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

4750

2011-2012 Regular Sessions

I N A S S E M B L Y

February 7, 2011

Introduced by M. of A. P. RIVERA -- read once and referred to the Committee on Governmental Operations

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:

Section 1. This act shall be known and may be cited as the "immigrant assistance service enforcement act".

S 2. Section 460-h of the general business law, as added by chapter 463 of the laws of 2004, is amended to read as follows:

S 460-h. Enforcement. Upon any violation of this article, an application may be made by the attorney general in the name of the people of the state to a court having jurisdiction to issue an injunction, and upon notice to the respondent of not fewer than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than [seven thousand five hundred dollars] FIFTEEN THOUSAND DOLLARS for each violation.

S 3. Section 460-i of the general business law, as added by chapter 463 of the laws of 2004, is amended to read as follows:

S 460-i. Violations. Any violation of any provision of this article shall be a class A misdemeanor, and upon conviction the court may order as part of the sentence imposed restitution or reparation to the victim of the crime pursuant to section 60.27 of the penal law. THREE VIOLATIONS OR MORE, OF THIS ARTICLE BY THE SAME INDIVIDUAL OR ENTITY SHALL BE A CLASS E FELONY, AND UPON CONVICTION THE COURT MAY ORDER AS

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

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PART OF THE SENTENCE IMPOSED RESTITUTION OR REPARATION TO THE VICTIM OF THE CRIME PURSUANT TO SECTION 60.27 OF THE PENAL LAW.

S 4. The general business law is amended by adding two new sections 460-k and 460-l to read as follows:

S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS AGAINST USERS OF IMMIGRANT ASSISTANCE SERVICES. 1. DEFINITION. AS USED IN THIS SECTION, USERS OF IMMIGRANT SERVICES IS DEFINED AS ANY INDIVIDUAL WHO IS SEEKING ANY KIND OF ASSISTANCE SERVICE, LEGAL OR OTHERWISE, FROM AN IMMIGRANT ASSISTANCE SERVICE AS DEFINED IN SECTION FOUR HUNDRED SIXTY-A OF THIS ARTICLE.

2. SUPPLEMENTAL CIVIL PENALTY. (A) IN ADDITION TO ANY LIABILITY FOR DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO SECTIONS THREE HUNDRED FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE HUNDRED FIFTY-D OF THIS CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE ADVERTISING, AND SUBDIVISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, REGARDING PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE RELIEF AGAINST FRAUDULENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY WHO ENGAGES IN ANY CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND WHOSE CONDUCT IS PERPETRATED AGAINST ONE OR MORE USERS OF IMMIGRANT ASSISTANCE SERVICES, MAY BE LIABLE FOR AN ADDITIONAL CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS, IF THE FACTORS IN PARAGRAPH (B) OF THIS SUBDIVISION ARE PRESENT.

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

(1) WHETHER THE DEFENDANT KNEW THAT THE DEFENDANT'S CONDUCT WAS DIRECTED TO ONE OR MORE USERS OF IMMIGRANT ASSISTANCE SERVICES OR WHETHER THE DEFENDANT'S CONDUCT WAS IN WILLFUL DISREGARD OF THE RIGHTS OF A USER OF IMMIGRANT ASSISTANCE SERVICES;

(2) WHETHER THE DEFENDANT'S CONDUCT: (A) CAUSED A USER OF IMMIGRANT ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A PRIMARY RESIDENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL LOSS OF PROPERTY OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE USER OF IMMIGRANT ASSISTANCE SERVICES; OR (B) WHETHER ONE OR MORE USERS OF IMMIGRANT ASSISTANCE SERVICES WERE SUBSTANTIALLY MORE VULNERABLE TO THE DEFENDANT'S CONDUCT BECAUSE OF LANGUAGE BARRIERS, IMPAIRED UNDERSTANDING, OR ANY OTHER PERCEIVED DISADVANTAGE, AND ACTUALLY SUFFERED PHYSICAL OR ECONOMIC DAMAGE RESULTING FROM THE DEFENDANT'S CONDUCT.

3. THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY A SPECIAL FUND TO BE KNOWN AS THE IMMIGRANT ASSISTANCE SERVICE STABILITY FUND, WHICH SHALL CONSIST OF AND INTO WHICH SHALL BE PAID FIFTY PERCENT OF ALL MONEYS DERIVED FROM SUPPLEMENTAL CIVIL PENALTIES IMPOSED PURSUANT TO THIS SECTION. THE MONEYS IN SUCH FUND SHALL BE ADMINISTERED BY THE DEPARTMENT OF LAW AND SHALL BE EXPENDED SOLELY FOR THE INVESTIGATION OF AND PROSECUTION OF CONSUMER FRAUDS AGAINST USERS OF IMMIGRANT ASSISTANCE SERVICES. THE MONEYS IN THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE ATTORNEY GENERAL. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY BALANCE IN SAID FUND ON MARCH THIRTY-FIRST OF ANY FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND OF THE STATE.

4. RESTITUTION ORDERED PURSUANT TO THE PROVISIONS OF LAW LISTED IN SUBDIVISION TWO OF THIS SECTION SHALL BE GIVEN PRIORITY OVER THE IMPOSITION OF CIVIL PENALTIES DESIGNATED BY THE COURT UNDER THIS SECTION.

S 460-L. REQUIREMENTS FOR REGISTRATION OF IMMIGRANT ASSISTANCE SERVICE PROVIDERS. 1. ANY PERSON, FIRM OR CORPORATION SEEKING A CERTIFICATE OF

REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL FILE WITH THE DEPARTMENT OF STATE AN APPLICATION FOR REGISTRATION IN SUCH FORM AND DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, INCLUDING THE FOLLOWING:

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

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

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

(D) THE BUSINESS TELEPHONE OF THE APPLICANT;

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

(F) A STATEMENT INDICATING WHETHER THE APPLICANT HAS:

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

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

(G) SATISFACTORY EVIDENCE OF GOOD MORAL CHARACTER; AND

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

2. IN DETERMINING WHETHER TO ISSUE OR RENEW A REGISTRATION, THE SECRETARY OF STATE MAY CONSIDER THE CHARACTER, COMPETENCY AND INTEGRITY OF THE APPLICANT.

3. THE SECRETARY OF STATE MAY REFUSE TO ISSUE A REGISTRATION TO ANY PERSON, FIRM OR CORPORATION WHOM HE OR SHE FINDS HAS BEEN CONVICTED OF ANY CRIME, OR FAILED TO PAY ANY FINAL CIVIL JUDGMENT, RELATING TO WORK AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER, IF SUCH REFUSAL WILL, IN THE JUDGMENT OF THE SECRETARY OF STATE, BEST PROMOTE THE INTERESTS OF THE PEOPLE OF THIS STATE.

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

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

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

5. (A) EACH ORIGINAL APPLICATION OR APPLICATION FOR RENEWAL FOR REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL BE ACCOMPANIED BY A FEE OF FIFTY DOLLARS FOR EACH BIENNIAL REGISTRATION PERIOD.

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

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

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

7. EACH IMMIGRATION ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSINESS SHALL EXHIBIT HIS OR HER CERTIFICATE UPON THE REQUEST OF ANY INTERESTED PARTY.

8. NO PERSON, FIRM OR CORPORATION SHALL:

(A) PRESENT, OR ATTEMPT TO PRESENT, AS HIS, HER OR ITS OWN, THE REGISTRATION OF ANOTHER;

(B) KNOWINGLY GIVE FALSE EVIDENCE OF A MATERIAL NATURE TO SUCH DEPARTMENT FOR THE PURPOSE OF PROCURING A REGISTRATION;

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

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

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

(F) REPRESENT IN ANY MANNER THAT HIS, HER OR ITS REGISTRATION CONSTITUTES AN ENDORSEMENT OF THE QUALITY OF SERVICE OR COMPETENCY OF THE PROVIDER.

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

10. (A) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES AND REGULATIONS AS ARE DEEMED NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, AND SHALL PROVIDE WRITTEN NOTIFICATION OF THE PROVISIONS OF THIS ARTICLE TO ALL IMMIGRATION ASSISTANCE SERVICE PROVIDERS REGISTERED PURSUANT TO THIS ARTICLE.

(B) THE SECRETARY OF STATE SHALL HAVE THE POWER TO ENFORCE THE PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON THE SECRETARY'S INITIATIVE, TO INVESTIGATE ANY VIOLATION THEREOF OR TO INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPORATION APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER, IF IN THE OPINION OF THE SECRETARY OF STATE SUCH INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE OBLIGED, ON REQUEST OF THE SECRETARY OF STATE, TO SUPPLY SUCH INFORMATION, BOOKS, PAPERS OR RECORDS AS MAY BE REQUIRED CONCERNING HIS, HER OR ITS BUSINESS, BUSINESS PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSINESS PRACTICES OR METHODS. FAILURE TO COMPLY WITH A LAWFUL REQUEST OF THE SECRETARY SHALL BE A GROUND FOR DENYING AN APPLICATION FOR A REGISTRATION, OR FOR REVOKING, SUSPENDING, OR FAILING TO RENEW A REGISTRATION ISSUED UNDER THIS ARTICLE.

(C) SUCH DEPARTMENT SHALL HAVE THE POWER TO REVOKE OR SUSPEND ANY REGISTRATION, OR IN LIEU THEREOF TO IMPOSE A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PAYABLE TO THE DEPARTMENT, OR REPRIMAND ANY REGISTRANT OR DENY AN APPLICATION FOR A REGISTRATION OR RENEWAL THEREOF UPON PROOF:

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

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

(III) THAT THE APPLICANT OR REGISTRANT HAS MADE A MATERIAL MISSTATEMENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION;

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

11. SUCH DEPARTMENT SHALL, BEFORE DENYING AN APPLICATION FOR A REGISTRATION OR BEFORE REVOKING OR SUSPENDING ANY REGISTRATION, OR IMPOSING ANY FINE OR REPRIMAND, AND AT LEAST FIFTEEN DAYS PRIOR TO THE DATE SET

FOR THE HEARING, AND UPON DUE NOTICE TO THE COMPLAINANT OR OBJECTOR, NOTIFY IN WRITING THE APPLICANT FOR, OR THE HOLDER OF SUCH REGISTRATION OF ANY CHARGE MADE AND SHALL AFFORD SUCH APPLICANT OR REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFERENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY OF SAME PERSONALLY TO THE APPLICANT OR REGISTRANT, OR BY MAILING SAME BY CERTIFIED OR FIRST CLASS MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF SUCH APPLICANT OR REGISTRANT. SUCH HEARING SHALL BE SCHEDULED WITHIN SIXTY DAYS OF RECEIPT OF THE COMPLAINT.

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

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

14. SUCH DEPARTMENT, ACTING BY THE OFFICE OR PERSON DESIGNATED TO CONDUCT THE HEARING PURSUANT TO SUBDIVISION TWELVE OF THIS SECTION OR BY SUCH OTHER OFFICER OR PERSON IN SUCH DEPARTMENT AS THE SECRETARY OF STATE MAY DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF ANY REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE OR TERRITORY OF A FELONY OR OF ANY MISDEMEANOR FOR A PERIOD NOT EXCEEDING THIRTY DAYS PENDING A HEARING AND A DETERMINATION OF CHARGES MADE AGAINST HIM OR HER. IF SUCH HEARING IS ADJOURNED AT THE REQUEST OF THE REGISTRANT, OR BY REASON OF ANY ACT OR OMISSION BY HIM OR HER OR ON HIS OR HER BEHALF, SUCH SUSPENSION MAY BE CONTINUED FOR THE ADDITIONAL PERIOD OF SUCH ADJOURNMENT.

15. THE ACTION OF THE DEPARTMENT IN GRANTING OR REFUSING TO GRANT OR TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR SUSPENDING OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR IMPOSING ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEEDING INSTITUTED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER OF A REGISTRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED OR THE PERSON AGGRIEVED.

16. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE REQUIRED TO PAY A CIVIL PENALTY IN THE SUM OF ONE THOUSAND DOLLARS PER CONTRACT ENTERED INTO IN VIOLATION OF THIS SECTION. HOWEVER, ANY SUCH PERSON, FIRM OR CORPORATION AGAINST WHOM SUCH PENALTY HAS BEEN ASSESSED MAY AVOID ALL BUT FIVE HUNDRED DOLLARS OF SUCH PENALTY BY OBTAINING A REGISTRATION AS REQUIRED BY THIS SECTION, PROVIDED THAT APPLICATION FOR SUCH REGISTRATION IS MADE NOT MORE THAN TEN DAYS AFTER THE IMPOSITION OF SUCH PENALTY AND THE IMMIGRATION ASSISTANCE SERVICE PROVIDER HAS NEVER RECEIVED A PRIOR FINE FOR FAILURE TO REGISTER IN NEW YORK OR IN ANY OTHER STATE THAT REQUIRES REGISTRATION.

(B) AN IMMIGRATION ASSISTANCE SERVICE PROVIDER MAY NOT MAINTAIN A CIVIL ACTION TO RECOVER PAYMENT FOR WORK UNDER IMMIGRATION ASSISTANCE SERVICE PROVIDER CONTRACT PERFORMED IF SUCH CONTRACTOR IS NOT REGISTERED AS REQUIRED UNDER THIS SECTION.

17. ALL OF THIS INFORMATION EXCEPT THE PROVIDER'S HOME ADDRESS AND TELEPHONE NUMBER SHALL BE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT OF STATE'S WEBSITE. SUCH DEPARTMENT SHALL ENSURE THAT A CONSUMER IS ABLE TO VERIFY THIS INFORMATION BY CALLING THE DEPARTMENT OF STATE'S TOLL-FREE PHONE NUMBER.

18. SUCH DEPARTMENT SHALL MAKE PUBLIC ON ITS WEBSITE AND KEEP UPDATED AT LEAST ANNUALLY, OR MAKE AVAILABLE IN RESPONSE TO THE REQUEST OF ANY CUSTOMER, A LIST OF PROVIDERS LICENSED AS IMMIGRATION PROVIDERS PURSUANT TO THIS ARTICLE. EACH IMMIGRATION PROVIDER SHALL POST ITS LICENSE AT ITS PLACE OF BUSINESS.

S 5. The opening paragraph and subdivision 8 of section 460-b of the general business law, as added by chapter 463 of the laws of 2004, are amended to read as follows:

NO IMMIGRATION SERVICE SHALL BE PROVIDED, UNDER PENALTY OF LAW, UNLESS THAT SERVICE PROVIDER HAS REGISTERED EITHER BY MAIL, OR ONLINE, WITH THE DEPARTMENT OF STATE. No immigrant assistance service shall be provided until the customer has executed a written contract with the provider who will provide such services. The contract shall be in a language understood by the customer, either alone or with the assistance of an available interpreter, and, if that language is not English, an English language version of the contract must also be provided. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The customer has the right to cancel the contract within three business days after his or her execution of the contract, without fee or penalty. The right to cancel the contract within three days without payment of any fee may be waived when services must be provided immediately to avoid a forfeiture of eligibility or other loss of rights or privileges, and the customer furnishes the provider with a separate dated and signed statement, by the customer or his or her representative, describing the need for services to be provided within three days and expressly acknowledging and waiving the right to cancel the contract within three days. The contract may be cancelled at any time after execution. If the contract is cancelled after three days, or within three days if the right to cancel without fee has been waived, the provider may retain fees for services rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen days after cancellation. The written contract shall be in plain language, in at least twelve point type and shall include the following:

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

S 6. This act shall take effect on the one hundred ninetieth day after it shall have become a law.