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

4208

2013-2014 Regular Sessions

I N A S S E M B L Y

February 1, 2013

Introduced by M. of A. CAMARA -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the bonds required by employment agencies, disclosure of the right to the return of fees and deposits and the language of employment contracts

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

Section 1. Subdivision 1 of section 177 of the general business law, as amended by section 11 of part A of chapter 57 of the laws of 2004, is amended to read as follows:

1. Every person licensed under the provisions of this article to carry on the business of an employment agency shall pay to the commissioner a license fee in accordance with the following schedule before such license is issued. The minimum fee for said license shall be five hundred dollars, and for an agency operating with more than four placement employees, seven hundred dollars, provided, however, that if the license is to run less than one year, the fee shall be two hundred fifty dollars and three hundred fifty dollars respectively, and if the license is to run less than six months, the fee shall be one hundred twenty-five dollars and one hundred seventy-five dollars respectively. For the purpose of determining the license fee which an employment agency shall pay, the applicant for such license shall state in his application to the commissioner the average number of placement employees employed by the applicant's employment agency during the preceding calendar year; or, in the event that the applicant has not previously conducted an employment agency under the provisions of this article, he or she shall state the average number of placement employees which he or she reasonably expects will be employed by the employment agency during the calendar year in which the license is issued. If the application for a license is denied or withdrawn, one-half of the license fee provided herein shall be returned to the applicant. He or she shall also deposit

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

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before such license is issued, with the commissioner, a bond in the penal sum of [five] TWENTY thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the commissioner, provided, however, that if the applicant will engage in the recruitment of domestic or household employees from outside the continental United States, or will conduct a modeling agency the bond shall be in the penal sum of [ten] FORTY thousand dollars.

S 2. Subdivisions 1 and 3 of section 181 of the general business law, subdivision 1 as added by chapter 632 of the laws of 1975 and subdivision 3 as separately amended by chapters 1010 and 1083 of the laws of 1960, are amended to read as follows:

1. A true copy of every contract executed between such agency and such applicant, which SHALL BE PRINTED IN ENGLISH AND THE LANGUAGE IN WHICH THE CONTRACT IS NEGOTIATED AND shall have printed on it or attached to it a statement IN ENGLISH AND SUCH LANGUAGE setting forth in a clear and concise manner the provisions of sections one hundred eighty-five[,] and one hundred eighty-six of this article. A CONTRACT SHALL INCLUDE IMMEDIATELY ABOVE THE PLACE FOR THE APPLICANT'S SIGNATURE, SET OFF IN A BOX AND PRINTED IN A COLOR THAT SHARPLY CONTRASTS WITH THE PRINT SURROUNDING IT, A STATEMENT THAT DESCRIBES THE APPLICANT'S RIGHTS TO A RETURN OF ANY FEES AND DEPOSITS OR EXCESS PORTIONS THEREOF PAID UNDER THE CONTRACT AS PRESCRIBED BY LAW. SUCH STATEMENT SHALL CLEARLY EXPLAIN THAT, PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE:

(A) A DEPOSIT OR ADVANCE FEE SHALL BE OFFSET AGAINST ANY FEE CHARGED OR ACCEPTED WHEN SUCH EMPLOYMENT IS OBTAINED;

(B) ANY EXCESS ABOVE THE LAWFUL FEE SHALL BE RETURNED WITHOUT DEMAND THEREFOR, IMMEDIATELY AFTER THE EMPLOYMENT AGENCY HAS BEEN NOTIFIED THAT SUCH EMPLOYMENT HAS BEEN OBTAINED; AND

(C) ALL OF SUCH DEPOSIT OR ADVANCE FEE SHALL BE RETURNED IMMEDIATELY UPON DEMAND THEREFOR, IF AT THE TIME OF THE DEMAND SUCH EMPLOYMENT HAS NOT BEEN OBTAINED. THE COMMISSIONER MAY PRESCRIBE BY RULE HOW SUCH INFORMATION IS TO BE DISCLOSED AND ANY ADDITIONAL INFORMATION THAT MUST BE CLEARLY EXPLAINED IN SUCH STATEMENT REGARDING THE RIGHTS OF AN APPLICANT TO A RETURN OF A FEE, DEPOSIT OR EXCESS PORTIONS THEREOF AS PROVIDED FOR IN THIS ARTICLE.

3. A receipt for any fee, deposit, consideration, or payment which such agency receives from such applicant, which shall have printed or written on it the name of the applicant, the name and address of the employment agency, the date and amount of such fee, deposit, consideration or payment or portion thereof for which the receipt is given, the purpose for which it was paid, and the signature of the person receiving such payment. If the applicant for employment has been recruited from outside the state for domestic or household employment the receipt shall have printed on it, or attached to it, a copy of section one hundred eighty-four of this article. A RECEIPT SHALL INCLUDE A STATEMENT THAT CLEARLY DESCRIBES THE APPLICANT'S RIGHTS TO THE RETURN OF ANY FEES, DEPOSITS, CONSIDERATION OR PAYMENTS PAID BY THE APPLICANT UNDER THE CONTRACT AS PRESCRIBED BY LAW. SUCH STATEMENT SHALL CLEARLY EXPLAIN THAT, PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE:

(A) A DEPOSIT OR ADVANCE FEE SHALL BE OFFSET AGAINST ANY FEE CHARGED OR ACCEPTED WHEN SUCH EMPLOYMENT IS OBTAINED;

(B) ANY EXCESS ABOVE THE LAWFUL FEE SHALL BE RETURNED WITHOUT DEMAND THEREFOR, IMMEDIATELY AFTER THE EMPLOYMENT AGENCY HAS BEEN NOTIFIED THAT SUCH EMPLOYMENT HAS BEEN OBTAINED; AND

(C) ALL OF SUCH DEPOSIT OR ADVANCE FEE SHALL BE RETURNED IMMEDIATELY UPON DEMAND THEREFOR, IF AT THE TIME OF THE DEMAND SUCH EMPLOYMENT HAS NOT BEEN OBTAINED. THE COMMISSIONER MAY PRESCRIBE BY RULE HOW SUCH INFORMATION IS TO BE DISCLOSED AND ANY ADDITIONAL INFORMATION THAT MUST BE CLEARLY EXPLAINED IN SUCH STATEMENT REGARDING THE RIGHTS OF AN APPLICANT TO A RETURN OF A FEE, DEPOSIT OR EXCESS PORTIONS THEREOF AS PROVIDED FOR IN THIS ARTICLE. SUCH STATEMENT SHALL BE LOCATED IMMEDIATELY ADJACENT TO WHERE THE AMOUNT OF THE FEE, DEPOSIT, CONSIDERATION OR PAYMENT IS LISTED AND SHALL BE SET OFF IN A BOX AND PRINTED IN A COLOR THAT SHARPLY CONTRASTS WITH THE PRINT SURROUNDING IT.

S 3. This act shall take effect on the one hundred fiftieth day after it shall have become a law.