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

3501

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRADLEY, GREENE, MAISEL, DelMONTE, ZEBROWSKI, GALEF, FIELDS, GABRYSZAK, COOK, KOON, JAFFEE, CARROZZA -- Multi-Sponsored by -- M. of A. BACALLES, BRENNAN, BROOK-KRASNY, PHEFFER, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the not-for-profit corporation law, in relation to prohibiting funding and support of terrorist activities and organizations

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

Section 1. Section 490.15 of the penal law, as added by chapter 300 of the laws of 2001, is amended to read as follows:

S 490.15 Soliciting or providing support for an act of terrorism in the first degree.

A person commits soliciting or providing support for an act of terrorism in the first degree when:

1. he or she commits the crime of soliciting or providing support for an act of terrorism in the second degree and the total value of material support or resources exceeds one thousand dollars; OR

2. HE OR SHE, AS AN OFFICER OR DIRECTOR OF A NOT-FOR-PROFIT CORPORATION, KNOWINGLY PERMITS SUCH CORPORATION TO ASSIST, FUND OR SUPPORT TERRORISM.

Soliciting or providing support for an act of terrorism in the first degree is a class C felony.

S 2. Section 115 of the not-for-profit corporation law, as added by chapter 669 of the laws of 1977, is amended to read as follows:

S 115. Power to solicit contributions for charitable purposes.

(A) SOLICITATION OF CONTRIBUTIONS FOR CHARITABLE PURPOSES. No corporation having the power to solicit contributions for charitable purposes may solicit contributions for any purpose for which approval of such solicitation is required under the provisions of section four hundred four of this chapter unless the certificate specifically makes provision

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

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for such solicitation and the required written approval is endorsed on or annexed to such certificate or unless the corporation is among those referred to in section one hundred seventy-two-a of the executive law. If such approval is not obtained and the corporation continues to solicit or to receive contributions for such purpose or advertises that it has obtained such approval, the attorney general, at the request of the officer or body authorized to grant such approval, shall maintain an action or proceeding pursuant to the provisions of subparagraph one of paragraph (a) of section one hundred twelve of this [chapter] ARTICLE. Such an action may also be maintained in relation to a corporation hereinafter incorporated if the name, purposes, objects or the activities of such corporation may, in any manner, lead to the belief that the corporation possesses or may exercise any of such purposes.

(B) CONTRIBUTIONS SOLICITED FOR, OR TRANSFERRED TO, ORGANIZATIONS THAT SUPPORT TERRORISM PROHIBITED. NO CORPORATION FORMED UNDER THIS CHAPTER SHALL SOLICIT CONTRIBUTIONS FOR, OR TRANSFER ANY MONIES TO, ANY PERSON OR ORGANIZATION WHICH ASSISTS, FUNDS OR SUPPORTS TERRORISM OR TERRORIST ACTIVITIES. TERRORISM AND TERRORIST ACTIVITIES FOR THE PURPOSES OF THIS SECTION, SHALL INCLUDE ANY ACT, OR THREAT OF AN ACT, OF VIOLENCE DIRECTED AGAINST THE UNITED STATES, ANY STATE, OR LOCAL GOVERNMENT, OR AGAINST ANY PERSON OR PROPERTY WITHIN THE UNITED STATES, IF SUCH ACT, OR THREAT OF AN ACT, OF VIOLENCE IS MOTIVATED BY RELIGIOUS, CULTURAL OR POLITICAL IDEOLOGY. FOR THE PURPOSES OF THIS SECTION, THE ASSISTANCE, FUNDING OR SUPPORT OF TERRORISM SHALL INCLUDE ANY ACTIVITY WHICH COULD ASSIST THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF TERRORISM OR TERRORIST ACTIVITIES, INCLUDING THE ASSISTANCE, FUNDING OR SUPPORTING OR ANY EDUCATIONAL, RELIGIOUS, CULTURAL OR POLITICAL ORGANIZATION, OR PERSON OFFICIALLY AFFILIATED WITH SUCH ORGANIZATION, WHICH ADVOCATES THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF TERRORISM OR TERRORIST ACTIVITIES. THE ATTORNEY GENERAL AND/OR THE STATE COMPTROLLER, UPON PROBABLE CAUSE, MAY AUDIT AND INVESTIGATE ANY CORPORATION FORMED UNDER THIS CHAPTER, SUSPECTED OF VIOLATING THE PROVISIONS OF THIS SECTION. UPON THE CONDUCT OF SUCH AUDIT OR INVESTIGATION, THE ATTORNEY GENERAL AND STATE COMPTROLLER SHALL BE PERMITTED FULL AND UNRESTRICTED ACCESS TO ALL RECORDS, PAPERS AND ACCOUNTS OF SUCH CORPORATION, AND SHALL ALSO BE EMPOWERED TO DEPOSE UNDER OATH, ANY OFFICER, DIRECTOR OR EMPLOYEE OF SUCH CORPORATION. THE ATTORNEY GENERAL SHALL ALSO HAVE THE POWER, AS SHALL THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE CORPORATION MAINTAINS ITS OFFICES, TO PROSECUTE ANY VIOLATION OF THIS SECTION. ANY CORPORATION FOUND TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION, AND/OR ANY CORPORATION WHICH HAS AN OFFICER OR DIRECTOR FOUND GUILTY OF SECTION 490.15 OF THE PENAL LAW UPON APPLICATION TO THE SUPREME COURT BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY SHALL BE DEEMED IMMEDIATELY DISSOLVED, WITH ITS ASSETS IMMEDIATELY TRANSFERRED TO THE STATE OF NEW YORK, AND THE STATE COMPTROLLER UPON DEPOSITING SUCH ASSETS INTO A SEGREGATED ACCOUNT SHALL THEREUPON DISBURSE SUCH ASSETS TO OTHER CHARITABLE ORGANIZATIONS WHICH DO NOT ASSIST, FUND OR SUPPORT TERRORISM OR TERRORIST ACTIVITIES, UNLESS THE SUPREME COURT FINDS COMPELLING EVIDENCE THAT THE CORPORATION'S EXISTENCE SHOULD BE MAINTAINED AND THE CORPORATION HAS DEMONSTRATED THAT ALL PERSONS INVOLVED IN THE ACTIVITIES CONSTITUTING A VIOLATION OF THIS SECTION HAVE BEEN PERMANENTLY BARRED FROM EMPLOYMENT, ASSOCIATION, AND/OR ANY INVOLVEMENT WITH THE CORPORATION.

S 3. This act shall take effect January 1, 2010.