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

5632

2011-2012 Regular Sessions

I N S E N A T E

June 8, 2011

Introduced by COMMITTEE ON RULES -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to prohibiting the use of placement agents by managers doing business with the common retirement fund

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

Section 1. Section 425 of the retirement and social security law is renumbered section 426 and a new section 425 is added to read as follows:

S 425. USE OF PLACEMENT AGENTS OR INTERMEDIARIES PROHIBITED. 1. THE FUND SHALL NOT ENGAGE, HIRE, INVEST WITH OR COMMIT TO AN INVESTMENT MANAGER THAT IS USING THE SERVICES OF A PLACEMENT AGENT OR INTERMEDIARY TO ASSIST SUCH INVESTMENT MANAGER IN OBTAINING INVESTMENTS BY THE FUND NOR SHALL THE FUND ENGAGE, HIRE, INVEST WITH OR COMMIT TO AN INVESTMENT MANAGER WITHOUT OBTAINING FROM SUCH INVESTMENT MANAGER A CERTIFICATION IN THE FORM AND MANNER PRESCRIBED BY THE FUND STATING THAT SUCH INVESTMENT MANAGER HAS NOT USED THE SERVICES OF A PLACEMENT AGENT OR OTHER INTERMEDIARY TO ASSIST SUCH INVESTMENT MANAGER IN OBTAINING INVESTMENTS BY THE FUND.

2. FOR THE PURPOSES OF THIS SECTION:

(A) "INVESTMENT MANAGER" SHALL MEAN ANY PERSON, OTHER THAN AN EMPLOYEE OF THE COMPTROLLER, OR ENTITY ENGAGED BY THE COMMON RETIREMENT FUND TO MANAGE A PART OR ALL OF AN INVESTMENT PORTFOLIO OF THE FUND. "MANAGE" SHALL INCLUDE, BUT IS NOT LIMITED TO, THE ANALYSIS OF PORTFOLIO HOLDINGS, AND THE PURCHASE, SALE, AND LENDING THEREOF. ANY INVESTMENT MADE BY THE FUND PURSUANT TO SUBDIVISION SEVEN OF SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER SHALL BE DEEMED TO BE THE INVESTMENT OF THE FUND IN SUCH INVESTMENT ENTITY RATHER THAN IN THE ASSETS OF SUCH INVESTMENT ENTITY.

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

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(B) "PLACEMENT AGENT OR INTERMEDIARY" SHALL MEAN ANY PERSON OR ENTITY, INCLUDING REGISTERED LOBBYISTS, DIRECTLY OR INDIRECTLY ENGAGED AND COMPENSATED BY AN INVESTMENT MANAGER, OTHER THAN AN EMPLOYEE OF THE INVESTMENT MANAGER, TO ASSIST THE INVESTMENT MANAGER IN OBTAINING INVESTMENTS BY THE FUND WHETHER COMPENSATED ON A FLAT FEE, A CONTINGENT FEE, OR ANY OTHER BASIS. EMPLOYEES OF AN INVESTMENT MANAGER AND ITS AFFILIATES ARE EXCLUDED FROM THIS DEFINITION UNLESS THEY ARE EMPLOYED PRINCIPALLY FOR THE PURPOSE OF SECURING OR INFLUENCING THE DECISION TO SECURE A PARTICULAR INVESTMENT TRANSACTION OR INVESTMENT BY THE FUND.

S 2. This act shall take effect immediately.