STATE OF NEW YORK

8804

2025-2026 Regular Sessions

IN ASSEMBLY

June 9, 2025

Introduced by M. of A. BORES -- (at request of the Department of Financial Services) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the financial services law, in relation to prohibited unlicensed activities

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

Section 1. Legislative findings. The legislature finds that it is essential to the protection of users of financial products and services from imprudent conduct and harmful business practices in the financial services marketplace that all persons offering financial products and services in New York State be sufficiently deterred from disregarding the laws and regulations governing the offering of financial products or services, regardless of whether they are properly licensed or authorized otherwise to do business. Furthermore, to ensure that the business of, and the persons providing, financial products and services are appropriately supervised, the law should not advantage persons who disregard such requirements. Currently, as to engagement in many activities for which a license or other authorization from the superintendent of financial services is required by the banking law or financial services law or the regulations promulgated thereunder, an unlicensed or otherwise unauthorized person not exempt from licensing or other authorization is not subject to civil monetary penalty for acts that would constitute violations subject to penalty if the person were licensed or otherwise authorized. This act provides that persons engaged in activity for which a license or other authorization from the superintendent of financial services is required under the banking law or financial services law will be subject to a civil penalty for conducting such activity in a manner inconsistent with the law, regardless of whether such person is licensed or otherwise authorized to do such activity.

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

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§ 2. Subsections (a) and (b) of section 305 of the financial services law are amended to read as follows:

(a) Unless otherwise provided in this chapter, the banking law, the insurance law or any other law, any hearing pursuant to any such law may be held before the superintendent, any deputy superintendent, or any designated salaried employee of the department authorized by the superintendent for such purpose. Any adjudicatory proceeding, including any hearings to assess civil penalties under section four hundred eight **or four hundred eight-a** of this chapter, held pursuant to the provisions of this chapter, the insurance law or the banking law shall be noticed, conducted and administered in compliance with the state administrative procedure act.

(b) The person conducting such hearing shall have power to administer oaths, examine and cross-examine witnesses and receive documentary evidence, and shall report [~~his or her~~] **such person's** findings, orally or in writing, to the superintendent with or without recommendation. Such report, if adopted by the superintendent may be the basis of any determination made by the superintendent. One hundred twenty days after the effective date of a determination of liability for a civil penalty pursuant to section four hundred eight **or four hundred eight-a** of this chapter or four hundred three, one thousand one hundred two, two thousand one hundred two, two thousand one hundred seventeen, two thousand one hundred thirty-three or seven thousand eight hundred sixteen of the insurance law, such determination of liability for a civil penalty may be entered as a judgment and enforced, without court proceedings, in the same manner as the enforcement of a money judgment in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within this state.

§ 3. Subsection (a) of section 404 of the financial services law is amended to read as follows:

(a) The superintendent has authority under this article, the banking law, the insurance law and other applicable laws to investigate activities that may constitute violations subject to section four hundred eight **or four hundred eight-a** of this article or violations of the insurance law or banking law and to develop evidence thereon.

§ 4. The financial services law is amended by adding a new section 408-a to read as follows:

§ 408-a. Unlicensed activities prohibited. (a) For the purposes of this section, a "prohibited unlicensed act" shall mean:

(1) engaging in an activity in this state for which a license, certification, registration, authorization, charter, accreditation or incorporation is required by this chapter or the banking law, or the regulations promulgated thereunder, without such license, certification, registration, authorization, charter, accreditation or incorporation or an exemption from such requirement; or

(2) any act or omission by a person who is required by this chapter or the banking law, or the regulations promulgated thereunder, to be licensed, certified, registered, authorized, chartered, accredited or incorporated and is not so licensed, certified, registered, authorized, chartered, accredited or incorporated, or exempted from such requirement, if such act or omission would constitute a violation of this chapter or the banking law, or the regulations promulgated thereunder, subject to monetary penalty if such person were so licensed, certified, registered, authorized, chartered, accredited or incorporated.

(b) In addition to any civil or criminal liability provided by law, the superintendent may, after notice and a hearing, levy a civil penalty for any prohibited unlicensed act as follows:

(1) The penalty for a prohibited unlicensed act that relates to the requirements of the banking law or the regulations promulgated thereunder shall be the same as the penalty provided in section forty-four of the banking law for any violation of the banking law.

(2) The penalty for a prohibited unlicensed act that relates to the requirements of this chapter or the regulations promulgated thereunder shall be the same as the penalty provided for in section four hundred eight of this article for violations of this chapter or the regulations promulgated thereunder. However, the superintendent shall not impose or collect any penalty for a prohibited unlicensed act pursuant to this paragraph if the superintendent imposes or collects any penalty pursuant to paragraph one of this subsection or paragraphs two or three of subsection (a) of section four hundred eight of this article for the same act or omission.

(3) If a prohibited unlicensed act results in consumer harm, the penalty shall be not more than double the penalty amount applicable to such violation set forth in paragraphs one and two of this subsection.

(c) Civil penalties received by the superintendent pursuant to this section shall be applied in the same manner as civil penalties received by the superintendent pursuant to section four hundred eight of this chapter.

(d) In addition to any other penalty or sanction imposed upon a person by law for a prohibited unlicensed act, after notice and a hearing, the superintendent may issue an order directing such person to pay restitution for such unlicensed act.

§ 5. Subsection (a) of section 409 of the financial services law is amended to read as follows:

(a) Whenever the superintendent is satisfied that a violation subject to section four hundred eight or four hundred eight-a of this article or fraud or other criminal activity under the insurance law or banking law has been committed or attempted, the superintendent shall report any such violation of law, as the superintendent deems appropriate, to the appropriate licensing agency, the district attorney of the county in which such acts were committed, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

§ 6. This act shall take effect immediately.