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

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. REILLY, CAMARA, PAULIN, MAISEL, BRADLEY -- Multi-Sponsored by -- M. of A. ALESSI, CUSICK, DelMONTE, GALEF, GUNTHER, JOHN, LATIMER, SWEENEY -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to the use of campaign and non-campaign funds

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

Section 1. Subdivision 3 of section 14-124 of the election law, as amended by chapter 71 of the laws of 1988, is amended to read as follows:

3. The contribution and receipt limits of this article shall not apply to monies received and expenditures made by a party committee or constituted committee to maintain a permanent headquarters and staff and carry on ordinary activities which are not for the express purpose of promoting the candidacy of specific candidates. FOR THE PURPOSES OF THIS SECTION, "ORDINARY ACTIVITIES" REFERS SOLELY TO THE ACTIVITIES OF INDIVIDUALS WHO ARE PARTY OFFICIALS OR PUBLIC OFFICIALS OR THE ACTIVITIES CARRIED ON WITHIN PARTY FACILITIES.

S 2. Section 14-130 of the election law, as added by chapter 152 of the laws of 1985, is amended to read as follows:

S 14-130. Campaign funds for personal use. 1. Contributions received by a candidate or a political committee may be expended for any lawful purpose THAT IS DIRECTLY RELATED TO PROMOTING THE NOMINATION OR ELECTION OF A CANDIDATE. Such funds shall not be converted by any person to a personal use [which is unrelated to a political campaign or the holding of a public office or party position] EXCEPT AS PROVIDED IN THIS SECTION. IN ADDITION TO EXPENSES DIRECTLY RELATED TO THE CAMPAIGN INCLUDING, BUT NOT LIMITED TO, POSTAGE, SIGNS, PRINTING, FOOD, RENT FOR HEADQUARTERS, STAFF, EQUIPMENT, OTHER PERMISSIBLE EXPENDITURES SHALL

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

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INCLUDE CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS INCLUDING, BUT NOT LIMITED TO, 501(C)3 CHARITIES, LABOR UNION FUNDRAISING EVENTS OR PUBLICATIONS, RELIGIOUS OR FRATERNAL ORGANIZATIONS AND OTHER ORGANIZATIONS CERTIFIED AS CHARITABLE PURSUANT TO LAW.

2. A. AS USED IN THIS SECTION, EXPENDITURES FOR "PERSONAL USE" ARE DEFINED AS EXPENDITURES THAT:

(I) ARE FOR THE PERSONAL BENEFIT OF THE CANDIDATE OR ANY OTHER INDIVIDUAL;

(II) DEFRAY NORMAL LIVING EXPENSES OF THE CANDIDATE, IMMEDIATE FAMILY OF THE CANDIDATE, OR ANY OTHER INDIVIDUAL;

(III) ARE USED TO FULFILL ANY COMMITMENT, OBLIGATION, OR EXPENSE OF A PERSON THAT WOULD EXIST IRRESPECTIVE OF THE CANDIDATE'S ELECTION CAMPAIGN, INCLUDING, BUT NOT LIMITED TO, ANY EXPENSE INCURRED MORE THAN THIRTY DAYS AFTER THE CANDIDATE CEASES TO BE A CANDIDATE; OR,

(IV) ARE PUT TO ANY USE FOR WHICH THE CANDIDATE WOULD BE REQUIRED TO TREAT THE AMOUNT OF THE EXPENDITURE AS GROSS INCOME UNDER SECTION 61 OF THE INTERNAL REVENUE CODE, OR ANY SUBSEQUENT CORRESPONDING SECTION OF THE INTERNAL REVENUE CODE OF THE UNITED STATES.

B. EXPENDITURES FOR PERSONAL USE SHALL INCLUDE, BUT ARE NOT LIMITED TO, EXPENSES FOR THE FOLLOWING:

(I) ANY RESIDENTIAL OR HOUSEHOLD ITEMS, SUPPLIES OR EXPENDITURES, INCLUDING MORTGAGE, RENT OR UTILITY PAYMENTS FOR ANY PART OF ANY PERSONAL RESIDENCE OF A CANDIDATE OR OFFICEHOLDER OR A MEMBER OF THE CANDIDATE'S OR OFFICEHOLDER'S FAMILY. IN THE EVENT THAT ANY PROPERTY OR BUILDING IS USED FOR BOTH PERSONAL AND CAMPAIGN USE, PERSONAL USE SHALL CONSTITUTE EXPENSES RELATING TO THAT PROPERTY OR BUILDING INCURRED MORE THAN THIRTY DAYS AFTER THE CANDIDATE CEASES TO BE A CANDIDATE OR THAT EXCEED THE PRO-RATED AMOUNT FOR SUCH EXPENSES BASED ON FAIR-MARKET VALUE;

(II) MORTGAGE, RENT, OR UTILITY PAYMENTS FOR ANY PART OF ANY NON-RESIDENTIAL PROPERTY THAT IS OWNED BY A CANDIDATE OR OFFICEHOLDER OR A MEMBER OF A CANDIDATE'S OR OFFICEHOLDER'S FAMILY AND USED FOR CAMPAIGN PURPOSES, TO THE EXTENT THE PAYMENTS EXCEED THE FAIR MARKET VALUE OF THE PROPERTY USAGE;

(III) FUNERAL, CREMATION, OR BURIAL EXPENSES, INCLUDING ANY EXPENSES RELATED TO A DEATH WITHIN A CANDIDATE'S OR OFFICEHOLDER'S FAMILY;

(IV) CLOTHING, OTHER THAN ITEMS OF DE MINIMIS VALUE THAT ARE USED IN THE CAMPAIGN;

(V) TUITION PAYMENTS;

(VI) CHILDCARE COSTS;

(VII) DUES, FEES, OR GRATUITIES AT A COUNTRY CLUB, HEALTH CLUB, RECREATIONAL FACILITY OR OTHER NONPOLITICAL ORGANIZATION, UNLESS THEY ARE PART OF A SPECIFIC FUNDRAISING EVENT THAT TAKES PLACE ON THE ORGANIZATION'S PREMISES;

(VIII) SALARY PAYMENTS TO ANY PERSON WHOSE SERVICES ARE NOT SOLELY FOR CAMPAIGN PURPOSES;

(IX) SALARY PAYMENTS TO A MEMBER OF A CANDIDATE'S FAMILY, UNLESS THE FAMILY MEMBER IS PROVIDING BONA FIDE SERVICES TO THE CAMPAIGN. IF A FAMILY MEMBER PROVIDES BONA FIDE SERVICES TO A CAMPAIGN, ANY SALARY PAYMENTS IN EXCESS OF THE FAIR MARKET VALUE OF THE SERVICES PROVIDED SHALL BE CONSIDERED PAYMENTS FOR PERSONAL USE;

(X) ADMISSION TO A SPORTING EVENT, CONCERT, THEATER, OR OTHER FORM OF ENTERTAINMENT, UNLESS PART OF A SPECIFIC CAMPAIGN OR OFFICEHOLDER ACTIVITY;

(XI) PAYMENT OF ANY FINES, FEES, OR PENALTIES ASSESSED PURSUANT TO THIS CHAPTER;

(XII) AUTOMOBILE PURCHASES OR LEASES;
(XIII) AUTOMOBILE INSURANCE OR MONTHLY PARKING EXPENSES;
(XIV) TRAVEL EXPENSES, UNLESS USED SOLELY FOR CAMPAIGN PURPOSES. IF A CANDIDATE USES CAMPAIGN FUNDS TO PAY EXPENSES ASSOCIATED WITH TRAVEL THAT INVOLVES BOTH PERSONAL ACTIVITIES AND CAMPAIGN ACTIVITIES, THE INCREMENTAL EXPENSES THAT RESULT FROM THE PERSONAL ACTIVITIES SHALL BE CONSIDERED FOR PERSONAL USE UNLESS THE PERSON(S) BENEFITING FROM THE USE REIMBURSE(S) THE CAMPAIGN ACCOUNT WITHIN THIRTY (30) DAYS FOR THE FULL AMOUNT OF THE INCREMENTAL EXPENSES; AND
(XV) ANY OTHER EXPENDITURE DESIGNATED BY THE STATE BOARD AS CONSTITUTING PERSONAL USE.
3. NOTHING IN THIS SECTION SHALL PROHIBIT A CANDIDATE FROM PURCHASING EQUIPMENT OR PROPERTY FROM HIS PERSONAL FUNDS AND LEASING OR RENTING SUCH EQUIPMENT OR PROPERTY TO A COMMITTEE WORKING DIRECTLY OR INDIRECTLY WITH HIM TO AID OR PARTICIPATE IN HIS NOMINATION OR ELECTION, INCLUDING AN EXPLORATORY COMMITTEE, PROVIDED THAT THE CANDIDATE AND HIS CAMPAIGN TREASURER SIGN A WRITTEN LEASE OR RENTAL AGREEMENT. SUCH AGREEMENT SHALL INCLUDE THE LEASE OR RENTAL PRICE, WHICH SHALL NOT EXCEED THE FAIR LEASE OR RENTAL VALUE OF THE EQUIPMENT. THE CANDIDATE SHALL NOT RECEIVE LEASE OR RENTAL PAYMENTS WHICH, IN THE AGGREGATE, EXCEED THE COST OF PURCHASING THE EQUIPMENT OR PROPERTY.
S 3. The election law is amended by adding two new sections 14-132 and 14-134 to read as follows:
S 14-132. TRANSFER OF CAMPAIGN FUNDS. NO CAMPAIGN FUNDS COLLECTED BY ANY CANDIDATE FOR OFFICE SHALL BE TRANSFERRED TO ANY OTHER CANDIDATE FOR ANY OFFICE OR TO ANY POLITICAL PARTY.
S 14-134. PROHIBITED USES OF CAMPAIGN FUNDS. CAMPAIGN CONTRIBUTIONS SHALL NOT BE USED FOR ANY OF THE FOLLOWING PURPOSES:
A. ANY EXPENDITURE IN VIOLATION OF ANY FEDERAL OR STATE LAW;
B. PAYMENTS OR ANY VALUE GIVEN OR MADE TO THE CANDIDATE, A RELATIVE OF THE CANDIDATE, OR TO A BUSINESS ENTITY IN WHICH ANY SUCH CANDIDATE OR RELATIVE HAS A TEN PERCENT OR GREATER OWNERSHIP INTEREST OR OF WHICH ANY SUCH CANDIDATE OR RELATIVE IS AN OFFICER, DIRECTOR OR EMPLOYEE;
C. PAYMENT IN EXCESS OF THE FAIR MARKET VALUE OF SERVICES, MATERIALS, FACILITIES OR OTHER THINGS OF VALUE RECEIVED IN EXCHANGE;
D. EXPENDITURE FOR NON-CAMPAIGN RELATED FOOD, DRINK, TRAVEL OR ENTERTAINMENT;
E. GIFTS, EXCEPT BROCHURES, BUTTONS, SIGNS AND OTHER CAMPAIGN MATERIALS; OR
F. DINNER OR GIFTS, OTHER THAN THOSE ALLOWABLE, TO ANY REGISTERED LOBBYIST OR TO PAY FOR A MEAL, GIFT, ADMISSION OR A TICKET FOR AN EVENT WHERE THE PRIMARY AUDIENCE IS REGISTERED LOBBYISTS;
G. PAYMENT OF INTEREST OR ANY OTHER FINANCE CHARGES UPON MONIES LOANED TO THE CAMPAIGN BY SUCH CANDIDATE OR THE SPOUSE OF SUCH CANDIDATE; OR
H. PAYMENT OF ATTORNEY'S FEES OR ANY COSTS OF DEFENDING AGAINST CIVIL OR CRIMINAL INVESTIGATION OR PROSECUTION FOR ALLEGED VIOLATIONS OF STATE OR FEDERAL LAW COMMITTED WHILE HOLDING PUBLIC OFFICE OR BEING A CANDIDATE FOR SUCH OFFICE.
S 4. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law.