STATE OF NEW YORK

9129

IN SENATE

February 5, 2026

Introduced by Sen. BYNOE -- 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 directing the chief administrator of the courts to develop and implement a random audit compliance program to conduct periodic audits of law firm financial accounts; and to amend the state finance law, in relation to the funding of the random audit compliance program

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

Section 1. The judiciary law is amended by adding a new section 212-a to read as follows:

§ 212-a. Random audit compliance program. 1. The chief administrator of the courts shall develop and implement a state-wide random audit compliance program ("the program") to conduct periodic audits of law firms that engage in the private practice and create and manage real estate escrow trust accounts within the state of New York. The purpose of the program is to ensure that law firms appropriately handle client funds, maintain required records of clients' funds and attorneys' fees as described in the rules of court and the rules of professional conduct, and utilize generally accepted accounting practice in managing their trust accounts. These goals will be accomplished through:

(a) educating New York attorneys on the proper method of compliance with the record keeping and ethical responsibilities under the New York rules of professional conduct, 22 NYCRR 1200, Rule 1.15;

(b) providing a deterrent effect due to the presence of an active auditing program and an incentive to keep good records and to avoid temptation to misuse trust funds; and

(c) the detection of misappropriation of client funds.

2. The chief administrator shall consult with the director of the office of information technology services, or such director's designee, to develop and implement a software program that will randomly select law firms within the state for audit. Alternatively, the chief administrator may enter into an agreement to license for use an existing program providing such capability. The program must ensure that the

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

LBD14666-02-6

selection process provides that every law firm, regardless of size, has an equal chance of being selected for an audit. The program must also ensure that a law firm may only be selected for random audit once in a five-year period. This provision shall not limit the ability to audit a law firm for cause during the same five-year period.

3. An audit of a law firm that maintains more than one location within the state shall entail an audit of all offices located within the state. An audit of a law firm that maintains a location within the state and one or more locations outside of the state shall entail an audit of only the office or offices located within the state.

4. (a) A law firm audited under this section and any rules or regulations promulgated pursuant to this section shall be required to provide records for all trust accounts, business accounts, and fiduciary accounts. Every audit will entail a two-year review of bank statements, cancelled checks, wire advices, deposit slips, three-way trust reconciliations, client trust ledgers, checkbook stubs or registers, and, if necessary, case files, as well as any other documents or records the chief administrator may specify or the auditor deems necessary to advance or complete the audit.

(b) An audit may be performed by one or more auditors.

(c) A senior attorney with knowledge of the law firm's financial practices should be present for the audit. If such attorney is not available, a responsible person knowledgeable about the books and records must be present for the audit.

(d) The auditor will conduct an initial interview to obtain detailed information about the law firm's recordkeeping procedures. The auditor shall review the firm's trust and business account books and records to determine compliance with the rule requirements and will verify that all funds entrusted to the attorney have been safeguarded in the attorney's trust account.

(e) The auditor will document any recordkeeping deficiencies on a deficiency checklist and will provide a copy of the completed checklist to the law firm. The auditor also will discuss with the attorney or with the responsible person in charge of the attorney's books the actions required to correct any deficiencies.

5. (a) If no issues are discovered during the audit, a closing letter shall be sent to the law firm confirming compliance with rule requirements.

(b) If minor deficiencies are discovered during the audit, a deficiency letter describing shortcomings that require corrective action shall be sent to the law firm. The firm shall have forty-five days to respond with information about the corrective action that has been taken. If the response is acceptable, the matter will be closed. If the firm does not respond, the matter may be referred to for disciplinary action.

(c) If major deficiencies, such as misappropriation of clients' funds, are discovered during the audit process, the matter shall immediately be referred to the attorney grievance committee of the appellate division in the department where the attorney or attorneys of the firm are admitted to practice. A copy of the referral shall be provided to the law firm.

6. (a) The random audit compliance program shall be established within the offices of the lawyers' fund for client protection. The board of trustees of the fund shall coordinate with the chief administrator of the courts to implement the program and shall be responsible for hiring program auditors. Funding for the program shall by provided by the fund.

(b) Each auditor hired must have an advanced degree in accounting or certifications in fraud examination.

7. The chief administrator shall promulgate rules and regulations to implement the provisions of this section. In the discretion of the chief administrator, such rules and regulations may allow for differences in audit procedures based on the size or location of a law firm, the volume of matters handled by the law firm and any review measures already implemented by a judicial department.

8. For the purposes of this section, the terms "law firm" and "firm" include law practices comprised of multiple attorneys, sole practitioners, and individuals or firms that provide legal services on a full-time or part-time basis, regardless of corporate entity form.

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

(ff) Establish, implement and oversee the random audit compliance program described in section two hundred twelve-a of this article.

§ 3. Section 97-t of the state finance law, as amended by chapter 103 of the laws of 1990 and subdivision 2 as separately amended by chapters 103 and 190 of the laws of 1990, is amended to read as follows:

§ 97-t. Lawyers' fund for client protection of the state of New York. 1. There is hereby established in the custody of the state comptroller a special fund to be known as the "lawyers' fund for [~~clients~~] **client** protection of the state of New York".

2. The full amount of the allocable portion of the biennial registration fee collected pursuant to the provisions of section four hundred sixty-eight-a of the judiciary law and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions, together with any interest accrued thereon, shall be deposited to the credit of the lawyers' fund for client protection of the state of New York. All deposits of such revenues not otherwise required for the payment of claims as hereinafter prescribed shall be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund, may be invested in obligations of the United States or of the state, or in obligations the principal and interest on which are guaranteed by the United States or by the state.

3. Moneys in the fund shall also be available to the trustees of the lawyer's fund for client protection for the purposes of funding the random audit compliance program described in section two hundred twelve-a of the judiciary law.

§ 4. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.