

# STATE OF NEW YORK

1240

2019-2020 Regular Sessions

## IN SENATE

January 11, 2019

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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  
24 funds into a joint account with the person or entity or the authori-  
25 zation to a person or entity under a power of attorney or other instru-

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

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1 ment or document to access an account or otherwise obtain funds from an  
2 account to which benefits or funds have been deposited.

3 c. Any contract or agreement made in violation of this section shall  
4 be void. All sums paid to or collected by a person or entity in  
5 violation of this section shall be returned by the person or entity to  
6 the benefit recipient or his or her heirs or beneficiaries as restitu-  
7 tion.

8 d. Any benefit recipient, his or her guardian or conservator, or heir  
9 or beneficiary may bring an action to enforce the restitution author-  
10 ized.

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

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

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

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

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

26 b. Except as specifically provided in this chapter, a person or entity  
27 shall not use any device, scheme, transfer or other artifice to evade  
28 the applicability and prohibition or paragraphs two and three of subdi-  
29 vision a of this section, including the deposit of such benefits or  
30 funds into a joint account with the person or entity or the authori-  
31 zation to a person or entity under a power of attorney or other instru-  
32 ment or document to access an account or otherwise obtain funds from an  
33 account to which benefits or funds have been deposited.

34 c. Any contract or agreement made in violation of this section shall  
35 be void. All sums paid to or collected by a person or entity in  
36 violation of this section shall be returned by the person or entity to  
37 the benefit recipient or his or her heirs or beneficiaries as restitu-  
38 tion.

39 d. Any benefit recipient, his or her guardian or conservator, or heir  
40 or beneficiary may bring an action to enforce the restitution author-  
41 ized.

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

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

53 (b) For the purposes of this section, a person or entity shall be  
54 considered as engaging in the business of making loans in New York, and  
55 subject to the licensing and other requirements of this article, if it  
56 solicits loans in the amounts prescribed by this section within this

1 state and, in connection with such solicitation, makes loans to individ-  
2 uals then resident in this state, except that no person or entity shall  
3 be considered as engaging in the business of making loans in this state  
4 on the basis of isolated, incidental or occasional transactions which  
5 otherwise meet the requirements of this section.

6 (c) Nothing in this article shall apply to licensed collateral loan  
7 brokers.

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

14 § 4. This act shall take effect immediately.