

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

4887--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 9, 2011

Introduced by M. of A. CRESPO, MARKEY, MENG, BARRON, STEVENSON, JEFFRIES, SCARBOROUGH, P. RIVERA, JAFFEE, WEPRIN -- Multi-Sponsored by -- M. of A. GOTTFRIED, HOOPER, J. MILLER, MONTESANO, TITONE -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Codes -- committee discharged, bill amended, 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] TEN THOU-
20 SAND DOLLARS for each violation.

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

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1 S 3. The general business law is amended by adding two new sections
2 460-k and 460-l to read as follows:

3 S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS AGAINST USERS OF
4 IMMIGRANT ASSISTANCE SERVICES. 1. (A) IN ADDITION TO ANY LIABILITY FOR
5 DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO SECTIONS THREE HUNDRED
6 FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE HUNDRED FIFTY-D OF THIS
7 CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE ADVERTISING, AND SUBDI-
8 VISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, REGARDING
9 PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE RELIEF AGAINST FRAUDU-
10 LENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY WHO ENGAGES IN ANY
11 CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND WHOSE CONDUCT IS
12 PERPETRATED AGAINST ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT
13 ASSISTANCE SERVICES, MAY BE LIABLE FOR AN ADDITIONAL CIVIL PENALTY NOT
14 TO EXCEED TEN THOUSAND DOLLARS, AFTER CONSIDERING WHETHER ONE OR MORE OF
15 THE FACTORS IN PARAGRAPH (B) OF THIS SUBDIVISION ARE PRESENT.

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

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

24 (2) WHETHER THE DEFENDANT'S CONDUCT: (A) CAUSED A PERSON SEEKING OR
25 USING IMMIGRANT ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A
26 PRIMARY RESIDENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL
27 LOSS OF PROPERTY OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE
28 PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES; OR (B) WHETHER
29 ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES WERE
30 SUBSTANTIALLY MORE VULNERABLE TO THE DEFENDANT'S CONDUCT BECAUSE OF
31 LANGUAGE BARRIERS, IMPAIRED UNDERSTANDING, OR ANY OTHER PERCEIVED DISAD-
32 VANTAGE, AND ACTUALLY SUFFERED PHYSICAL OR ECONOMIC DAMAGE RESULTING
33 FROM THE DEFENDANT'S CONDUCT.

34 2. RESTITUTION ORDERED PURSUANT TO THE PROVISIONS OF LAW LISTED IN
35 SUBDIVISION ONE OF THIS SECTION OR PURSUANT TO ANY OTHER SECTION OF LAW
36 SHALL BE GIVEN PRIORITY OVER THE IMPOSITION OF CIVIL PENALTIES ORDERED
37 BY THE COURT UNDER THIS SECTION.

38 S 460-L. REQUIREMENTS FOR REGISTRATION OF IMMIGRANT ASSISTANCE SERVICE
39 PROVIDERS. 1. ANY PERSON, FIRM OR CORPORATION SEEKING A CERTIFICATE OF
40 REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL FILE
41 WITH THE DEPARTMENT OF STATE AN APPLICATION FOR REGISTRATION IN SUCH
42 FORM AND DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, INCLUDING THE FOLLOW-
43 ING:

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

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

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

48 (D) THE BUSINESS TELEPHONE OF THE APPLICANT;

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

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

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

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

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

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

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

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

15 4. (A) A REGISTRATION ISSUED OR RENEWED UNDER THE PROVISIONS OF THIS
16 SECTION SHALL ENTITLE A PERSON TO ACT AS A REGISTERED IMMIGRATION
17 ASSISTANCE SERVICE PROVIDER IN THE STATE OF NEW YORK FOR A PERIOD OF TWO
18 YEARS FROM THE EFFECTIVE DATE OF THE REGISTRATION. ANY REGISTRATION
19 GRANTED UNDER THIS SECTION MAY BE RENEWED BY THE DEPARTMENT OF STATE
20 UPON APPLICATION AND PAYMENT OF THE FEE FOR SUCH RENEWAL BY THE HOLDER
21 THEREOF, IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.

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

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

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

32 (B) NOTICE IN WRITING IN THE MANNER AND FORM PRESCRIBED BY THE DEPART-
33 MENT OF STATE SHALL BE GIVEN TO THE DEPARTMENT AT ITS OFFICES IN ALBANY
34 WITHIN TEN DAYS OF CHANGES OF NAME OR ADDRESS BY REGISTERED IMMIGRATION
35 ASSISTANCE SERVICE PROVIDERS. THE FEE FOR FILING EACH CHANGE OF NAME OR
36 ADDRESS NOTICE SHALL BE TEN DOLLARS.

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

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

42 7. EACH IMMIGRATION ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSI-
43 NESS SHALL CONSPICUOUSLY POST HIS OR HER CERTIFICATE AT HIS OR HER
44 PRIMARY PLACE OF BUSINESS AND EXHIBIT SUCH CERTIFICATE UPON THE REQUEST
45 OF ANY INTERESTED PARTY.

46 8. NO PERSON, FIRM OR CORPORATION SHALL:

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

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

51 (C) FALSELY REPRESENT THEMSELVES TO BE A REGISTERED IMMIGRATION
52 ASSISTANCE SERVICE PROVIDER;

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

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

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

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

6 9. REGISTRATIONS ISSUED TO IMMIGRATION ASSISTANCE SERVICE PROVIDERS
7 SHALL NOT BE TRANSFERABLE OR ASSIGNABLE.

8 10. AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE SHALL NOT BE
9 REQUIRED TO REGISTER AS AN IMMIGRATION SERVICE PROVIDER.

10 11. (A) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES AND REGU-
11 LATIONS AS ARE DEEMED NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTI-
12 CLE, AND SHALL PROVIDE WRITTEN NOTIFICATION OF THE PROVISIONS OF THIS
13 ARTICLE TO ALL IMMIGRATION ASSISTANCE SERVICE PROVIDERS REGISTERED
14 PURSUANT TO THIS ARTICLE.

15 (B) THE SECRETARY OF STATE SHALL HAVE THE POWER TO ENFORCE THE
16 PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON THE
17 SECRETARY'S INITIATIVE, TO INVESTIGATE ANY VIOLATION THEREOF OR TO
18 INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY
19 PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPORATION
20 APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRATION ASSISTANCE
21 SERVICE PROVIDER, IF IN THE OPINION OF THE SECRETARY OF STATE SUCH
22 INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE
23 OBLIGED, ON REQUEST OF THE SECRETARY OF STATE, TO SUPPLY IN A MANNER
24 CONSISTENT WITH SUBDIVISION NINE OF SECTION FOUR HUNDRED SIXTY-B OF THIS
25 ARTICLE SUCH INFORMATION, BOOKS, PAPERS OR RECORDS AS MAY BE REQUIRED
26 CONCERNING HIS, HER OR ITS BUSINESS, BUSINESS PRACTICES OR BUSINESS
27 METHODS, OR PROPOSED BUSINESS PRACTICES OR METHODS. FAILURE TO COMPLY
28 WITH A LAWFUL REQUEST OF THE SECRETARY SHALL BE A GROUND FOR DENYING AN
29 APPLICATION FOR A REGISTRATION, OR FOR REVOKING, SUSPENDING, OR FAILING
30 TO RENEW A REGISTRATION ISSUED UNDER THIS ARTICLE.

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

36 (I) THAT THE APPLICANT OR REGISTRANT HAS VIOLATED ANY OF THE
37 PROVISIONS OF THIS ARTICLE OR THE RULES AND REGULATIONS PROMULGATED
38 PURSUANT TO THIS ARTICLE;

39 (II) THAT THE APPLICANT OR REGISTRANT HAS PRACTICED FRAUD, DECEIT OR
40 MISREPRESENTATION;

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

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

45 12. THE DEPARTMENT OF STATE SHALL, BEFORE DENYING AN APPLICATION FOR A
46 REGISTRATION OR BEFORE REVOKING OR SUSPENDING ANY REGISTRATION, OR
47 IMPOSING ANY FINE OR REPRIMAND, AND AT LEAST FIFTEEN DAYS PRIOR TO THE
48 DATE SET FOR THE HEARING, AND UPON DUE NOTICE TO THE COMPLAINANT OR
49 OBJECTOR, NOTIFY IN WRITING THE APPLICANT FOR, OR THE HOLDER OF SUCH
50 REGISTRATION OF ANY CHARGE MADE AND SHALL AFFORD SUCH APPLICANT OR
51 REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFER-
52 ENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY OF SAME
53 PERSONALLY TO THE APPLICANT OR REGISTRANT, OR BY MAILING SAME BY CERTI-
54 FIED OR FIRST CLASS MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF SUCH
55 APPLICANT OR REGISTRANT. SUCH HEARING SHALL BE SCHEDULED WITHIN SIXTY
56 DAYS OF RECEIPT OF THE COMPLAINT.

1 13. THE HEARING ON SUCH CHARGES SHALL BE AT SUCH TIME AND PLACE AS THE
2 DEPARTMENT OF STATE SHALL PRESCRIBE AND SHALL BE CONDUCTED BY SUCH OFFI-
3 CER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF STATE MAY DESIGNATE,
4 WHO SHALL HAVE THE POWER TO SUBPOENA AND BRING BEFORE THE OFFICER OR
5 PERSON SO DESIGNATED ANY PERSON IN THIS STATE, AND ADMINISTER AN OATH TO
6 AND TAKE TESTIMONY OF ANY PERSON OR CAUSE HIS OR HER DEPOSITION TO BE
7 TAKEN. A SUBPOENA ISSUED UNDER THIS SECTION SHALL BE REGULATED BY THE
8 CIVIL PRACTICE LAW AND RULES. SUCH OFFICER OR PERSON IN THE DEPARTMENT
9 OF STATE DESIGNATED TO TAKE SUCH TESTIMONY SHALL NOT BE BOUND BY COMMON
10 LAW OR STATUTORY RULES OF EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF
11 PROCEDURE.

12 14. IN THE EVENT THAT THE DEPARTMENT OF STATE SHALL DENY THE APPLICA-
13 TION FOR, OR REVOKE OR SUSPEND ANY SUCH REGISTRATION, OR IMPOSE ANY FINE
14 OR REPRIMAND, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY
15 SIGNED. THE ORIGINAL OF SUCH DETERMINATIONS, WHEN SO SIGNED, SHALL BE
16 FILED IN THE OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE MAILED
17 TO THE APPLICANT OR REGISTRANT AND TO THE COMPLAINANT WITHIN TWO DAYS
18 AFTER SUCH FILING.

19 15. THE DEPARTMENT OF STATE, ACTING BY THE OFFICE OR PERSON DESIGNATED
20 TO CONDUCT THE HEARING PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION
21 OR BY SUCH OTHER OFFICER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF
22 STATE MAY DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF
23 ANY REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE
24 OR TERRITORY OF A FELONY, OR OF ANY MISDEMEANOR INVOLVING HIS OR HER
25 WORK AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER FOR A PERIOD NOT
26 EXCEEDING THIRTY DAYS PENDING A HEARING AND A DETERMINATION OF CHARGES
27 MADE AGAINST HIM OR HER. IF SUCH HEARING IS ADJOURNED AT THE REQUEST OF
28 THE REGISTRANT, OR BY REASON OF ANY ACT OR OMISSION BY HIM OR HER OR ON
29 HIS OR HER BEHALF, SUCH SUSPENSION MAY BE CONTINUED FOR THE ADDITIONAL
30 PERIOD OF SUCH ADJOURNMENT.

31 16. THE ACTION OF THE DEPARTMENT OF STATE IN GRANTING OR REFUSING TO
32 GRANT OR TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR
33 SUSPENDING OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR
34 IMPOSING ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEED-
35 ING INSTITUTED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
36 RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER
37 OF A REGISTRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED.

38 17. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMI-
39 GRATION ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE
40 REQUIRED TO PAY A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS.
41 PROVIDED THAT, THE DEPARTMENT OF STATE MAY REDUCE SUCH PENALTY IF SUCH
42 PERSON, FIRM OR CORPORATION AGAINST WHOM SUCH PENALTY IS ASSESSED
43 OBTAINS A REGISTRATION AS REQUIRED BY THIS SECTION, PROVIDED THAT APPLI-
44 CATION FOR SUCH REGISTRATION IS MADE NOT MORE THAN TEN DAYS AFTER THE
45 IMPOSITION OF SUCH PENALTY AND THE IMMIGRATION ASSISTANCE SERVICE
46 PROVIDER HAS NEVER RECEIVED A PRIOR FINE FOR FAILURE TO REGISTER IN NEW
47 YORK OR IN ANY OTHER STATE THAT REQUIRES REGISTRATION.

48 (B) AN IMMIGRATION ASSISTANCE SERVICE PROVIDER MAY NOT MAINTAIN A
49 CIVIL ACTION TO RECOVER PAYMENT FOR IMMIGRATION ASSISTANCE OFFERED OR
50 PERFORMED IF SUCH CONTRACTOR WAS NOT REGISTERED AS REQUIRED UNDER THIS
51 SECTION AT THE TIME SUCH WORK WAS OFFERED OR PERFORMED.

52 18. THE PROVIDER'S NAME, BUSINESS NAME, IF DIFFERENT THAN THE PROVID-
53 ER, THE BUSINESS LOCATION OR LOCATIONS, THE BUSINESS TELEPHONE NUMBER OR
54 NUMBERS AND THE DATE THE PROVIDER WAS FIRST REGISTERED SHALL BE AVAIL-
55 ABLE TO THE PUBLIC ON THE DEPARTMENT OF STATE'S WEBSITE. THE DEPARTMENT

1 SHALL ENSURE THAT A CONSUMER IS ABLE TO VERIFY THIS INFORMATION BY CALL-
2 ING THE DEPARTMENT OF STATE'S TOLL-FREE PHONE NUMBER.

3 19. THE DEPARTMENT OF STATE SHALL MAKE PUBLIC ON ITS WEBSITE AND KEEP
4 UPDATED AT LEAST ANNUALLY, OR MAKE AVAILABLE IN RESPONSE TO THE REQUEST
5 OF ANY CUSTOMER, A LIST OF PROVIDERS REGISTERED AS IMMIGRATION PROVIDERS
6 PURSUANT TO THIS ARTICLE. EACH IMMIGRATION PROVIDER SHALL CONSPICUOUSLY
7 POST ITS CERTIFICATE AT ITS PLACE OF BUSINESS.

8 S 4. The opening paragraph and subdivision 8 of section 460-b of the
9 general business law, as added by chapter 463 of the laws of 2004, are
10 amended to read as follows:

11 NO IMMIGRATION SERVICE SHALL BE PROVIDED, UNDER PENALTY OF LAW, UNLESS
12 SUCH SERVICE PROVIDER HAS REGISTERED WITH THE DEPARTMENT OF STATE. No
13 immigrant assistance service shall be provided until the customer has
14 executed a written contract with the provider who will provide such
15 services. The contract shall be in a language understood by the custom-
16 er, either alone or with the assistance of an available interpreter,
17 and, if that language is not English, an English language version of the
18 contract must also be provided. A copy of the contract shall be provided
19 to the customer upon the customer's execution of the contract. The
20 customer has the right to cancel the contract within three business days
21 after his or her execution of the contract, without fee or penalty. The
22 right to cancel the contract within three days without payment of any
23 fee may be waived when services must be provided immediately to avoid a
24 forfeiture of eligibility or other loss of rights or privileges, and the
25 customer furnishes the provider with a separate dated and signed state-
26 ment, by the customer or his or her representative, describing the need
27 for services to be provided within three days and expressly acknowledg-
28 ing and waiving the right to cancel the contract within three days. The
29 contract may be cancelled at any time after execution. If the contract
30 is cancelled after three days, or within three days if the right to
31 cancel without fee has been waived, the provider may retain fees for
32 services rendered, and any additional amounts actually expended on
33 behalf of the customer. All other amounts must be returned to the
34 customer within fifteen days after cancellation. The written contract
35 shall be in plain language, in at least twelve point type and shall
36 include the following:

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

43 S 5. This act shall take effect on the one hundred eightieth day after
44 it shall have become a law. Effective immediately, the addition, amend-
45 ment and/or repeal of any rule or regulation necessary for the implemen-
46 tation of this act on its effective date are authorized to be made and
47 completed on or before such effective date.