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2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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.