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

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I N A S S E M B L Y

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Introduced by M. of A. CRESPO, RAMOS, MOYA, SEPULVEDA, WEPRIN, SCARBOROUGH, PERRY, GUNTHER, ARROYO, RIVERA, DAVILA, HEASTIE -- Multi-Sponsored by -- M. of A. GOTTFRIED, HOOPER, JACOBS, MILLER, MONTESANO, TITONE, WEINSTEIN -- read once and referred to the Committee on Governmental Operations

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:

Section 1. This act shall be known and may be cited as the "immigrant assistance service enforcement act".

S 2. Subdivision 2 of section 460-a of the general business law, as added by chapter 463 of the laws of 2004, is amended to read as follows:

2. "Provider" means any person, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that provides immigrant assistance services, but shall not include (a) any person duly admitted to practice law in this state and any person working directly under the supervision of the person admitted; (b) any not-for-profit tax exempt organization that provides immigrant assistance without a fee or other payment from individuals or at nominal fees as defined by the federal board of immigration appeals, and the employees of such organization when acting within the scope of such employment; (c) any organization recognized by the federal board of immigration appeals that provides services via representatives accredited by such board to appear before the bureau of citizenship and immigration services and/or executive office for immigration review, that does not charge a fee or charges nominal fees as defined by the board of immigration appeals; [or] (d) any authorized agency under subdivision ten of section three hundred seventy-one of the social services law and the employees of such organization when acting within the scope of such employment; OR (E) ANY INDIVIDUAL PROVIDING REPRESENTATION IN AN IMMIGRATION-RELATED PROCEEDING UNDER FEDERAL LAW FOR WHICH FEDERAL LAW OR REGULATION DEFINES THE AUTHORITY TO APPEAR.

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

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S 3. Section 460-h of the general business law, as added by chapter 463 of the laws of 2004, is amended to read as follows:

S 460-h. Enforcement. Upon any violation of this article, an application may be made by the attorney general in the name of the people of the state to a court having jurisdiction to issue an injunction, and upon notice to the respondent of not fewer than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not more than [seven thousand five hundred dollars] TEN THOUSAND DOLLARS for each violation.

S 4. The general business law is amended by adding two new sections 460-k and 460-l to read as follows:

S 460-K. ADDITIONAL CIVIL PENALTY FOR CONSUMER FRAUDS COMMITTED AGAINST USERS OF IMMIGRANT ASSISTANCE SERVICES. 1. (A) IN ADDITION TO ANY LIABILITY FOR DAMAGES OR A CIVIL PENALTY IMPOSED PURSUANT TO SECTIONS THREE HUNDRED FORTY-NINE, THREE HUNDRED FIFTY-C AND THREE HUNDRED FIFTY-D OF THIS CHAPTER, REGARDING DECEPTIVE PRACTICES AND FALSE ADVERTISING, AND SUBDIVISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, REGARDING PROCEEDINGS BY THE ATTORNEY GENERAL FOR EQUITABLE RELIEF AGAINST FRAUDULENT OR ILLEGAL CONSUMER FRAUD, A PERSON OR ENTITY WHO ENGAGES IN ANY CONDUCT PROHIBITED BY SAID PROVISIONS OF LAW, AND WHOSE CONDUCT IS PERPETRATED AGAINST ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES, MAY BE LIABLE FOR AN ADDITIONAL CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS, IN ACCORDANCE WITH PARAGRAPH (B) OF THIS SUBDIVISION.

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

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

(2) WHETHER THE DEFENDANT'S CONDUCT: (I) CAUSED A PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES TO SUFFER LOSS OR ENCUMBRANCE OF A PRIMARY RESIDENCE, LOSS OF EMPLOYMENT OR SOURCE OF INCOME, SUBSTANTIAL LOSS OF PROPERTY OR ASSETS ESSENTIAL TO THE HEALTH OR WELFARE OF THE PERSON SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES; OR (II) WHETHER ONE OR MORE PERSONS SEEKING OR USING IMMIGRANT ASSISTANCE SERVICES WERE SUBSTANTIALLY MORE VULNERABLE TO THE DEFENDANT'S CONDUCT BECAUSE OF IMPAIRED UNDERSTANDING, OR ANY OTHER PERCEIVED DISADVANTAGE, AND ACTUALLY SUFFERED PHYSICAL OR ECONOMIC DAMAGE RESULTING FROM THE DEFENDANT'S CONDUCT.

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

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

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

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

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

(D) THE BUSINESS TELEPHONE NUMBER OF THE APPLICANT;

(E) THE LENGTH OF TIME THAT THE APPLICANT HAS BEEN AN IMMIGRANT ASSISTANCE SERVICE PROVIDER;

(F) A STATEMENT INDICATING WHETHER THE APPLICANT HAS:

(1) BEEN CONVICTED OF ANY CRIME OR IS A DEBTOR ON ANY UNPAID CIVIL JUDGMENT RELATING TO WORK AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER; AND

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

(G) SATISFACTORY EVIDENCE OF GOOD MORAL CHARACTER;

(H) (1) COPIES OF CONTRACTS REQUIRED PURSUANT TO SECTION FOUR HUNDRED SIXTY-B OF THIS ARTICLE; (2) SIGNS REQUIRED PURSUANT TO SECTION FOUR HUNDRED SIXTY-C OF THIS ARTICLE; AND (3) SURETIES REQUIRED PURSUANT TO SECTION FOUR HUNDRED SIXTY-G OF THIS ARTICLE; AND

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

2. IN DETERMINING WHETHER TO ISSUE OR RENEW A REGISTRATION, THE SECRETARY OF STATE MAY CONSIDER THE CHARACTER, COMPETENCY AND INTEGRITY OF THE APPLICANT.

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

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

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

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

5. (A) EACH ORIGINAL APPLICATION OR APPLICATION FOR RENEWAL FOR REGISTRATION AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER SHALL BE ACCOMPANIED BY A FEE OF TWO HUNDRED FIFTY DOLLARS FOR EACH BIENNIAL REGISTRATION PERIOD.

(B) NOTICE IN WRITING IN THE MANNER AND FORM PRESCRIBED BY THE DEPARTMENT OF STATE SHALL BE GIVEN TO THE DEPARTMENT AT ITS OFFICES IN ALBANY WITHIN TEN DAYS OF CHANGES OF NAME OR ADDRESS BY REGISTERED IMMIGRANT

ASSISTANCE SERVICE PROVIDERS. THE FEE FOR FILING EACH CHANGE OF NAME OR ADDRESS NOTICE SHALL BE TEN DOLLARS.

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

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

7. EACH IMMIGRANT ASSISTANCE SERVICE PROVIDER ENGAGED IN SUCH BUSINESS SHALL INCLUDE HIS OR HER REGISTRATION NUMBER IN EVERY SERVICE CONTRACT AND SHALL ADDITIONALLY EXHIBIT PROOF OF SUCH REGISTRATION UPON THE REQUEST OF ANY INTERESTED PARTY.

8. NO PERSON, FIRM OR CORPORATION SHALL:

(A) PRESENT, OR ATTEMPT TO PRESENT, AS HIS, HER OR ITS OWN, THE REGISTRATION OF ANOTHER;

(B) KNOWINGLY GIVE FALSE EVIDENCE OF A MATERIAL NATURE TO THE DEPARTMENT OF STATE FOR THE PURPOSE OF PROCURING A REGISTRATION;

(C) FALSELY REPRESENT THEMSELVES TO BE A REGISTERED IMMIGRANT ASSISTANCE SERVICE PROVIDER;

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

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

(F) REPRESENT IN ANY MANNER THAT HIS, HER OR ITS REGISTRATION CONSTITUTES AN ENDORSEMENT OF THE QUALITY OF SERVICE OR COMPETENCY OF THE PROVIDER; OR

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

9. REGISTRATIONS ISSUED TO IMMIGRANT ASSISTANCE SERVICE PROVIDERS SHALL NOT BE TRANSFERABLE OR ASSIGNABLE.

10. AN ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE SHALL NOT BE REQUIRED TO REGISTER AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER.

11. (A) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES AND REGULATIONS AS ARE DEEMED NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ARTICLE, AND SHALL PROVIDE WRITTEN NOTIFICATION OF THE PROVISIONS OF THIS ARTICLE TO ALL IMMIGRANT ASSISTANCE SERVICE PROVIDERS REGISTERED PURSUANT TO THIS ARTICLE.

(B) THE OFFICE OF THE ATTORNEY GENERAL SHALL HAVE THE POWER TO ENFORCE THE PROVISIONS OF THIS ARTICLE AND UPON COMPLAINT OF ANY PERSON, OR UPON REFERRAL BY THE SECRETARY OF STATE, TO INVESTIGATE ANY VIOLATION THEREOF OR TO INVESTIGATE THE BUSINESS, BUSINESS PRACTICES AND BUSINESS METHODS OF ANY PERSON, FIRM, LIMITED LIABILITY COMPANY, PARTNERSHIP OR CORPORATION APPLYING FOR OR HOLDING A REGISTRATION AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER, IF IN THE OPINION OF THE ATTORNEY GENERAL SUCH INVESTIGATION IS WARRANTED. EACH SUCH APPLICANT OR REGISTRANT SHALL BE OBLIGED, ON REQUEST OF THE SECRETARY OF STATE OR THE ATTORNEY GENERAL, TO SUPPLY IN A MANNER CONSISTENT WITH SUBDIVISION NINE OF SECTION FOUR HUNDRED SIXTY-B OF THIS ARTICLE SUCH INFORMATION, BOOKS, PAPERS OR RECORDS AS MAY BE REQUIRED CONCERNING HIS, HER OR ITS BUSINESS, BUSINESS PRACTICES OR BUSINESS METHODS, OR PROPOSED BUSINESS PRACTICES OR METHODS. FAILURE TO COMPLY WITH A LAWFUL REQUEST OF THE SECRETARY OF STATE OR THE ATTORNEY GENERAL SHALL BE A GROUND FOR DENYING AN APPLICATION FOR A REGISTRATION, OR FOR REVOKING, SUSPENDING, OR FAILING TO RENEW A REGISTRATION ISSUED UNDER THIS ARTICLE. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO LIMIT THE POWER OF THE ATTORNEY GENERAL TO ENFORCE ANY OTHER PROVISIONS OF LAW.

(C) THE DEPARTMENT OF STATE SHALL AFTER NOTICE AND HEARING HAVE THE POWER TO REVOKE OR SUSPEND ANY REGISTRATION, OR IN LIEU THEREOF TO

IMPOSE A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PAYABLE TO THE DEPARTMENT, OR REPRIMAND ANY REGISTRANT OR DENY AN APPLICATION FOR A REGISTRATION OR RENEWAL THEREOF UPON PROOF:

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

(2) THAT THE APPLICANT OR REGISTRANT HAS PRACTICED FRAUD, DECEIT OR MISREPRESENTATION;

(3) THAT THE APPLICANT OR REGISTRANT HAS MADE A MATERIAL MISSTATEMENT IN THE APPLICATION FOR OR RENEWAL OF HIS OR HER REGISTRATION;

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

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

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

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

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

16. THE ACTION OF THE DEPARTMENT OF STATE IN GRANTING OR REFUSING TO GRANT OR TO RENEW A REGISTRATION UNDER THIS ARTICLE OR IN REVOKING OR

SUSPENDING OR REFUSING TO REVOKE OR SUSPEND SUCH A REGISTRATION OR IMPOSING ANY FINE OR REPRIMAND SHALL BE SUBJECT TO REVIEW BY A PROCEEDING INSTITUTED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES AT THE INSTANCE OF THE APPLICANT FOR SUCH REGISTRATION, THE HOLDER OF A REGISTRATION SO REVOKED, SUSPENDED, FINED OR REPRIMANDED.

17. (A) ANY PERSON, FIRM OR CORPORATION THAT OPERATES AS AN IMMIGRANT ASSISTANCE SERVICE PROVIDER WITHOUT BEING REGISTERED SHALL BE REQUIRED TO PAY A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS. PROVIDED THAT, THE DEPARTMENT OF STATE MAY REDUCE SUCH PENALTY IF SUCH 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 IMMIGRANT ASSISTANCE SERVICE PROVIDER HAS NEVER PREVIOUSLY BEEN FINED FOR FAILURE TO REGISTER IN NEW YORK OR IN ANY OTHER STATE THAT REQUIRES REGISTRATION.

(B) AN IMMIGRANT ASSISTANCE SERVICE PROVIDER MAY NOT MAINTAIN A CIVIL ACTION TO RECOVER PAYMENT FOR IMMIGRANT 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.

S 5. 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 IMMIGRANT ASSISTANCE 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 department of labor[, the department of state] or any immigration authorities and may not give legal advice or accept fees for legal advice".

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.