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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:

1 Section 1. Section 478 of the judiciary law, as amended by chapter 492
2 of the laws of 2012, is amended to read as follows:
3 S 478. Practicing or appearing as attorney-at-law without being admitted
4 and registered. It shall be unlawful for any natural person to practice
5 or appear as an attorney-at-law or as an attorney and counselor-at-law
6 for a person other than himself or herself in a court of record in
7 this state, or to furnish attorneys or counsel or an attorney and counsel
8 to render legal services, or to hold himself or herself out to the
9 public as being entitled to practice law as aforesaid, or in any other
10 manner, or to assume to be an attorney or counselor-at-law, or to
11 assume, use, or advertise the title of lawyer, or attorney and counselor-
12 at-law, or attorney-at-law or counselor-at-law, or attorney, or
13 counselor, or attorney and counselor, or equivalent terms in any
14 language, in such manner as to convey the impression that he or she is a
15 legal practitioner of law or in any manner to advertise that he or she
16 either alone or together with any other persons or person has, owns,
17 conducts or maintains a law office or law and collection office, or
18 office of any kind for the practice of law, without having first been
19 duly and regularly licensed and admitted to practice law in the courts
20 of record of this state, and without having taken the constitutional
21 oath. Provided, however, that nothing in this section shall be held to
22 apply (1) to officers of societies for the prevention of cruelty to
23 animals, duly appointed, when exercising the special powers conferred
24 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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1 for-profit corporation law; or (2) to law students who have completed at
2 least two semesters of law school or persons who have graduated from a
3 law school, who have taken the examination for admittance to practice
4 law in the courts of record in the state immediately available after
5 graduation from law school, or the examination immediately available
6 after being notified by the board of law examiners that they failed to
7 pass said exam, and who have not been notified by the board of law exam-
8 iners that they have failed to pass two such examinations, acting under
9 the supervision of a legal aid organization when such students and
10 persons are acting under a program approved by the appellate division of
11 the supreme court of the department in which the principal office of
12 such organization is located and specifying the extent to which such
13 students and persons may engage in activities otherwise prohibited by
14 this statute; or (3) to law students who have completed at least two
15 semesters of law school, or to persons who have graduated from a law
16 school approved pursuant to the rules of the court of appeals for the
17 admission of attorneys and counselors-at-law and who have taken the
18 examination for admission to practice as an attorney and counselor-at-
19 law immediately available after graduation from law school or the exam-
20 ination immediately available after being notified by the board of law
21 examiners that they failed to pass said exam, and who have not been
22 notified by the board of law examiners that they have failed to pass two
23 such examinations, when such students or persons are acting under the
24 supervision of the state or a subdivision thereof or of any officer or
25 agency of the state or a subdivision thereof, pursuant to a program
26 approved by the appellate division of the supreme court of the depart-
27 ment within which such activities are taking place and specifying the
28 extent to which they may engage in activities otherwise prohibited by
29 this statute and those powers of the supervising governmental entity or
30 officer in connection with which they may engage in such activities; or
31 (4) an attorney and counselor-at-law or the equivalent who is admitted
32 to the bar in another state, territory, district or foreign country and
33 who has been admitted to practice pro hac vice in the state of New York
34 WITHIN THE LIMITATIONS PRESCRIBED IN THE RULES OF THE COURT OF APPEALS;
35 OR (5) AN ATTORNEY LICENSED AS A LEGAL CONSULTANT UNDER RULES ADOPTED BY
36 THE COURT OF APPEALS PURSUANT TO SUBDIVISION SIX OF SECTION FIFTY-THREE
37 OF THIS CHAPTER AND RENDERING LEGAL SERVICES IN THE STATE WITHIN LIMITA-
38 TIONS PRESCRIBED IN SUCH RULES.

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

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

1 uated from a law school, who have taken the examination for admittance
2 to practice law in the courts of record in the state immediately avail-
3 able after graduation from law school, or the examination immediately
4 available after being notified by the board of law examiners that they
5 failed to pass said exam, and who have not been notified by the board of
6 law examiners that they have failed to pass two such examinations,
7 acting under the supervision of a legal aid organization, when such
8 students and persons are acting under a program approved by the appel-
9 late division of the supreme court of the department in which the prin-
10 cipal office of such organization is located and specifying the extent
11 to which such students and persons may engage in activities prohibited
12 by this statute; or (3) to persons who have graduated from a law school
13 approved pursuant to the rules of the court of appeals for the admission
14 of attorneys and counselors-at-law and who have taken the examination
15 for admission to practice as an attorney and counselor-at-law immediate-
16 ly available after graduation from law school or the examination imme-
17 diately available after being notified by the board of law examiners
18 that they failed to pass said exam, and who have not been notified by
19 the board of law examiners that they have failed to pass two such exam-
20 inations, when such persons are acting under the supervision of the
21 state or a subdivision thereof or of any officer or agency of the state
22 or a subdivision thereof, pursuant to a program approved by the appel-
23 late division of the supreme court of the department within which such
24 activities are taking place and specifying the extent to which they may
25 engage in activities otherwise prohibited by this statute and those
26 powers of the supervising governmental entity or officer in connection
27 with which they may engage in such activities[.]; OR (4) AN ATTORNEY AND
28 COUNSELOR-AT-LAW OR THE EQUIVALENT WHO IS ADMITTED TO THE BAR IN ANOTHER
29 STATE, TERRITORY, DISTRICT OR FOREIGN COUNTRY AND WHO HAS BEEN ADMITTED
30 TO PRACTICE PRO HAC VICE IN THE STATE OF NEW YORK WITHIN THE LIMITATIONS
31 PRESCRIBED IN THE RULES OF THE COURT OF APPEALS; OR (5) AN ATTORNEY
32 LICENSED AS A LEGAL CONSULTANT UNDER RULES ADOPTED BY THE COURT OF
33 APPEALS PURSUANT TO SUBDIVISION SIX OF SECTION FIFTY-THREE OF THIS CHAP-
34 TER AND RENDERING LEGAL SERVICES IN THE STATE WITHIN LIMITATIONS
35 PRESCRIBED IN SUCH RULES.

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

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

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