

3408

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. PHEFFER
-- read once and referred to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law and the executive law, in relation to requiring not-for-profit and exempt organizations and trustees to report annually whether or not moneys were spent to pay judgments or settle accusations related to harassment, assault or abuse allegedly committed by officers, directors, employees or agents of the organizations or trustees

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

1 Section 1. Section 8-1.4 of the estates, powers and trusts law is
2 amended by adding a new paragraph (t) to read as follows:
3 (T) (1) NOTWITHSTANDING THE EXEMPTIONS FROM THE REGISTRATION AND
4 REPORTING PROVISIONS OF THIS SECTION SPECIFIED IN PARAGRAPH (B) OF THIS
5 SECTION, THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO A DESIGNATED
6 "TRUSTEE", AS DEFINED IN PARAGRAPH (A) OF THIS SECTION, EXCEPT TO THE
7 EXTENT, IF ANY, THAT THE APPLICATION OF THIS PARAGRAPH TO ANY PARTICULAR
8 TRUSTEE IS FOUND BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDIC-
9 TION, AFTER ANY AND ALL APPEALS HAVE BEEN EXHAUSTED, TO BE VIOLATIVE OF
10 THE FEDERAL OR STATE CONSTITUTION.
11 (2) A DESIGNATED TRUSTEE SHALL FILE ANNUALLY WITH THE ATTORNEY GENERAL
12 ON A FORM PRESCRIBED BY THE ATTORNEY GENERAL AND ON SUCH DATE OR DATES
13 AS THE ATTORNEY GENERAL SHALL REQUIRE, A DISCLOSURE STATEMENT, SETTING
14 FORTH UNDER THE PENALTIES OF PERJURY WHETHER OR NOT ANY OF THE FUNDS
15 ENTRUSTED TO SUCH BOARD OF TRUSTEES OR DESIGNATED TRUSTEE WERE EXPENDED
16 DURING THE IMMEDIATELY PRECEDING FISCAL YEAR COVERED BY SUCH STATEMENT
17 FOR THE PURPOSE OF SATISFYING ANY JUDGMENT OR PAYING THE AMOUNT OF ANY
18 SETTLEMENT RELATED TO ONE OR MORE ALLEGATIONS OF SEXUAL HARASSMENT,
19 SEXUAL ASSAULT, OR CHILD ABUSE COMMITTED BY AN OFFICER, DIRECTOR,
20 EMPLOYEE OR AGENT OF THE BOARD OF TRUSTEES OR A DESIGNATED TRUSTEE. A
21 TRUSTEE OTHERWISE REQUIRED TO FILE AN ANNUAL FINANCIAL REPORT PURSUANT

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

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1 TO THIS SECTION OR SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE
2 LAW SHALL SATISFY THE FILING REQUIREMENT OF THIS PARAGRAPH BY INCLUDING
3 SUCH ANNUAL DISCLOSURE STATEMENT WITH THE FILING OF THE TRUSTEE'S ANNUAL
4 FINANCIAL REPORT OR AS A PART OF THE TRUSTEE'S ANNUAL FINANCIAL REPORT.
5 THE FAILURE TO FILE OR TIMELY FILE SUCH ANNUAL DISCLOSURE STATEMENT OR
6 TO INCLUDE IT AS A PART OF THE TRUSTEE'S ANNUAL FINANCIAL REPORT AS
7 PERMITTED HEREIN SHALL SUBJECT THE TRUSTEE IN DEFAULT TO THE SAME FINES
8 AND PENALTIES AS THOSE THAT ARE APPLICABLE TO FAILURE BY A TRUSTEE TO
9 FILE OR TIMELY FILE THE TRUSTEE'S ANNUAL FINANCIAL REPORT.

10 S 2. Section 172-b of the executive law is amended by adding a new
11 subdivision 9 to read as follows:

12 9. (A) NOTWITHSTANDING THE EXEMPTIONS FROM THE REGISTRATION AND
13 REPORTING PROVISIONS OF THIS ARTICLE SPECIFIED IN SECTION ONE HUNDRED
14 SEVENTY-TWO-A OF THIS ARTICLE, THE PROVISIONS OF THIS SUBDIVISION SHALL
15 APPLY TO ALL "CHARITABLE ORGANIZATIONS" DEFINED IN SECTION ONE HUNDRED
16 SEVENTY-ONE-A OF THIS ARTICLE AND TO ALL ENTITIES OTHERWISE EXEMPTED
17 FROM THIS ARTICLE THAT ARE ENUMERATED IN SECTION ONE HUNDRED
18 SEVENTY-TWO-A OF THIS ARTICLE, EXCEPT TO THE EXTENT, IF ANY, THAT THE
19 APPLICATION OF THIS SUBDIVISION TO ANY PARTICULAR CHARITABLE ORGANIZA-
20 TION IS FOUND BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDIC-
21 TION, AFTER ANY AND ALL APPEALS HAVE BEEN EXHAUSTED, TO BE VIOLATIVE OF
22 THE FEDERAL OR STATE CONSTITUTION.

23 (B) EVERY CHARITABLE ORGANIZATION AND EVERY ENTITY THAT IS OTHERWISE
24 EXEMPTED FROM THE APPLICATION OF THIS ARTICLE BY SECTION ONE HUNDRED
25 SEVENTY-TWO-A OF THIS ARTICLE SHALL FILE ANNUALLY WITH THE ATTORNEY
26 GENERAL ON A FORM PRESCRIBED BY THE ATTORNEY GENERAL AND ON SUCH DATE OR
27 DATES AS THE ATTORNEY GENERAL SHALL REQUIRE, A DISCLOSURE STATEMENT,
28 SETTING FORTH UNDER THE PENALTIES OF PERJURY WHETHER OR NOT ANY OF THE
29 FUNDS ENTRUSTED TO SUCH CHARITABLE ORGANIZATION OR EXEMPTED ENTITY WERE
30 EXPENDED DURING THE IMMEDIATELY PRECEDING FISCAL YEAR COVERED BY SUCH
31 STATEMENT FOR THE PURPOSE OF SATISFYING ANY JUDGMENT OR PAYING THE
32 AMOUNT OF ANY SETTLEMENT RELATED TO ONE OR MORE ALLEGATIONS OF SEXUAL
33 HARASSMENT, SEXUAL ASSAULT, OR CHILD ABUSE COMMITTED BY AN OFFICER,
34 DIRECTOR, EMPLOYEE OR AGENT OF THE CHARITABLE ORGANIZATION OR EXEMPTED
35 ENTITY. A CHARITABLE ORGANIZATION OTHERWISE REQUIRED TO FILE AN ANNUAL
36 FINANCIAL REPORT PURSUANT TO THIS ARTICLE OR SECTION 8-1.4 OF THE
37 ESTATES, POWERS AND TRUSTS LAW MAY SATISFY THE ANNUAL FILING REQUIREMENT
38 OF THIS SUBDIVISION BY INCLUDING SUCH ANNUAL DISCLOSURE STATEMENT WITH
39 THE FILING OF THE CHARITABLE ORGANIZATION'S ANNUAL FINANCIAL REPORT OR
40 AS A PART OF SUCH ORGANIZATION'S ANNUAL FINANCIAL REPORT. THE FAILURE TO
41 FILE OR TIMELY FILE SUCH ANNUAL DISCLOSURE STATEMENT OR TO INCLUDE IT AS
42 A PART OF A CHARITABLE ORGANIZATION'S ANNUAL FINANCIAL REPORT AS PERMIT-
43 TED HEREIN SHALL SUBJECT THE CHARITABLE ORGANIZATION OR OTHERWISE
44 EXEMPTED ENTITY IN DEFAULT TO THE SAME FINES AND PENALTIES AS THOSE THAT
45 ARE APPLICABLE TO FAILURE BY A CHARITABLE ORGANIZATION TO FILE OR TIMELY
46 FILE THE CHARITABLE ORGANIZATION'S ANNUAL FINANCIAL REPORT.

47 S 3. This act shall take effect on the one hundred twentieth day after
48 it shall have become a law. Effective immediately, the addition, amend-
49 ment and/or repeal of any rules or regulations necessary for the imple-
50 mentation of this act on its effective date are authorized and directed
51 to be made and completed by the attorney general on or before such
52 effective date.