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

197

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the Committee on Codes

AN ACT to amend the judiciary law, in relation to practicing or appearing as an attorney-at-law without being admitted and registered

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

Section 1. Section 478 of the judiciary law, as amended by chapter 492 of the laws of 2012, is amended to read as follows:

S 478. Practicing or appearing as attorney-at-law without being admitted and registered. It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself or herself in a court of record in this state, or to furnish attorneys or counsel or an attorney and counsel to render legal services, or to hold himself or herself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law or in any manner to advertise that he or she either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of law, without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath. Provided, however, that nothing in this section shall be held to apply (1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-

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

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for-profit corporation law; or (2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities otherwise prohibited by this statute; or (3) to law students who have completed at least two semesters of law school, or to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such students or persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities; or (4) an attorney and counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the state of New York WITHIN THE LIMITATIONS PRESCRIBED IN THE RULES OF THE COURT OF APPEALS; OR (5) AN ATTORNEY LICENSED AS A LEGAL CONSULTANT UNDER RULES ADOPTED BY THE COURT OF APPEALS PURSUANT TO SUBDIVISION SIX OF SECTION FIFTY-THREE OF THIS CHAPTER AND RENDERING LEGAL SERVICES IN THE STATE WITHIN LIMITATIONS PRESCRIBED IN SUCH RULES.

S 2. Section 484 of the judiciary law, as amended by chapter 201 of the laws of 1993, is amended to read as follows:

S 484. None but attorneys to practice in the state. No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state; but nothing in this section shall apply (1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or (2) to law students who have completed at least two semesters of law school or persons who have grad-

uated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization, when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities prohibited by this statute; or (3) to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities[.]; OR (4) AN ATTORNEY AND COUNSELOR-AT-LAW OR THE EQUIVALENT WHO IS ADMITTED TO THE BAR IN ANOTHER STATE, TERRITORY, DISTRICT OR FOREIGN COUNTRY AND WHO HAS BEEN ADMITTED TO PRACTICE PRO HAC VICE IN THE STATE OF NEW YORK WITHIN THE LIMITATIONS PRESCRIBED IN THE RULES OF THE COURT OF APPEALS; OR (5) AN ATTORNEY LICENSED AS A LEGAL CONSULTANT UNDER RULES ADOPTED BY THE COURT OF APPEALS PURSUANT TO SUBDIVISION SIX OF SECTION FIFTY-THREE OF THIS CHAPTER AND RENDERING LEGAL SERVICES IN THE STATE WITHIN LIMITATIONS PRESCRIBED IN SUCH RULES.

S 3. Section 485-a of the judiciary law, as added by chapter 492 the laws of 2012, is amended to read as follows:

S 485-a. Violation of certain sections a class E felony. Any person who violates the provisions of sections four hundred seventy-eight, four hundred eighty-four, four hundred eighty-six or four hundred ninety-five of this article is guilty of a class E felony when he or she: (1) [either impersonates an attorney or offers legal services to the public under a title other than attorney] FALSELY HOLDS HIMSELF OR HERSELF OUT AS A PERSON LICENSED TO PRACTICE LAW IN THIS STATE, A PERSON OTHERWISE PERMITTED TO PRACTICE LAW IN THIS STATE, OR A PERSON WHO CAN PROVIDE SERVICES THAT ONLY ATTORNEYS ARE AUTHORIZED TO PROVIDE; and (2) causes another person to suffer monetary loss or damages exceeding one thousand dollars or other material damage resulting from impairment of a legal right to which he or she is entitled [according to law].

S 4. This act shall take effect immediately, provided, that sections one, two and three of this act shall be deemed to have been in full force and effect on the same date as chapter 492 of the laws of 2012, took effect.