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

10239

I N A S S E M B L Y

May 15, 2012

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the sale of abandoned property location services; and to amend the abandoned property law, in relation to restrictions on agreements to locate abandoned property

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

Section 1. The general business law is amended by adding a new section 393-e to read as follows:

S 393-E. SALE OF ABANDONED PROPERTY LOCATION SERVICES. 1. FOR THE PURPOSES OF THIS SECTION, "ABANDONED PROPERTY LOCATION SERVICES" SHALL INCLUDE ANY SERVICE FOR A FEE PROVIDING ASSISTANCE TO CONSUMERS FOR THE PURPOSES OF LOCATING AND/OR RETRIEVING PROPERTY HELD BY THE STATE COMPTROLLER PURSUANT TO THE ABANDONED PROPERTY LAW.

2. ANY PERSON, CORPORATION, ASSOCIATION, PARTNERSHIP OR OTHER ENTITY WHICH SELLS OR OFFERS TO SELL IN THIS STATE ANY ABANDONED PROPERTY LOCATION SERVICES SHALL, IN EVERY SOLICITATION AND AGREEMENT FOR SUCH SERVICES, PROVIDE TO THE PURCHASER THE FOLLOWING NOTICE IN A CLEAR AND CONSPICUOUS MANNER, AND IN AT LEAST TWELVE-POINT BOLDFACE TYPE PRIOR TO THE TIME OF SALE:

"ABANDONED FUNDS HELD BY THE STATE CAN BE OBTAINED DIRECTLY FROM THE OFFICE OF THE STATE COMPTROLLER BY THE OWNER OF SUCH FUNDS WITHOUT PAYING A FEE. THESE FUNDS ARE HELD INDEFINITELY BY THE OFFICE OF THE STATE COMPTROLLER. FOR MORE INFORMATION, CONTACT THE OFFICE OF THE STATE COMPTROLLER AT (INSERT THE CURRENT TELEPHONE NUMBER ESTABLISHED BY THE OFFICE OF THE STATE COMPTROLLER FOR RECEIVING INQUIRIES FROM CONSUMERS REGARDING UNCLAIMED FUNDS) OR (INSERT THE CURRENT ADDRESS OF THE WEBSITE OF THE OFFICE OF THE STATE COMPTROLLER)."

S 2. Section 1416 of the abandoned property law, as added by chapter 173 of the laws of 1980, is amended to read as follows:

S 1416. Restriction on agreement to locate AND/OR RETRIEVE abandoned property. 1. FOR THE PURPOSES OF THIS SECTION, "ABANDONED PROPERTY LOCATION SERVICES" SHALL INCLUDE ANY SERVICE FOR A FEE PROVIDING ASSIST-

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

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ANCE TO CONSUMERS FOR THE PURPOSES OF LOCATING AND/OR RETRIEVING PROPERTY HELD BY THE COMPTROLLER PURSUANT TO THIS CHAPTER.

2. THIS SECTION SHALL APPLY TO ANY PERSON, CORPORATION, ASSOCIATION, PARTNERSHIP OR OTHER ENTITY WHICH SELLS OR OFFERS TO SELL IN THIS STATE ABANDONED PROPERTY LOCATION SERVICES; PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT APPLY TO A CLIENT'S AGREEMENT WITH AN ATTORNEY OR ACCOUNTANT WHERE:

(A) THE SERVICES IN QUESTION CAN ONLY BE PERFORMED BY AN ATTORNEY OR ACCOUNTANT; OR

(B) THERE IS A PRE-EXISTING RELATIONSHIP BETWEEN THE ATTORNEY OR ACCOUNTANT AND THE CLIENT; OR

(C) THE AGREEMENT RESULTS FROM AN EFFORT INITIATED BY THE CLIENT TO ENGAGE THE ATTORNEY OR ACCOUNTANT.

3. No agreement [to locate property held by the comptroller] FOR ABANDONED PROPERTY LOCATION SERVICES pursuant to this chapter shall be valid unless [that] SUCH agreement:

(a) is:

(I) IN SUCH FORM AS MAY BE PRESCRIBED BY THE COMPTROLLER;

(II) in writing [and];

(III) signed by the property owner; AND

(IV) WITNESSED AND ACKNOWLEDGED BY A NOTARY PUBLIC;

(b) discloses the nature of the property; [and]

(c) discloses the name and address of the [holder] COMPTROLLER; AND

(D) DISCLOSES, IN A CLEAR AND CONSPICUOUS MANNER, AND IN AT LEAST TWELVE-POINT BOLDFACE TYPE:

"ABANDONED FUNDS HELD BY THE STATE CAN BE OBTAINED DIRECTLY FROM THE OFFICE OF THE STATE COMPTROLLER BY THE OWNER OF SUCH FUNDS WITHOUT PAYING A FEE. THESE FUNDS ARE HELD INDEFINITELY BY THE OFFICE OF THE STATE COMPTROLLER. FOR MORE INFORMATION, CONTACT THE OFFICE OF THE STATE COMPTROLLER AT (INSERT THE CURRENT TELEPHONE NUMBER ESTABLISHED BY THE OFFICE OF THE STATE COMPTROLLER FOR RECEIVING INQUIRIES FROM CONSUMERS REGARDING UNCLAIMED FUNDS) OR (INSERT THE CURRENT ADDRESS OF THE WEBSITE OF THE OFFICE OF THE STATE COMPTROLLER)".

[2] 4. No such agreement shall be valid if it provides for payment of a fee in excess of fifteen percent of the value of recoverable property.

[3] 5. Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement [to locate property held by the comptroller] FOR ABANDONED PROPERTY LOCATION SERVICES is based on an excessive or unjust consideration.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.