STATE OF NEW YORK

4328

2025-2026 Regular Sessions

IN ASSEMBLY

February 4, 2025

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to budget planning

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

Section 1. Section 455 of the general business law, as amended by chapter 629 of the laws of 2002, subdivision 1 as amended by chapter 456 of the laws of 2006 and subdivision 4 as amended by chapter 549 of the laws of 2013, is amended to read as follows:

§ 455. Definitions. 1. **(a)** Budget planning, as used in this article, means the making of a contract between a person or entity engaged in the business of budget planning with a particular debtor whereby (i) the debtor agrees to pay a sum or sums of money in any manner or form and the person or entity engaged in the business of budget planning distributes, or supervises, coordinates or controls the distribution of, or has a contractual relationship with another person or entity that distributes, or supervises, coordinates or controls such distribution of, the same among certain specified creditors in accordance with a plan agreed upon and (ii) the debtor agrees to pay to such person or entity, or such other person or entity that distributes, or supervises, coordinates or controls such distribution of, a sum or sums of money, any valuable consideration for such services or for any other services rendered in connection therewith. **A person or entity may be engaged in budget planning regardless of whether they directly handle or supervise debtor funds for disbursement. Use of a third-party to hold and disburse debtor funds shall not exempt a person or entity from qualifying as a budget planner. Debt relief and debt settlement shall qualify as budget planning.**

(b) For the purposes of this article, a person or entity shall be considered as engaged in the business of budget planning in New York, and subject to this article and the licensing and other requirements of

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

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article twelve-C of the banking law, if such person or entity [~~solicits budget planning business within this state and, in connection with such solicitation,~~] **is located in New York or** enters into a contract for budget planning with an individual then resident in this state.

2. Person, as used in this article, shall not include a person admitted to practice law in this state**, unless a principal purpose of such person's business is budget planning**.

3. Entity, as used in this article, shall not include a firm, partnership, professional corporation, or other organization, all of the members or principals of which are admitted to practice law in this state**, unless a principal purpose of such entity's business is budget planning**.

4. Person or entity as used in this article shall not include a charitable corporation as defined in paragraph (a) of section one hundred two (Definitions) of the not-for-profit corporation law of this state, or an entity incorporated in another state and having a similar not-for-profit status, licensed by the superintendent, to engage in the business of budget planning as defined in this section.

5. Any attorney licensed to practice law in this state who is engaged in budget planning **as a principal purpose of their practice** shall (a) negotiate directly with creditors on behalf of the client; (b) ensure that all moneys received from the client are deposited in the attorney's account maintained for client funds; (c) pay creditors from such account; and (d) offer budget planning services through the same legal entity that the attorney uses to practice law.

6. Budget planning shall not include the provision of legal advice by a licensed attorney in connection with a case under the United States Bankruptcy Code.

§ 2. Section 457 of the general business law, as amended by chapter 629 of the laws of 2002, is amended to read as follows:

§ 457. Penalty. **1.** Whoever either individually or as officer, director or employee of any person, firm, association or corporation, violates any of the provisions of the preceding section shall be guilty of a misdemeanor for each such violation.

2. Where a violation of this section is alleged to have occurred, the attorney general may apply in the name of the people of the state of New York to a court of competent jurisdiction by action or special proceeding for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding against a person or entity who has engaged in budget planning without a license under article twelve-C of the banking law or in violation of the requirements of that article, the court shall impose a civil penalty in an amount not to exceed ten thousand dollars per each debtor enrolled or three times the amount of debt enrolled for budget planning, whichever is greater and, where appropriate, order restitution to aggrieved parties, including a refund of all fees paid by a debtor to an unlicensed budget planner.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.