



## Task Force on **New Americans**

### THE IMMIGRANT ASSISTANCE SERVICE ENFORCEMENT ACT

# IT'S THE LAW

## AND IT PROTECTS IMMIGRANTS FROM FRAUD



### Message from **Assemblyman Marcos A. Crespo**

In August of 2014, legislation I authored to protect immigrants from wide-scale immigration services fraud was signed into law by Governor Andrew Cuomo. The new law is the most comprehensive anti-fraud, immigrant protection law enacted in New York State in more than 50 years. The new law creates stronger penalties and fines to prevent fraud and creates protections for immigrants who have been defrauded and who have lost their life-savings paying for what they thought were legitimate immigrant assistance services.

For the first time in New York, it will be a felony to commit immigrant assistance service fraud. The new law also creates a pathway for recovery of stolen fees and related damages. In addition, for the first time in New York State history, we will have an office permanently dedicated to helping immigrants integrate into our communities. The Office for New Americans, and its 27 regional offices, are mandated to: assist immigrants with English language acquisition; provide assistance with federal immigration matters; connect immigrants to entrepreneurial, employment referral and workforce development programs; and assist law enforcement in combating crimes against immigrants.

I am proud of the collective effort that will allow this new law to take full effect on February 2, 2015. New York will be a better place for immigrants to live, work and raise their families thanks to this new law. The hard work of my staff, the Governor's counsel's office, immigrant advocacy groups, and State Senator Ruben Diaz has made this landmark law a reality. The exceptional leadership of Senate Co Leader Jeff Klein on this issue was of paramount importance in helping to create these new strong protections for countless numbers of new Americans.

Here are more specifics on what the new law does. Please share this important information as it is a tool to help educate our fellow citizens on important matters that protect our friends and neighbors from fraud and from becoming crime victims. Anyone needing help or to report fraud should call the Office for New Americans at 800-566-7636.

**Assemblyman Marcos Crespo**  
**Chair, Assembly Task Force on New Americans**  
**Author of The Immigrant Assistance Service Enforcement Act**



Assemblyman Marcos A. Crespo is joined by New York Immigration Coalition Executive Director Steven Choi as he speaks to a standing-room-only event in Albany hosted by the Coalition and highlights his work and agenda as Task Force Chair.

## **THE IMMIGRANT ASSISTANCE SERVICE ENFORCEMENT ACT DOES THE FOLLOWING:**

Amends General Business Law (GBS) §460-a making clarifications and updating the definition of both “provider” and “assistance.”

**Requires clearer disclosures in Immigration Assistance Services (IAS) contracts, such as:**

- Interpreter shall attest to accuracy of translation.
- Itemization shall include fees “for each service provided.”
- Provider may not retain original documents even if customer fails to pay fees or costs, or for any other fee dispute.
- Clarification that the U.S. government provides info on forms/documentation for free online and by phone so the customer is not required to obtain supporting documents through the provider.
- Customer may cancel contract at any time and has three days to cancel contract without fee or penalty.
- Cancellation notice form must be attached to contract.
- Contract must state that free legal referral is available by calling ONA hotline, NYS AG, or local DA, and provide such phone numbers.
- Customer must be informed in writing if provider discloses information to immigration authorities without customer knowledge or consent.
- Adds clause informing customers that provider must explain contents of the contract and answer questions about the contract.

Requires clearer disclosures in IAS providers’ signs/advertisements and updated federal agency information.

## **General Business law now lists the prohibited acts which IAS providers cannot perform:**

- Use terms “notario public,” “notario,” “immigration specialist.”
- Threaten to report customers to immigration or other authorities or undermine in any way a customer’s immigration status or attempt to secure legal status.
- Demand/retain fees for “services to be performed in the future.”
- Disclose information to immigration authorities without informing customer, except as required by law and then must notify customers in writing.
- Charge a fee to refer customers to an attorney or any other authorized provider.
- Give advice on determination of immigration status.
- Suggest they have special connections with federal or any other government agencies, and can expedite process.
- Knowingly mislead or provide false information to customers.

The new law requires IAS providers maintain surety an additional year after they cease providing IAS services. This is bonding to cover for damages caused to immigrants by IAS actions.

## THE NEW LAW CREATES THE NEW YORK STATE OFFICE FOR NEW AMERICANS (ONA)

The Office for New Americans is **permanently** created within the NYS Department of State. The Secretary of State appoints has the authority to appoint the ONA director. The new office has considerable new powers and duties which include the following:

- (a) create network of neighborhood-based opportunity centers;
- (b) increase access to adult English language (ESOL) training;
- (c) assist with immigration status matters;
- (d) connect immigrants to entrepreneurial, employment referral and workforce development programs;
- (e) develop/leverage skills of immigrants to benefit communities;
- (f) strengthen connections between immigrants and communities through civic engagement;
- (g) reduce exploitation of immigrants;
- (h) establish toll-free multi-lingual hotline and website to disseminate information and take complaints;
- (i) ensure individuals referred to ONA are directed to credible IAS service providers
- (j) assist law enforcement to combat crimes against immigrants;
- (k) advise governor and SOS on immigrant matters;
- (l) coordinate state agency resources to serve immigrant needs;
- (m) assist local governments enhance civic engagement among immigrants;
- (n) produce annual report, beginning by 6-15-15, describing activities, summarizing assistance given via phones, website and offices, training given, and workforce development programs.

## PENALTIES FOR THOSE BREAKING THE LAW

### General Business Law Penalties for Immigration Assistance Service Fraud

§460-g allows individual harmed by IAS provider to bring action and recover actual damages or \$2,500, whichever greater, or both. Costs and attorney's fees may be awarded to prevailing plaintiff.

§460-i Amends provision which establishes a violation of the Immigrant Assistance Enforcement Act as a class A misdemeanor to increase the amount of fine assessed against a provider \$1,000 and/or imprisonment for first offense, and \$3,000 and/or imprisonment for second offense.

The new law allows the New York State Attorney General to prosecute offenses.

### It increasing the maximum civil penalty for violating this new law from \$7,500 to \$10,000.

§460-k provides additional civil penalty of up to \$10,000 for specific aggravating circumstances,

such as: whether defendant knowingly acted with disregard, caused customer to suffer loss of primary residence, employment or property, and whether customer(s) were substantially more vulnerable because of impaired understanding. Restitution shall be given priority over the imposition of civil penalties.

### Penal Law Penalties for Immigration Assistance Service Fraud

New York State Penal Law is amended and creates a new crime of IAS fraud in the second degree and makes it a class A misdemeanor. A person is guilty of IAS fraud in the 2nd degree when, with intent to defraud, violates IAS enforcement act.

New York State Penal Law is also amended creating a new crime of IAS fraud in the first degree, a new class E felony, when provider violates IAS enforcement act and obtains more than \$1,000 from de-frauded customer.

The new law requires the Office of New Americans to establish a toll-free multi-lingual hotline and website to disseminate information and take complaints.

Anyone needing help or to report fraud should call the Office for New Americans at **800-566-7636**.



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