

# STATE OF NEW YORK

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6431--A

2017-2018 Regular Sessions

## IN SENATE

May 18, 2017

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Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law and the banking law, in relation to pension assignments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 110 of the retirement and social security law, as  
2 amended by chapter 291 of the laws of 1999, is amended to read as  
3 follows:

4 § 110. Exemption from taxes and legal process. a. The right of a  
5 person to a pension, a pension-providing-for-increased-take-home-pay, an  
6 annuity or a retirement allowance, to the return of contributions, the  
7 pension, the pension-providing-for-increased-take-home-pay, annuity, or  
8 retirement allowance itself, any optional benefit, including any benefit  
9 or monies accruing under an optional retirement program pursuant to  
10 article eight-B or one hundred twenty-five-A of the education law, any  
11 other right accrued or accruing to any person under the provisions of  
12 this chapter and the monies in the various funds continued under this  
13 chapter:

14 1. Are hereby exempt from any state or municipal tax, except the  
15 estate tax, and

16 2. Shall not be subject to execution, garnishment, attachment, or any  
17 other process whatsoever, and

18 3. Shall be unassignable, except as in this chapter specifically  
19 provided.

20 b. Except as specifically provided in this chapter, a person or entity  
21 shall not use any device, scheme, transfer or other artifice to evade  
22 the applicability and prohibition or paragraphs two and three of subdi-  
23 vision a of this section, including the deposit of such benefits or

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

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funds into a joint account with the person or entity or the authorization to a person or entity under a power of attorney or other instrument or document to access an account or otherwise obtain funds from an account to which benefits or funds have been deposited.

c. Any contract or agreement made in violation of this section shall be void. All sums paid to or collected by a person or entity in violation of this section shall be returned by the person or entity to the benefit recipient or his or her heirs or beneficiaries as restitution.

d. Any benefit recipient, his or her guardian or conservator, or heir or beneficiary may bring an action to enforce the restitution authorized.

§ 2. Section 410 of the retirement and social security law, as amended by chapter 549 of the laws of 1983, is amended to read as follows:

§ 410. Exemption from taxes and legal process. a. The right of a person to a pension, a pension-providing-for-increased-take-home-pay, an annuity or a retirement allowance, to the return of contributions, the pensions, the pension-providing-for-increased-take-home-pay, annuity, or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter and the monies in the various funds continued under this chapter:

1. Are hereby exempt from any state or municipal tax, except the estate tax, and

2. Shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and

3. Shall be unassignable, except as in this chapter specifically provided.

b. Except as specifically provided in this chapter, a person or entity shall not use any device, scheme, transfer or other artifice to evade the applicability and prohibition or paragraphs two and three of subdivision a of this section, including the deposit of such benefits or funds into a joint account with the person or entity or the authorization to a person or entity under a power of attorney or other instrument or document to access an account or otherwise obtain funds from an account to which benefits or funds have been deposited.

c. Any contract or agreement made in violation of this section shall be void. All sums paid to or collected by a person or entity in violation of this section shall be returned by the person or entity to the benefit recipient or his or her heirs or beneficiaries as restitution.

d. Any benefit recipient, his or her guardian or conservator, or heir or beneficiary may bring an action to enforce the restitution authorized.

§ 3. Section 340 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

§ 340. Doing business without license prohibited. (a) No person or other entity shall engage in the business of making loans in the principal amount of twenty-five thousand dollars or less for any loan to an individual for personal, family, household, or investment purposes and in a principal amount of fifty thousand dollars or less for business and commercial loans, and charge, contract for, or receive a greater rate of interest than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this article and without first obtaining a license from the superintendent.

(b) For the purposes of this section, a person or entity shall be considered as engaging in the business of making loans in New York, and

1 subject to the licensing and other requirements of this article, if it  
2 solicits loans in the amounts prescribed by this section within this  
3 state and, in connection with such solicitation, makes loans to individ-  
4 uals then resident in this state, except that no person or entity shall  
5 be considered as engaging in the business of making loans in this state  
6 on the basis of isolated, incidental or occasional transactions which  
7 otherwise meet the requirements of this section.

8 (c) Nothing in this article shall apply to licensed collateral loan  
9 brokers.

10 (d) Any person who engages in the business of offering consideration  
11 in exchange for a secured interest in all or part of pension proceeds in  
12 the possession of a participant, beneficiary, or member of a pension  
13 plan, program, or system shall be deemed to be engaged in the business  
14 of making loans and shall be subject to the licensing and other require-  
15 ments of this article.

16 § 4. This act shall take effect immediately.