STATE OF NEW YORK

6537

2017-2018 Regular Sessions

IN SENATE

June 1, 2017

Introduced by Sen. JACOBS -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to employment of housing court advocates and consumer court advocates to assist indigent persons in certain court proceedings

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

Section 1. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (w) to read as follows:

(w) Establish and regulate programs in the use of housing court advocates and consumer court advocates in accordance with article seventeen of this chapter.

§ 2. Section 478 of the judiciary law, as amended by chapter 22 of the laws of 2013, is amended to read as follows:

§ 478. Practicing or appearing as attorney-at-law without being admitted and registered. It shall be unlawful for any natural person to practice or appear as an attorney-at-law or as an attorney and counselor-at-law for a person other than himself or herself in a court of record in this state, or to furnish attorneys or counsel or an attorney and counsel to render legal services, or to hold himself or herself out to the public as being entitled to practice law as aforesaid, or in any other manner, or to assume to be an attorney or counselor-at-law, or to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or attorney-at-law or counselor-at-law, or attorney, or counselor, or attorney and counselor, or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law or in any manner to advertise that he or she either alone or together with any other persons or person has, owns, conducts or maintains a law office or law and collection office, or office of any kind for the practice of law, without having first been

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

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duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath. Provided, however, that nothing in this section shall be held to apply (1) to officers of societies for the prevention of cruelty to animals, duly appointed, when exercising the special powers conferred upon such corporations under section fourteen hundred three of the not-for-profit corporation law; or (2) to law students who have completed at least two semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities otherwise prohibited by this statute; or (3) to law students who have completed at least two semesters of law school, or to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such students or persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities; or (4) an attorney and counselor-at-law or the equivalent who is admitted to the bar in another state, territory, district or foreign country and who has been admitted to practice pro hac vice in the state of New York within the limitations prescribed in the rules of the court of appeals; or (5) an attorney licensed as a legal consultant under rules adopted by the court of appeals pursuant to subdivision six of section fifty-three of this chapter and rendering legal services in the state within limitations prescribed in such rules**; or (6) to a person who has been certified as a housing court advocate or a consumer court advocate by the chief administrator of the courts pursuant to article seventeen of this chapter when such person provides services in accordance with the provisions of such article**.

§ 3. The judiciary law is amended by adding a new article 17 to read as follows:

ARTICLE 17

HOUSING COURT ADVOCATES AND CONSUMER COURT ADVOCATES

Section 600. Program in the use of housing court advocates and consumer court advocates.

601. Certification of housing court advocates and consumer court advocates.
602. Advisory board.
603. Assignments.
604. Chief administrator to make rules.

§ 600. Program in the use of housing court advocates and consumer court advocates. In accordance with this article, the judiciary shall implement and oversee a program for the free provision of certain services to unrepresented persons living at or below two hundred percent of the federal poverty level who must appear in the proceedings specified in this article in the civil court of the city of New York and in the Buffalo city court, and in the housing parts of such courts ("program"). Under this program, these services shall be provided by specially trained non-lawyers (certified as housing court advocates or consumer court advocates as provided herein) under the supervision of attorneys-at-law admitted to the practice of law in this state in the employ of not-for-profit service providers, including but not limited to legal services provider organizations, approved by the chief administrator of the courts.

§ 601. Certification of housing court advocates and consumer court advocates. Any person may, upon his or her application, be certified by the chief administrator of the courts as a housing court advocate or a consumer court advocate provided he or she shall have satisfied such minimum educational and other qualifications, and received such training, as the chief administrator shall prescribe.

§ 602. Advisory board. 1. The chief administrator of the courts shall establish an advisory board to assist the chief administrator in discharge of his or her responsibilities under this article.

2. The advisory board shall consist of not more than fourteen members, each member to be appointed by the chief administrator for an initial term of two years. After serving an initial term, each member may be re-appointed to further terms of three years each. The chief administrator shall choose two of the members of the advisory board to serve as co-chairs thereof at his or her pleasure provided one shall be chosen upon the recommendation of a bar association and the other shall be chosen upon the recommendation of an appropriate law school, college or educational institution.

§ 603. Assignments. 1. A not-for-profit service provider, including but not limited to a legal services provider organization, may, upon its application and the submission of a plan for use of housing court advocates and/or consumer court advocates in accordance with this article, be approved by the chief administrator of the courts to participate in the program.

2. Pursuant to the plan of a not-for-profit service provider approved under subdivision one of this section and under the supervision of an attorney-at-law admitted to the practice of law in this state and in the employ of such provider, each person certified as a housing court advocate or a consumer court advocate in accordance with section six hundred one of this article may provide the following services for unrepresented persons specified in section six hundred of this article:

(a) advice, counsel or other assistance in the preparation of pleadings;

(b) advice, counsel or other assistance in the preparation of an order to show cause to vacate a default judgment, prevent an eviction or restore an action or proceeding to the calendar to amend or enforce

provisions of a stipulation or order previously entered into; provided this shall include authority to sign an answer or order to show cause;

(c) negotiate with a party or his or her counsel or representative the terms of any stipulation or order to be entered into; and

(d) address the court on behalf of any such person.

Notwithstanding the foregoing, a housing court advocate or consumer court advocate may only provide such services in such parts of the New York city civil court (including the housing part thereof) and of the Buffalo city court (including the housing part thereof), and in such actions and proceedings in those parts as the chief administrator may authorize; except that: (i) for a housing court advocate, the provision of such services may not be authorized other than in (A) summary proceedings brought pursuant to 22 NYCRR 208.42(d), or 22 NYCRR 210.42(b), and (B) actions described in subdivision (n) of section two hundred three of the New York city civil court act or in paragraph five of subdivision (a) of section two hundred three of the uniform city court act, and (ii) for a consumer court advocate, the provision of such services may not be authorized other than in actions and proceedings in relation to a consumer credit transaction as defined in subdivision (g) of section two thousand one hundred one of the New York city civil court act or in subdivision (f) of section one hundred five of the civil practice law and rules.

§ 604. Chief administrator to make rules. The chief administrator of the courts shall promulgate rules in order to effectuate the provisions of this article.

§ 4. On or before January first of the fourth year following the date on which this act becomes a law, the chief administrator of the courts shall submit to the governor, the legislature and the chief judge of the state a report evaluating the efficacy of the program in the use of housing court advocates and consumer court advocates authorized by this act. This report shall include any recommendations the chief administrator may have with respect to expansion of the program into other courts and other classes of cases.

§ 5. This act shall take effect January 1, 2018.