

# STATE OF NEW YORK

774

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

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 § 32. Authority not to renew. 1. For the purposes of this section[~~7~~  
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[~~7~~] 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[7] 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 § 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 § 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, certifi-  
2 cate 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 § 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 § 4. This act shall take effect one year after it shall have become a  
55 law.