS TITLE, PROVIDED HOWEVER, THAT THE DEPARTMENT MAY ELECT TO LIST ONLY THOSE INSTITUTIONS AND PROGRAMS WHICH ARE AUTHORIZED BUT NOT ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL. SUCH LIST SHALL BE MADE AVAILABLE AT ALL TIMES TO THE PUBLIC ON THE INTERNET.

2. FOR ALL COLLEGES, UNIVERSITIES, INSTITUTIONS, INDIVIDUALS, ASSOCIATIONS, PARTNERSHIPS, OR OTHER ENTITIES WHICH ARE FOUND TO BE LOCATED IN THIS STATE, SOLICITING STUDENTS IN THIS STATE, OR ADVERTISING DEGREES OR POST SECONDARY ACADEMIC PROGRAMS IN THIS STATE THE DEPARTMENT SHALL MAKE A DETERMINATION AS TO WHETHER THE COLLEGE, UNIVERSITY, INSTITUTION, INDIVIDUAL, ASSOCIATION, PARTNERSHIP, OR OTHER ENTITY IS AN AUTHORIZED INSTITUTION.

3. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC, OF ALL KNOWN INSTITUTIONS THAT ARE OR HAVE BEEN LOCATED IN THIS STATE, SOLICITING STUDENTS IN THIS STATE, OR ADVERTISING DEGREES OR POST SECONDARY ACADEMIC PROGRAMS IN

1 THIS STATE AND ARE NOT AUTHORIZED IN ACCORDANCE WITH SECTION TWO HUNDRED
2 TWENTY-FOUR OF THIS TITLE. THIS LIST SHALL BE MADE AVAILABLE TO THE
3 PUBLIC AT ALL TIMES ON THE INTERNET.

4 4. MAINTAIN A LIST, AVAILABLE TO THE PUBLIC OF ALL DEGREES WHICH ARE
5 AUTHORIZED PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR OF THIS TITLE,
6 PROVIDED HOWEVER, THAT FOR COLLEGES LOCATED WITHOUT THE STATE THE
7 DEPARTMENT MAY ELECT TO LIST ONLY THOSE DEGREES CONFERRED BY INSTI-
8 TUTIONS OR UPON COMPLETION OF PROGRAMS WHICH ARE AUTHORIZED BUT NOT
9 ACCREDITED BY AT LEAST ONE ACCREDITING COMMISSION RECOGNIZED BY THE
10 UNITED STATES DEPARTMENT OF EDUCATION AS A RELIABLE AUTHORITY FOR THE
11 PURPOSE OF ACCREDITATION AT THE POST SECONDARY LEVEL. THIS LIST SHALL
12 INCLUDE ALL KNOWN INSTITUTIONS AND PROGRAMS WHOSE DEGREES ARE NOT
13 AUTHORIZED PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR OF THIS TITLE.
14 THIS LIST SHALL BE MADE AVAILABLE TO THE PUBLIC AT ALL TIMES ON THE
15 INTERNET.

16 5. PROMULGATE ANY REGULATIONS NECESSARY FOR PURPOSES OF CARRYING OUT
17 THE PROVISIONS OF THIS SECTION.

18 S 4. This act shall take effect immediately.