S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to establishing new contribution limits, expanding the types of organizations prohibited from making contributions and aggregating certain contributions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 14-100 of the election law is amended by adding three new subdivisions 12, 13 and 14 to read as follows:

12. "RELATED LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY COMPANY THAT IS AN AFFILIATE OF A CORPORATION WITHIN THE MEANING OF PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION LAW. AS USED IN THIS ARTICLE, CORPORATION MEANS BOTH A FOR-PROFIT CORPORATION WITHIN THE MEANING OF SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF SECTION ONE HUNDRED TWO OF THE BUSINESS CORPORATION LAW AS WELL AS A NONPROFIT CORPORATION WITHIN THE MEANING OF SUBPARAGRAPH FIVE OF PARAGRAPH (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW.

13. (1) "RELATED LIMITED LIABILITY PARTNERSHIP," CONSISTENT WITH SECTION TEN OF THE PARTNERSHIP LAW, MEANS, UNLESS THE CONTEXT OTHERWISE REQUIRES, A PARTNERSHIP (I) FORMED BY TWO OR MORE PERSONS PURSUANT TO THE PARTNERSHIP LAW OR WHICH COMPLIES WITH SUBDIVISION (A) OF SECTION 121-1202 OF THE PARTNERSHIP LAW AND (II) HAVING ONE OR MORE GENERAL PARTNERS AND ONE OR MORE LIMITED PARTNERS, WHICH (A) IS NOT A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION, (B) IS AFFILIATED WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNERSHIP THAT IS A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION OR A FOREIGN LIMITED LIABILITY PARTNERSHIP UNDER CLAUSE (I) OR (II) OF THE EIGHTH

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

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UNDESIGNATED PARAGRAPH OF SECTION TWO OF THE PARTNERSHIP LAW, AND (C) RENDERS SERVICES RELATED OR COMPLEMENTARY TO THE PROFESSIONAL SERVICES RENDERED BY, OR PROVIDES SERVICES OR FACILITIES TO, SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PARTNERSHIP.

(2) FOR PURPOSES OF THIS SUBDIVISION, SUCH A PARTNERSHIP IS AFFILIATED WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PARTNERSHIP IF (A) AT LEAST A MAJORITY OF PARTNERS IN ONE PARTNERSHIP ARE PARTNERS IN THE OTHER PARTNERSHIP, (B) AT LEAST A MAJORITY OF THE PARTNERS IN EACH PARTNERSHIP ALSO ARE PARTNERS, HOLD INTERESTS OR ARE MEMBERS IN A LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY, AND EACH PARTNERSHIP RENDERS SERVICES PURSUANT TO AN AGREEMENT WITH SUCH LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY, OR (C) THE PARTNERSHIPS OR THE PARTNERSHIP AND SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH PROFESSIONAL SERVICE CORPORATION, OR SUCH FOREIGN PROFESSIONAL SERVICE CORPORATION ARE AFFILIATES WITHIN THE MEANING OF PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION LAW.

14. "SINGLE SOURCE" MEANS ANY PERSON, PERSONS IN COMBINATION, OR ENTITY WHO OR WHICH ESTABLISHES, MAINTAINS, OR CONTROLS ANOTHER ENTITY AND EVERY ENTITY SO ESTABLISHED, MAINTAINED, OR CONTROLLED, INCLUDING EVERY POLITICAL COMMITTEE ESTABLISHED, MAINTAINED, OR CONTROLLED BY THE SAME PERSON, PERSONS IN COMBINATION, OR ENTITY. IF A CANDIDATE ACCEPTS MORE THAN ONE CONTRIBUTION FROM A SINGLE SOURCE, THE CONTRIBUTIONS SHALL BE TOTALED TO DETERMINE THE CANDIDATE'S COMPLIANCE WITH THE APPLICABLE CONTRIBUTION LIMIT. A GENERAL PARTNER OR GENERAL MANAGER AND EACH PARTNERSHIP AND LIMITED LIABILITY COMPANY IT CONTROLS SHALL BE PRESUMED, IN THE ABSENCE OF EVIDENCE DEMONSTRATING THE CONTRARY, TO BE A SINGLE SOURCE FOR THE PURPOSE OF COMPLIANCE WITH THE APPLICABLE CONTRIBUTION LIMIT.

S 2. Subdivisions 1 and 2 of section 14-116 of the election law, subdivision 1 as redesignated by chapter 9 of the laws of 1978 and subdivision 2 as amended by chapter 260 of the laws of 1981, are amended and a new subdivision 3 is added to read as follows:

1. No corporation [or], joint-stock association, LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP doing business in this state, except [a corporation or association] AN ENTITY organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any [corporation, joint-stock or other association] ENTITY organized or maintained for political purposes, or for, or in aid of, any candidate for political office or for nomination for such office, or for any political purpose whatever, or for the reimbursement or indemnification of any person for moneys or property so used. Any officer, director, stockholder, MEMBER, PARTNER, attorney or agent of any corporation [or], joint-stock association, LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violations, and any

person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, any corporation or an organization financially supported in whole or in part, by such corporation, OR ANY LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP may make expenditures, including contributions, not otherwise prohibited by law, for political purposes, in an amount not to exceed five thousand dollars in the aggregate in any calendar year; provided that no public utility shall use revenues received from the rendition of public service within the state for contributions for political purposes unless such cost is charged to the shareholders of such a public service corporation.

3. FOR THE PURPOSES OF SUBDIVISION TWO OF THIS SECTION, ALL OF THE COMPONENT MEMBERS OF A CONTROLLED GROUP OF CORPORATIONS WITHIN THE MEANING OF SECTION ONE THOUSAND FIVE HUNDRED SIXTY-THREE OF THE INTERNAL REVENUE CODE OF THE UNITED STATES SHALL BE DEEMED TO BE ONE CORPORATION, AND PROVIDED FURTHER, CONTRIBUTIONS GIVEN BY A SUBSIDIARY OF A CORPORATION THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, A RELATED LIMITED LIABILITY PARTNERSHIP THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, OR A RELATED LIMITED LIABILITY COMPANY THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, ARE DEEMED TO BE A CONTRIBUTION BY THE CORPORATION. ALL SINGLE SOURCES OF CONTRIBUTIONS, INCLUDING FROM AFFILIATED CORPORATE ENTITIES, WITHIN THE MEANING OF PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION LAW, TOGETHER MAY MAKE CONTRIBUTIONS, NOT OTHERWISE PROHIBITED BY LAW, FOR POLITICAL PURPOSES, IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS IN THE AGGREGATE IN ANY CALENDAR YEAR.

S 3. Subdivision 2 of section 14-120 of the election law, as added by chapter 79 of the laws of 1992, is amended and a new subdivision 3 is added to read as follows:

2. Notwithstanding subdivision one of this section, a partnership, as defined in section ten of the partnership law, [may be considered a separate entity for the purposes of this section, and as such] may make contributions in the name of said partnership without attributing such contributions to the individual members of the partnership provided that any such contribution made by a partnership to a candidate or to a political committee, shall not exceed[, twenty-five hundred dollars. In the event that such partnership contribution to any such candidate or political committee exceeds twenty-five hundred dollars, the aggregate amount of such contribution shall be attributed to each partner whose share of the contribution exceeds ninety-nine dollars] FIVE THOUSAND DOLLARS. ANY PARTNERSHIP THAT IS RELATED TO A CORPORATION WILL HAVE ITS CONTRIBUTIONS AGGREGATED WITH THAT RELATED CORPORATION FOR THE PURPOSES OF CALCULATING THE CONTRIBUTIONS GIVEN. INDIVIDUALS MAY NOT ESTABLISH A PARTNERSHIP, AS DEFINED IN SECTION TEN OF THE PARTNERSHIP LAW, FOR THE PURPOSE OF EVADING THE CONTRIBUTION LIMITS THAT WOULD OTHERWISE APPLY TO SUCH INDIVIDUAL.

3. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, EVERY CONTRIBUTION MADE BY A LIMITED LIABILITY COMPANY IS CONSIDERED TO BE A CONTRIBUTION BY THE LIMITED LIABILITY COMPANY AS A WHOLE. INDIVIDUALS MAY NOT ESTABLISH A LIMITED LIABILITY COMPANY FOR THE PURPOSE OF EVADING THE CONTRIBUTION LIMITS THAT WOULD OTHERWISE APPLY TO SUCH INDIVIDUAL.

S 4. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the

judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

S 5. This act shall take effect January 1, 2014; provided that contributions legally received prior to the effective date of this act may be retained and expended for lawful purposes and shall not provide the basis for a violation of article 14 of the election law, as amended by this act; and provided, further, that the state board of elections shall notify all candidates and political committees of the applicable provisions of this act within thirty days after this act shall have become a law.