

S. 786--A

A. 158--A
Cal. No. 341

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 9, 2013

IN SENATE -- Introduced by Sens. DIAZ, AVELLA, PARKER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CRESPO, STEVENSON, SCARBOROUGH, WEPRIN, RODRIGUEZ, BARRON, MARKEY, PERRY, GUNTHER, RAMOS -- Multi-Sponsored by -- M. of A. ARROYO, ESPINAL, GOTTFRIED, HOOPER, JACOBS, MILLER, MONTESANO, MOYA, RIVERA, SEPULVEDA, TITONE, WEINSTEIN -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

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:

1 Section 1. This act shall be known and may be cited as the "immigrant
2 assistance service enforcement act".
3 S 2. Section 460-h of the general business law, as added by chapter
4 463 of the laws of 2004, is amended to read as follows:
5 S 460-h. Enforcement. Upon any violation of this article, an applica-
6 tion may be made by the attorney general in the name of the people of
7 the state to a court having jurisdiction to issue an injunction, and
8 upon notice to the respondent of not fewer than five days, to enjoin and
9 restrain the continuance of the violation. If it shall appear to the
10 satisfaction of the court or justice that the defendant has, in fact,

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

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1 violated this article, an injunction may be issued by such court or
2 justice, enjoining and restraining any further violation, without
3 requiring proof that any person has, in fact, been injured or damaged
4 thereby. In any such proceeding, the court may make allowances to the
5 attorney general as provided in paragraph six of subdivision (a) of
6 section eighty-three hundred three of the civil practice law and rules,
7 and direct restitution. Whenever the court shall determine that a
8 violation of this article has occurred, the court may impose a civil
9 penalty of not more than [seven thousand five hundred dollars] TEN THOU-
10 SAND DOLLARS for each violation.

11 S 3. The general business law is amended by adding two new sections
12 460-k and 460-l to read as follows:

13 S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS AGAINST USERS OF
14 IMMIGRANT ASSISTANCE SERVICES. 1. (A) IN ADDITION TO ANY LIABILITY FOR
15 DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO SECTIONS THREE HUNDRED
16 FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE HUNDRED FIFTY-D OF THIS
17 CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE ADVERTISING, AND SUBDI-
18 VISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, REGARDING
19 PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE RELIEF AGAINST FRAUDU-
20 LENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY WHO ENGAGES IN ANY
21 CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND WHOSE CONDUCT IS
22 PERPETRATED AGAINST ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT
23 ASSISTANCE SERVICES, MAY BE LIABLE FOR AN ADDITIONAL CIVIL PENALTY NOT
24 TO EXCEED TEN THOUSAND DOLLARS, AFTER CONSIDERING WHETHER ONE OR MORE OF
25 THE FACTORS IN PARAGRAPH (B) OF THIS SUBDIVISION ARE PRESENT.

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

30 (1) WHETHER THE DEFENDANT KNEW THAT HIS OR HER CONDUCT WAS DIRECTED TO
31 ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES OR
32 WHETHER THE DEFENDANT KNOWINGLY ACTED WITH DISREGARD OF THE RIGHTS OF A
33 PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES;

34 (2) WHETHER THE DEFENDANT'S CONDUCT: (A) CAUSED A PERSON SEEKING OR
35 USING IMMIGRANT ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A
36 PRIMARY RESIDENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL
37 LOSS OF PROPERTY OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE
38 PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES; OR (B) WHETHER
39 ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES WERE
40 SUBSTANTIALLY MORE VULNERABLE TO THE DEFENDANT'S CONDUCT BECAUSE OF
41 IMPAIRED UNDERSTANDING, OR ANY OTHER PERCEIVED DISADVANTAGE, AND ACTUAL-
42 LY SUFFERED PHYSICAL OR ECONOMIC DAMAGE RESULTING FROM THE DEFENDANT'S
43 CONDUCT.

44 2. RESTITUTION ORDERED PURSUANT TO THE PROVISIONS OF LAW LISTED IN
45 SUBDIVISION ONE OF THIS SECTION OR PURSUANT TO ANY OTHER SECTION OF LAW
46 SHALL BE GIVEN PRIORITY OVER THE IMPOSITION OF CIVIL PENALTIES ORDERED
47 BY THE COURT UNDER THIS SECTION.

48 S 460-L. REQUIREMENTS FOR REGISTRATION OF IMMIGRANT ASSISTANCE SERVICE
49 PROVIDERS. 1. ANY PERSON, FIRM OR CORPORATION SEEKING A CERTIFICATE OF
50 REGISTRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL FILE
51 WITH THE DEPARTMENT OF STATE AN APPLICATION FOR REGISTRATION IN SUCH
52 FORM AND DETAIL AS THE DEPARTMENT SHALL PRESCRIBE, INCLUDING THE FOLLOW-
53 ING:

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

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

1 (C) THE FEDERAL BOARD OF IMMIGRATION APPEAL ACCREDITATION OF THE
2 APPLICANT;

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

5 (E) THE BUSINESS TELEPHONE OF THE APPLICANT;

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

8 (G) A STATEMENT INDICATING WHETHER THE APPLICANT HAS:

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

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

15 (H) SATISFACTORY EVIDENCE OF GOOD MORAL CHARACTER; AND

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

18 2. IN DETERMINING WHETHER TO ISSUE OR RENEW A REGISTRATION, THE SECRE-
19 TARY OF STATE MAY CONSIDER THE CHARACTER, COMPETENCY AND INTEGRITY OF
20 THE APPLICANT.

21 3. THE SECRETARY OF STATE MAY REFUSE TO ISSUE A REGISTRATION TO ANY
22 PERSON, FIRM OR CORPORATION WHOM HE OR SHE FINDS HAS BEEN CONVICTED OF
23 ANY CRIME OR FAILED TO PAY ANY FINAL CIVIL JUDGMENT RELATING TO WORK AS
24 AN IMMIGRATION ASSISTANCE SERVICE PROVIDER, IN ACCORDANCE WITH THE
25 PROVISIONS OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW.

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

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

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

40 5. (A) EACH ORIGINAL APPLICATION OR APPLICATION FOR RENEWAL FOR REGIS-
41 TRATION AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER SHALL BE ACCOMPA-
42 NIED BY A FEE OF TWO HUNDRED FIFTY DOLLARS FOR EACH BIENNIAL REGISTRA-
43 TION PERIOD.

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

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

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

54 7. EACH IMMIGRATION ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSI-
55 NESS SHALL CONSPICUOUSLY POST HIS OR HER CERTIFICATE AT HIS OR HER

1 PRIMARY PLACE OF BUSINESS AND EXHIBIT SUCH CERTIFICATE UPON THE REQUEST
2 OF ANY INTERESTED PARTY.

3 8. NO PERSON, FIRM OR CORPORATION SHALL:

4 (A) PRESENT, OR ATTEMPT TO PRESENT, AS HIS, HER OR ITS OWN, THE REGIS-
5 TRATION OF ANOTHER;

6 (B) KNOWINGLY GIVE FALSE EVIDENCE OF A MATERIAL NATURE TO THE DEPART-
7 MENT OF STATE FOR THE PURPOSE OF PROCURING A REGISTRATION;

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

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

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

13 (F) REPRESENT IN ANY MANNER THAT HIS, HER OR ITS REGISTRATION CONSTI-
14 TUTES AN ENDORSEMENT OF THE QUALITY OF SERVICE OR COMPETENCY OF THE
15 PROVIDER; OR

16 (G) ENGAGE IN ANY VIOLATION OF SECTION FOUR HUNDRED SIXTY-E OF THIS
17 ARTICLE.

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

20 10. AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE SHALL NOT BE
21 REQUIRED TO REGISTER AS AN IMMIGRATION SERVICE PROVIDER.

22 11. (A) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES AND REGU-
23 LATIONS AS ARE DEEMED NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTI-
24 CLE, AND SHALL PROVIDE WRITTEN NOTIFICATION OF THE PROVISIONS OF THIS
25 ARTICLE TO ALL IMMIGRATION ASSISTANCE SERVICE PROVIDERS REGISTERED
26 PURSUANT TO THIS ARTICLE.

27 (B) THE OFFICE OF THE ATTORNEY GENERAL SHALL HAVE THE POWER TO ENFORCE
28 THE PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON
29 REFERRAL BY THE SECRETARY OF STATE, TO INVESTIGATE ANY VIOLATION THEREOF
30 OR TO INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS
31 OF ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPO-
32 RATION APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRATION ASSIST-
33 ANCE SERVICE PROVIDER, IF IN THE OPINION OF THE ATTORNEY GENERAL SUCH
34 INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE
35 OBLIGED, ON REQUEST OF THE SECRETARY OF STATE OR THE ATTORNEY GENERAL,
36 TO SUPPLY IN A MANNER CONSISTENT WITH SUBDIVISION NINE OF SECTION FOUR
37 HUNDRED SIXTY-B OF THIS ARTICLE SUCH INFORMATION, BOOKS, PAPERS OR
38 RECORDS AS MAY BE REQUIRED CONCERNING HIS, HER OR ITS BUSINESS, BUSINESS
39 PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSINESS PRACTICES OR METH-
40 ODS. FAILURE TO COMPLY WITH A LAWFUL REQUEST OF THE SECRETARY OF STATE
41 OR THE ATTORNEY GENERAL SHALL BE A GROUND FOR DENYING AN APPLICATION FOR
42 A REGISTRATION, OR FOR REVOKING, SUSPENDING, OR FAILING TO RENEW A
43 REGISTRATION ISSUED UNDER THIS ARTICLE.

44 (C) THE DEPARTMENT OF STATE SHALL AFTER NOTICE AND HEARING HAVE THE
45 POWER TO REVOKE OR SUSPEND ANY REGISTRATION, OR IN LIEU THEREOF TO
46 IMPOSE A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PAYABLE TO THE DEPART-
47 MENT, OR REPRIMAND ANY REGISTRANT OR DENY AN APPLICATION FOR A REGISTRA-
48 TION OR RENEWAL THEREOF UPON PROOF:

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

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

54 (III) THAT THE APPLICANT OR REGISTRANT HAS MADE A MATERIAL MISSTATE-
55 MENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION;

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

3 12. THE DEPARTMENT OF STATE SHALL, BEFORE DENYING AN APPLICATION FOR A
4 REGISTRATION OR BEFORE REVOKING OR SUSPENDING ANY REGISTRATION, OR
5 IMPOSING ANY FINE OR REPRIMAND, AND AT LEAST FIFTEEN DAYS PRIOR TO THE
6 DATE SET FOR THE HEARING, AND UPON DUE NOTICE TO THE COMPLAINANT OR
7 OBJECTOR, NOTIFY IN WRITING THE APPLICANT FOR, OR THE HOLDER OF SUCH
8 REGISTRATION OF ANY CHARGE MADE AND SHALL AFFORD SUCH APPLICANT OR
9 REGISTRANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL IN REFER-
10 ENCE THERETO. SUCH WRITTEN NOTICE MAY BE SERVED BY DELIVERY OF SAME
11 PERSONALLY TO THE APPLICANT OR REGISTRANT, OR BY MAILING SAME BY CERTI-
12 FIED OR FIRST CLASS MAIL TO THE LAST KNOWN BUSINESS ADDRESS OF SUCH
13 APPLICANT OR REGISTRANT. SUCH HEARING SHALL BE SCHEDULED WITHIN SIXTY
14 DAYS OF RECEIPT OF THE COMPLAINT.

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

26 14. IN THE EVENT THAT THE DEPARTMENT OF STATE SHALL DENY THE APPLICA-
27 TION FOR, OR REVOKE OR SUSPEND ANY SUCH REGISTRATION, OR IMPOSE ANY FINE
28 OR REPRIMAND, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY
29 SIGNED. THE ORIGINAL OF SUCH DETERMINATIONS, WHEN SO SIGNED, SHALL BE
30 FILED IN THE OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE MAILED
31 TO THE APPLICANT OR REGISTRANT AND TO THE COMPLAINANT WITHIN TWO DAYS
32 AFTER SUCH FILING.

33 15. THE DEPARTMENT OF STATE, ACTING BY THE OFFICE OR PERSON DESIGNATED
34 TO CONDUCT THE HEARING PURSUANT TO SUBDIVISION THIRTEEN OF THIS SECTION
35 OR BY SUCH OTHER OFFICER OR PERSON IN THE DEPARTMENT AS THE SECRETARY OF
36 STATE MAY DESIGNATE, SHALL HAVE THE POWER TO SUSPEND THE REGISTRATION OF
37 ANY REGISTRANT WHO HAS BEEN CONVICTED IN THIS STATE OR ANY OTHER STATE
38 OR TERRITORY OF A FELONY, OR OF ANY MISDEMEANOR INVOLVING HIS OR HER
39 WORK AS AN IMMIGRATION ASSISTANCE SERVICE PROVIDER FOR A PERIOD NOT
40 EXCEEDING THIRTY DAYS PENDING A HEARING AND A DETERMINATION OF CHARGES
41 MADE AGAINST HIM OR HER. IF SUCH HEARING IS ADJOURNED AT THE REQUEST OF
42 THE REGISTRANT, OR BY REASON OF ANY ACT OR OMISSION BY HIM OR HER OR ON
43 HIS OR HER BEHALF, SUCH SUSPENSION MAY BE CONTINUED FOR THE ADDITIONAL
44 PERIOD OF SUCH ADJOURNMENT.

45 16. THE ACTION OF THE DEPARTMENT OF STATE IN GRANTING OR REFUSING TO
46 GRANT OR TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR
47 SUSPENDING OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR
48 IMPOSING ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEED-
49 ING INSTITUTED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
50 RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER
51 OF A REGISTRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED.

52 17. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMI-
53 GRATION ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE
54 REQUIRED TO PAY A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS.
55 PROVIDED THAT, THE DEPARTMENT OF STATE MAY REDUCE SUCH PENALTY IF SUCH
56 PERSON, FIRM OR CORPORATION AGAINST WHOM SUCH PENALTY IS ASSESSED

OBTAINS 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 IMMIGRATION ASSISTANCE OFFERED OR PERFORMED IF SUCH CONTRACTOR WAS NOT REGISTERED AS REQUIRED UNDER THIS SECTION AT THE TIME SUCH WORK WAS OFFERED OR PERFORMED.

(C) MONEY COLLECTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE DESIGNATED FOR THE FUNDING OF INVESTIGATIONS OF IMMIGRATION SERVICE PROVIDER FRAUD.

18. THE PROVIDER'S NAME, BUSINESS NAME, IF DIFFERENT THAN THE PROVIDER, THE BUSINESS LOCATION OR LOCATIONS, THE BUSINESS TELEPHONE NUMBER OR NUMBERS AND THE DATE THE PROVIDER WAS FIRST REGISTERED SHALL BE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT OF STATE'S WEBSITE. THE DEPARTMENT SHALL ENSURE THAT A CONSUMER IS ABLE TO VERIFY THIS INFORMATION BY CALLING THE DEPARTMENT OF STATE'S TOLL-FREE PHONE NUMBER.

19. THE DEPARTMENT OF STATE 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 REGISTERED AS IMMIGRATION PROVIDERS PURSUANT TO THIS ARTICLE. EACH IMMIGRATION PROVIDER SHALL CONSPICUOUSLY POST ITS CERTIFICATE AT ITS PLACE OF BUSINESS.

S 4. 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 SUCH SERVICE PROVIDER HAS REGISTERED 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 depart-

1 ment of labor[, the department of state] or any immigration authorities
2 and may not give legal advice or accept fees for legal advice".
3 S 5. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law. Effective immediately, the addition, amend-
5 ment and/or repeal of any rule or regulation necessary for the implemen-
6 tation of this act on its effective date are authorized to be made and
7 completed on or before such effective date.