

Memorandum in Support

NYSBA #19

May 20, 2025

S. 2422
A. 3849

By: Senator Hoylman-Sigal

By: M. of A. Weprin

Senate Committee: Passed

Assembly Committee: Judiciary

Effective Date: Immediately

AN ACT to repeal section 470 of the judiciary law, relating to allowing attorneys having offices in the state to reside in an adjoining state.

LAW AND SECTIONS REFERRED TO: Section 470 of the Judiciary Law.

This bill would repeal Judiciary Law §470 which requires New York licensed attorneys who reside outside of the state to maintain a physical office space within the State.

Judiciary Law §470 is outdated and is no longer needed to serve the purpose for which it was originally enacted back in 1909. At that time, residency within the State of New York was required to practice law, the implication being that a non-resident attorney who did not have an office in New York might not be amenable to service of process.

This concern over service of process is no longer an issue as New York has adopted modern procedures including E-filing, virtual court proceedings, and a searchable database maintained by the courts of attorney contact information. Further, serving documents on an out of state attorney is addressed by CPLR 2103(b) and even contemplates service via electronic means under CPLR 2103(b)(7).

The repeal of this requirement, first enacted when the horse and buggy was a primary mode of transportation, is unsuited to the needs of New Yorkers in rural communities. Rural communities have an imminent crisis as only 4% of New York licensed attorneys serve rural communities. By eliminating this onerous requirement, these New Yorkers will be able to make use of a population of attorneys that would otherwise be available to them but for this antiquated and unnecessary law.

It is important for the State to recognize and keep pace with the changes to the practice of law that have arisen following the COVID-19 pandemic. Law firms across the country have reconsidered their real estate footprint, and firms are downsizing and shedding space even as they add lawyers. If Section 470's office requirement is repealed, small and solo practitioners can work remotely and avoid the expense of physical office overhead, keeping costs down while providing greater access to justice for New Yorkers in need of legal representation. Permitting attorneys working in New York's border states to practice in this state without requiring a physical office here allows more

practitioners to take on cases for clients in underserved communities, particularly in New York's rural counties.

Lastly, repealing the physical office requirement may result in a financial benefit to the state: Lawyers' income earned in New York will still be taxable, resulting in greater revenues. Attorney registration fees in New York would increase, resulting in substantial funds for services that directly benefit the public, including the Lawyers' Fund for Client Protection, the Indigent Legal Services Fund and the Legal Services Assistance Fund.

For the above reasons, the New York State Bar Association **SUPPORTS** this Legislation.