

1415

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

AN ACT to amend the executive law, the state administrative procedure act and the judiciary law, in relation to the denial of the renewal of professional licenses when the applicant has outstanding avoidance of state tax debt

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

1 Section 1. Section 32 of the executive law, as added by chapter 55 of
2 the laws of 1992, is amended to read as follows:

3 S 32. Authority not to renew. 1. For the purposes of this section[,
4 "state]: (A) "STATE agency" shall mean any state department, board,
5 bureau, division, commission, committee, public authority, public bene-
6 fit corporation, council, office, or other governmental entity perform-
7 ing a governmental or proprietary function for the state, AND SHALL
8 INCLUDE THE EDUCATION DEPARTMENT.

9 (B) "TAX DEBT" SHALL MEAN ALL LIABILITIES, INCLUDING UNPAID TAXES,
10 INTEREST AND PENALTIES, THAT THE COMMISSIONER OF TAXATION AND FINANCE IS
11 REQUIRED BY LAW TO COLLECT, AND THAT HAVE BEEN REDUCED TO JUDGMENT BY
12 THE DOCKETING OF A NEW YORK STATE TAX WARRANT WITH A COUNTY CLERK OR BY
13 THE FILING OF A COPY THEREOF WITH THE DEPARTMENT OF STATE, AND THE
14 TAXPAYER DEBTOR HAS FAILED TO PAY SUCH LIABILITIES OR FAILED TO ENTER
15 INTO A WRITTEN AGREEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE TO
16 SETTLE SUCH LIABILITIES.

17 2. Notwithstanding any other provision of law, when a state agency
18 levies fees or assesses civil fines or penalties for licensing or regu-
19 latory matters, such state agency shall, following consultation with the
20 [state] department of law and after such appropriate due process as
21 required by the provisions of law applicable to such state agency and to
22 such licensing or regulatory matters, not be required to renew any
23 license, permit, or certificate of qualification, authority[,] or opera-

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

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1 tion, of any business, individual[,] or other entity, which is not a
2 state agency, municipal corporation or district corporation, if such
3 business, individual or other entity has failed to pay or enter into a
4 written agreement to settle outstanding fees, civil penalties or fines
5 assessed by such state agency.

6 3. (A) IT SHALL BE A CONDITION FOR THE RENEWAL OF ANY LICENSE, PERMIT,
7 CERTIFICATE OR REGISTRATION WHICH SPECIFICALLY AUTHORIZES ANY PERSON OR
8 ENTITY TO CONDUCT ANY PROFESSION, BUSINESS OR TRADE THAT THE APPLICANT
9 FOR RENEWAL ATTEST, UNDER THE PENALTY OF PERJURY, TO THE STATE AGENCY
10 RENEWING THE LICENSE, PERMIT, CERTIFICATE OR REGISTRATION THAT THE
11 APPLICANT DOES NOT HAVE A TAX DEBT.

12 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY STATE AGENCY
13 WHICH ISSUES A LICENSE, PERMIT, CERTIFICATE OR REGISTRATION WHICH
14 SPECIFICALLY AUTHORIZES ANY PERSON OR ENTITY TO CONDUCT ANY PROFESSION,
15 BUSINESS OR TRADE MAY DENY THE APPLICATION FOR THE RENEWAL OF ANY SUCH
16 LICENSE, PERMIT, CERTIFICATE OR REGISTRATION TO ANY PERSON OR ENTITY
17 WHICH HAS A TAX DEBT.

18 (C) EVERY APPLICATION FOR THE RENEWAL OF A LICENSE, PERMIT, CERTIF-
19 ICATE OR REGISTRATION WHICH SPECIFICALLY AUTHORIZES ANY PERSON OR ENTITY
20 TO CONDUCT A PROFESSION, BUSINESS OR TRADE SHALL PROVIDE NOTICE TO THE
21 APPLICANT OF THE REQUIREMENTS OF THIS SUBDIVISION.

22 S 2. Section 401 of the state administrative procedure act, as amended
23 by chapter 935 of the laws of 1976, subdivision 1 as amended by chapter
24 469 of the laws of 1985, subdivision 4 as added by chapter 236 of the
25 laws of 1987, is amended to read as follows:

26 S 401. Licenses. 1. FOR THE PURPOSES OF THIS ARTICLE:

27 (A) "AGENCY" SHALL MEAN AND INCLUDE THE STATE JUDICIAL BRANCH, THE
28 UNIFIED COURT SYSTEM, THE OFFICE OF COURT ADMINISTRATION AND THE MEANING
29 ASCRIBED TO SUCH TERM BY SUBDIVISION ONE OF SECTION ONE HUNDRED TWO OF
30 THIS ACT.

31 (B) "TAX DEBT" SHALL MEAN ALL LIABILITIES, INCLUDING UNPAID TAXES,
32 INTEREST AND PENALTIES, THAT THE COMMISSIONER OF TAXATION AND FINANCE IS
33 REQUIRED BY LAW TO COLLECT, AND THAT HAVE BEEN REDUCED TO JUDGMENT BY
34 THE DOCKETING OF A NEW YORK STATE TAX WARRANT WITH A COUNTY CLERK OR BY
35 THE FILING OF A COPY THEREOF WITH THE DEPARTMENT OF STATE, AND THE
36 TAXPAYER DEBTOR HAS FAILED TO PAY SUCH LIABILITIES OR FAILED TO ENTER
37 INTO A WRITTEN AGREEMENT WITH THE DEPARTMENT OF TAXATION AND FINANCE TO
38 SETTLE SUCH LIABILITIES.

39 2. When licensing is required by law to be preceded by notice and
40 opportunity for hearing, the provisions of this chapter concerning adju-
41 dicatory proceedings apply. For purposes of this act, statutes providing
42 an opportunity for hearing shall be deemed to include statutes providing
43 an opportunity to be heard.

44 [2.] 3. (A) IT SHALL BE A CONDITION FOR THE RENEWAL OF ANY LICENSE,
45 PERMIT, CERTIFICATE OR REGISTRATION WHICH SPECIFICALLY AUTHORIZES ANY
46 PERSON OR ENTITY TO CONDUCT ANY PROFESSION, BUSINESS OR TRADE THAT THE
47 APPLICANT FOR RENEWAL ATTEST, UNDER THE PENALTY OF PERJURY, TO THE AGEN-
48 CY RENEWING THE LICENSE, PERMIT, CERTIFICATE OR REGISTRATION THAT THE
49 APPLICANT DOES NOT HAVE A TAX DEBT.

50 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY AGENCY WHICH
51 ISSUES A LICENSE, PERMIT, CERTIFICATE OR REGISTRATION WHICH SPECIFICALLY
52 AUTHORIZES ANY PERSON OR ENTITY TO CONDUCT ANY PROFESSION, BUSINESS OR
53 TRADE MAY DENY THE APPLICATION FOR THE RENEWAL OF ANY SUCH LICENSE,
54 PERMIT, CERTIFICATE OR REGISTRATION TO ANY PERSON OR ENTITY WHICH HAS A
55 TAX DEBT.

1 (C) EVERY APPLICATION FOR THE RENEWAL OF A LICENSE, PERMIT, CERTIF-
2 ICATE OR REGISTRATION WHICH SPECIFICALLY AUTHORIZES ANY PERSON OR ENTITY
3 TO CONDUCT A PROFESSION, BUSINESS OR TRADE SHALL PROVIDE NOTICE TO THE
4 APPLICANT OF THE REQUIREMENTS OF THIS SUBDIVISION.

5 4. When a licensee has made timely and sufficient application for the
6 renewal of a license or a new license with reference to any activity of
7 a continuing nature, the existing license does not expire until the
8 application has been finally determined by the agency, and, in case the
9 application is denied or the terms of the new license limited, until the
10 last day for seeking review of the agency order or a later date fixed by
11 order of the reviewing court, provided that this subdivision shall not
12 affect any valid agency action then in effect summarily suspending such
13 license.

14 [3.] 5. If the agency finds that public health, safety, or welfare
15 imperatively requires emergency action, and incorporates a finding to
16 that effect in its order, summary suspension of a license may be
17 ordered, effective on the date specified in such order or upon service
18 of a certified copy of such order on the licensee, whichever shall be
19 later, pending proceedings for revocation or other action. These
20 proceedings shall be promptly instituted and determined.

21 [4.] 6. When the hearing seeks the revocation of a license or permit
22 previously granted by the agency, either party shall, upon demand and at
23 least seven days prior to the hearing, disclose the evidence that the
24 party intends to introduce at the hearing, including documentary
25 evidence and identification of witnesses, provided, however, the
26 provisions of this subdivision shall not be deemed to require the
27 disclosure of information or material otherwise protected by law from
28 disclosure, including information and material protected because of
29 privilege or confidentiality. If, after such disclosure, a party deter-
30 mines to rely upon other witnesses or information, the party shall, as
31 soon as practicable, supplement its disclosure by providing the names of
32 such witnesses or the additional documents.

33 S 3. Section 53 of the judiciary law is amended by adding a new subdi-
34 vision 7 to read as follows:

35 7. (A) FOR THE PURPOSES OF THIS SUBDIVISION, "TAX DEBT" SHALL MEAN ALL
36 LIABILITIES, INCLUDING UNPAID TAXES, INTEREST AND PENALTIES, THAT THE
37 COMMISSIONER OF TAXATION AND FINANCE IS REQUIRED BY LAW TO COLLECT, AND
38 THAT HAVE BEEN REDUCED TO JUDGMENT BY THE DOCKETING OF A NEW YORK STATE
39 TAX WARRANT WITH A CLERK OR BY THE FILING OF A COPY THEREOF WITH THE
40 DEPARTMENT OF STATE, AND THE TAXPAYER DEBTOR HAS FAILED TO PAY SUCH
41 LIABILITIES OR FAILED TO ENTER INTO A WRITTEN AGREEMENT WITH THE DEPART-
42 MENT OF TAXATION AND FINANCE TO SETTLE SUCH LIABILITIES.

43 (B)(I) EVERY APPELLATE DIVISION MAY DENY THE APPLICATION FOR RENEWAL
44 OF ADMISSION TO PRACTICE AS AN ATTORNEY AND COUNSELLOR AT LAW OF ANY
45 PERSON WHO HAS A TAX DEBT.

46 (II) THE COURT OF APPEALS SHALL ADOPT RULES ESTABLISHING THAT IT SHALL
47 BE A CONDITION FOR THE RENEWAL OF ADMISSION TO PRACTICE AS AN ATTORNEY
48 AND COUNSELLOR AT LAW THAT THE APPLICANT ATTEST, UNDER THE PENALTY OF
49 PERJURY, TO THE APPELLATE DIVISION THAT THE APPLICANT DOES NOT HAVE A
50 TAX DEBT.

51 (III) EVERY APPLICATION FOR RENEWAL OF ADMISSION TO PRACTICE AS AN
52 ATTORNEY AND COUNSELLOR AT LAW SHALL PROVIDE NOTICE TO THE APPLICANT OF
53 THE REQUIREMENTS OF THIS PARAGRAPH.

54 S 4. This act shall take effect one year after it shall have become a
55 law.