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

5672

2011-2012 Regular Sessions

I N S E N A T E

June 9, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to advertising in a language other than English by notaries public

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

Section 1. The executive law is amended by adding a new section 135-b to read as follows:

S 135-B. ADVERTISING BY NOTARIES PUBLIC. 1. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ATTORNEYS-AT-LAW, ADMITTED TO PRACTICE IN THE STATE OF NEW YORK.

2. A NOTARY PUBLIC WHO ADVERTISES HIS OR HER SERVICES AS A NOTARY PUBLIC IN A LANGUAGE OTHER THAN ENGLISH SHALL POST WITH SUCH ADVERTISEMENT A NOTICE IN SUCH OTHER LANGUAGE THE FOLLOWING STATEMENT: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE ABOUT IMMIGRATION OR ANY OTHER LEGAL MATTER OR ACCEPT FEES FOR LEGAL ADVICE."

3. A NOTARY PUBLIC SHALL NOT USE TERMS IN A FOREIGN LANGUAGE IN ANY ADVERTISEMENT FOR HIS OR HER SERVICES AS A NOTARY PUBLIC THAT MEAN OR IMPLY THAT THE NOTARY PUBLIC IS AN ATTORNEY LICENSED TO PRACTICE IN THE STATE OF NEW YORK OR IN ANY JURISDICTION OF THE UNITED STATES. THE SECRETARY SHALL DESIGNATE BY RULE OR REGULATION THE TERMS IN A FOREIGN LANGUAGE THAT SHALL BE DEEMED TO MEAN OR IMPLY THAT A NOTARY PUBLIC IS LICENSED TO PRACTICE LAW IN THE STATE OF NEW YORK AND THE USE OF WHICH SHALL BE PROHIBITED BY NOTARY PUBLICS WHO ARE SUBJECT TO THIS SECTION.

4. FOR PURPOSES OF THIS SECTION, "ADVERTISEMENT" SHALL MEAN AND INCLUDE MATERIAL DESIGNED TO GIVE NOTICE OF OR TO PROMOTE OR DESCRIBE THE SERVICES OFFERED BY A NOTARY PUBLIC FOR PROFIT AND SHALL INCLUDE BUSINESS CARDS, BROCHURES, AND NOTICES, WHETHER IN PRINT OR ELECTRONIC FORM.

5. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION OR ANY RULE OR REGULATION PROMULGATED BY THE SECRETARY MAY BE LIABLE FOR CIVIL

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

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PENALTY OF ONE THOUSAND DOLLARS. THE SECRETARY OF STATE MAY SUSPEND A NOTARY PUBLIC UPON A SECOND VIOLATION OF ANY OF THE PROVISIONS OF THIS SECTION AND MAY REMOVE FROM OFFICE A NOTARY PUBLIC UPON A THIRD VIOLATION OF ANY OF THE PROVISIONS OF THIS SECTION, PROVIDED THAT THE NOTARY PUBLIC SHALL HAVE BEEN SERVED WITH A COPY OF THE CHARGES AGAINST HIM OR HER AND BEEN GIVEN AN OPPORTUNITY TO BE HEARD. THE CIVIL PENALTY PROVIDED FOR BY THIS SUBDIVISION SHALL BE RECOVERABLE IN AN ACTION INSTITUTED BY THE ATTORNEY GENERAL ON HIS OR HER OWN INITIATIVE OR AT THE REQUEST OF THE SECRETARY.

6. THE SECRETARY MAY PROMULGATE RULES AND REGULATIONS GOVERNING THE PROVISIONS OF THIS SECTION, INCLUDING THE SIZE AND TYPE OF STATEMENTS THAT A NOTARY PUBLIC IS REQUIRED BY THIS SECTION TO POST.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided that the secretary of state may promulgate any rules necessary for implementing and carrying out the provisions of this act prior to its effective date.