

4470

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the religious corporations law, in relation to providing a means of incorporation for churches affiliated with the Elim Fellowship

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

1 Section 1. The religious corporations law is amended by adding a new
2 article 22 to read as follows:

3 ARTICLE 22

4 ELIM FELLOWSHIP, AFFILIATED AND INDEPENDENT CHURCHES

5 SECTION 460. APPLICATION.

6 461. APPROVAL FOR INCORPORATION.

7 462. QUALIFICATION OF VOTERS.

8 463. NOTICE OF MEETING FOR INCORPORATION.

9 464. MEETING FOR INCORPORATION.

10 465. CHURCH GOVERNANCE.

11 466. CERTIFICATE OF INCORPORATION.

12 467. REINCORPORATION OF PRESENT INCORPORATED CHURCHES.

13 468. TIME, PLACE AND NOTICE OF CORPORATE MEETINGS.

14 469. CORPORATE MEETINGS.

15 470. OWNERSHIP OF PROPERTY.

16 471. RIGHT OF AFFILIATION AND SELF-GOVERNMENT.

17 S 460. APPLICATION. 1. THIS ARTICLE APPLIES TO ANY UNINCORPORATED
18 CHURCH AFFILIATED WITH ELIM FELLOWSHIP, INC. WITH HEADQUARTERS AT LIMA,
19 NEW YORK, AND TO ANY HERETOFORE INCORPORATED CHURCH OR BODY, SO AFFIL-
20 IATED, WHICH DESIRES TO REINCORPORATE PURSUANT TO THIS ARTICLE. INDE-
21 PENDENT CHURCHES MAY INCORPORATE OR REINCORPORATE UNDER THIS ARTICLE IN
22 THE MANNER PROVIDED IN SECTIONS FOUR HUNDRED SIXTY-ONE AND FOUR HUNDRED
23 SIXTY-SEVEN OF THIS ARTICLE, AND ALL THE PROVISIONS OF THIS ARTICLE
24 SHALL APPLY TO SUCH CHURCHES AS THE CONTEXT REQUIRES.

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

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2. NOTHING HEREINAFTER PROVIDED SHALL PREVENT OR PROHIBIT ANY HERETOFORE INCORPORATED CHURCH OR BODY, AFFILIATED WITH ELIM FELLOWSHIP, INC. FROM MAINTAINING AND CONTINUING THE RELATIONSHIP WHICH SUCH CHURCH OR BODY ENJOYED AT THE TIME OF THE EFFECTIVE DATE OF THIS ARTICLE SHOULD SUCH CHURCH OR BODY DETERMINE NOT TO REINCORPORATE PURSUANT TO THIS ARTICLE.

S 461. APPROVAL FOR INCORPORATION. ANY UNINCORPORATED CHURCH OR ANY HERETOFORE INCORPORATED CHURCH WISHING TO INCORPORATE UNDER THIS ARTICLE SHALL FIRST APPLY TO THE GENERAL SECRETARY OF ELIM FELLOWSHIP, INC. FOR APPROVAL. THE CERTIFICATE OF INCORPORATION SHALL REFERENCE SUCH WRITTEN APPROVAL.

S 462. QUALIFICATION OF VOTERS. THE FOLLOWING PARTIES AND NO OTHERS SHALL BE QUALIFIED VOTERS FOR ALL PURPOSES UNDER THIS ARTICLE: ALL PERSONS EIGHTEEN YEARS OF AGE OR OVER WHO ARE MEMBERS IN GOOD AND REGULAR STANDING OF THE CHURCH OR BODY BY ADMISSION INTO MEMBERSHIP THEREWITH, IN ACCORDANCE WITH THE STANDARDS FOR MEMBERSHIP IN THE LOCAL CHURCH AS DETERMINED BY THE LOCAL CHURCH ITSELF.

S 463. NOTICE OF MEETING FOR INCORPORATION. NOTICE OF A MEETING FOR THE PURPOSE OF INCORPORATING AN UNINCORPORATED CHURCH SHALL BE GIVEN AS FOLLOWS:

1. THE NOTICE SHALL BE IN WRITING AND SHALL STATE, IN SUBSTANCE, THAT A MEETING OF SUCH UNINCORPORATED CHURCH WILL BE HELD AT ITS USUAL PLACE OF WORSHIP AT A SPECIFIED DAY AND HOUR FOR THE PURPOSE OF INCORPORATING SUCH CHURCH AND ELECTING THREE OR MORE TRUSTEES, BUT NOT TO EXCEED FIFTEEN.

2. THE NOTICE MUST BE SIGNED BY AT LEAST SIX QUALIFIED VOTERS. A COPY OF SUCH NOTICE SHALL BE PUBLICLY READ AT EACH OF THE TWO CONSECUTIVE SUNDAY MORNINGS, OR MAIN WORSHIP SERVICES, OF SUCH UNINCORPORATED CHURCH PRECEDING THE MEETING TO INCORPORATE, BY THE MINISTER OF SUCH CHURCH, OR IF NONE, BY THE CHURCH MEMBER WHO HAS BEEN DESIGNATED BY THE MEMBERSHIP OR OTHER AUTHORIZED BODY OF THE CHURCH TO CONDUCT THE WORSHIP SERVICE THAT DAY (THE "OFFICIATING MINISTER"); AND AT LEAST FIFTEEN DAYS BEFORE THE MEETING FOR INCORPORATION, A COPY OF SUCH NOTICE SHALL BE POSTED AT THE PLACE OF WORSHIP.

S 464. MEETING FOR INCORPORATION. 1. AT THE MEETING FOR INCORPORATION HELD IN PURSUANCE OF SUCH NOTICE, ONLY QUALIFIED VOTERS SHALL BE ELIGIBLE TO VOTE.

2. THE PRESENCE OF ONE-THIRD OF THE QUALIFIED VOTERS OR SIX QUALIFIED VOTERS, WHICHEVER NUMBER IS HIGHER, SHALL BE NECESSARY TO CONSTITUTE A QUORUM OF SUCH MEETING. THE ACTION OF THE MEETING UPON ANY MATTER OR QUESTION SHALL BE DECIDED BY A MAJORITY OF THE QUALIFIED VOTERS PRESENT.

3. THE MINISTER OF THE CHURCH, OR IF NONE, THE OFFICIATING MINISTER, SHALL ACT AS PRESIDING OFFICER OF THE MEETING TO INCORPORATE. THE PRESIDING OFFICER SHALL CALL THE MEETING TO ORDER AND SHALL BE THE JUDGE OF THE QUALIFICATION OF VOTERS.

4. SUCH MEETING SHALL DECIDE BY BALLOT WHETHER THE CHURCH SHALL BE INCORPORATED, THE NAME OF THE PROPOSED CORPORATION, THE NAMES OF THE INITIAL TRUSTEES, AND THE DATE, NOT MORE THAN FIFTEEN MONTHS THEREAFTER, ON WHICH THE FIRST ANNUAL ELECTION OR AFFIRMATION OF THE TRUSTEES THEREOF AFTER SUCH MEETING SHALL BE HELD. THE TRUSTEES SHALL HOLD OFFICE UNTIL THEIR SUCCESSORS ARE ELECTED OR AFFIRMED.

5. AT THE MEETING FOR INCORPORATION A CONSTITUTION AND BY-LAWS SHALL BE ADOPTED SETTING FORTH A FORM OF CHURCH GOVERNANCE THAT IS CONSISTENT WITH SECTION FOUR HUNDRED SIXTY-FIVE OF THIS ARTICLE.

S 465. CHURCH GOVERNANCE. 1. A CHURCH INCORPORATED UNDER THIS SECTION SHALL PROVIDE IN ITS CERTIFICATE OF INCORPORATION OR BY-LAWS FOR TRUS-

TEES TO BE ELECTED OR APPOINTED AT LARGE, OR BY VIRTUE OF THEIR OFFICE. THERE SHALL BE A MINIMUM OF THREE TRUSTEES. TO THE EXTENT PRACTICABLE, TERMS OF OFFICE SHALL BE FOR THREE YEARS AND STAGGERED. TERMS MAY BE CONSECUTIVE.

2. PROVISION SHALL ALSO BE MADE IN ITS CERTIFICATE OF INCORPORATION OR BY-LAWS FOR OFFICERS OF THE CORPORATION TO BE ELECTED OR APPOINTED AT LARGE OR BY VIRTUE OF THEIR OFFICE. NORMALLY, THE SENIOR PASTOR WOULD SERVE AS PRESIDENT. THE PRESIDENT AND SECRETARY SHALL NOT BE THE SAME PERSON. TO THE EXTENT PRACTICABLE, TERMS OF OFFICE SHALL BE FOR THREE YEARS AND STAGGERED. TERMS MAY BE CONSECUTIVE.

3. PROVISION SHALL ALSO BE MADE IN ITS CERTIFICATE OF INCORPORATION OR BY-LAWS FOR SPIRITUAL OVERSIGHT OF THE CHURCH BY AN ELDERSHIP BOARD, A BOARD OF PRESBYTERS, A SENIOR PASTOR OR SOME COMBINATION OF THE ABOVE. TERMS OF OFFICE MAY BE DEFINITE OR INDEFINITE AS THE BY-LAWS MAY SPECIFY.

4. PROVISION SHALL ALSO BE MADE IN ITS CERTIFICATE OF INCORPORATION OR BY-LAWS FOR PERIODIC AFFIRMATION OF APPOINTIVE POSITIONS BY A DESIGNATED BODY OR BOARD.

S 466. CERTIFICATE OF INCORPORATION. 1. IF AT THE MEETING FOR INCORPORATION IT SHALL BE DECIDED THAT SUCH UNINCORPORATED CHURCH SHALL BECOME INCORPORATED, THE PRESIDING OFFICER OF THE MEETING AND TWO OTHERS SHALL EXECUTE AND ACKNOWLEDGE A CERTIFICATE OF INCORPORATION, IN WHICH SHALL BE STATED THE NAME OR TITLE BY WHICH SUCH BODY SHALL BE KNOWN IN THE LAW; THE PURPOSE OF ITS ORGANIZATION; THE NAMES AND ADDRESSES OF THE INITIAL TRUSTEES, THE COUNTY, TOWN OR CITY IN WHICH ITS PRINCIPAL PLACE OF WORSHIP IS OR IS INTENDED TO BE LOCATED; AND A STATEMENT THAT THE CHURCH IS IN AFFILIATION WITH ELIM FELLOWSHIP, INC.

2. THE CERTIFICATE OF INCORPORATION SHALL REFERENCE THE WRITTEN APPROVAL OF ELIM FELLOWSHIP, INC. TO ITS INCORPORATION PURSUANT TO THIS ARTICLE AND SHALL FURTHER CONTAIN A DISSOLUTION CLAUSE IN FAVOR OF ELIM FELLOWSHIP, INC., OR ITS SUCCESSORS, PROVIDED ELIM FELLOWSHIP, INC. IS THEN IN EXISTENCE AND IS AN ORGANIZATION THAT QUALIFIES UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

3. ON FILING SUCH CERTIFICATE IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OR PLACE OF WORSHIP OF THE CORPORATION IS OR IS INTENDED TO BE LOCATED, SUCH CHURCH SHALL BE A CORPORATION BY THE NAME STATED IN THE CERTIFICATE OF INCORPORATION.

S 467. REINCORPORATION OF PRESENT INCORPORATED CHURCHES. 1. ANY CHURCH HERETOFORE INCORPORATED MAY, SUBJECT TO RESTRICTIONS AND LIMITATIONS OF EXISTING LAWS, REINCORPORATE UNDER THE PROVISIONS OF THIS ARTICLE, BY FILING IN THE COUNTY CLERK'S OFFICE IN THE COUNTY IN WHICH ITS PRINCIPAL PLACE OF WORSHIP IS LOCATED, A CERTIFICATE, SIGNED AND ACKNOWLEDGED BY THE GENERAL SECRETARY OF ELIM FELLOWSHIP, INC., AND SIGNED AND ACKNOWLEDGED BY ALL THE TRUSTEES OF SAID CHURCH IN OFFICE AT THE TIME OF SUCH REINCORPORATION, SETTING FORTH THAT THE SAID CHURCH BY A MAJORITY VOTE OF THE MEMBERS PRESENT AT A DULY CALLED MEETING OF THE MEMBERSHIP, AS DETERMINED BY THE BY-LAWS OF THE EXISTING CORPORATION, DESIRES TO REINCORPORATE UNDER THE PROVISIONS OF THIS ARTICLE. SUCH CERTIFICATE SHALL SET FORTH THOSE ITEMS SPECIFIED IN SECTION FOUR HUNDRED SIXTY-SIX OF THIS ARTICLE.

2. THE REINCORPORATED CORPORATION SHALL BE DEEMED A CONTINUATION OF THE PREVIOUSLY ORGANIZED CORPORATION, BUT THEREAFTER IT SHALL HAVE ONLY SUCH RIGHTS AND POWERS AND BE SUBJECT ONLY TO SUCH OBLIGATIONS AS ANY CORPORATION CREATED UNDER THIS ARTICLE, PROVIDED, HOWEVER, THAT ALL PROPERTY RIGHTS AND LIABILITIES OF THE PREVIOUSLY ORGANIZED CORPORATION SHALL BE VESTED IN AND ASSUMED BY THE REINCORPORATED CORPORATION. THE

CORPORATE BY-LAWS AND OFFICERS OF THE REINCORPORATED CORPORATION SHALL BE THE SAME AS THOSE OF ITS PREDECESSOR UNTIL CHANGED PURSUANT TO THE SAID BY-LAWS, PROVIDED THEY CONFORM TO THE PROVISIONS OF SECTION FOUR HUNDRED SIXTY-FIVE OF THIS ARTICLE.

S 468. TIME, PLACE AND NOTICE OF CORPORATE MEETINGS. 1. THE BY-LAWS SHALL MAKE PROVISION FOR AN ANNUAL CORPORATE MEETING AND FOR GIVING APPROPRIATE NOTICE TO EACH VOTING MEMBER OF THE DATE AND PLACE OF EACH SUCH MEETING.

2. NOTICES OF ANY SPECIAL MEETING SHALL STATE THE PURPOSE OR PURPOSES FOR WHICH THE MEETING IS CALLED AND NO BUSINESS SHALL BE TRANSACTED AT SUCH SPECIAL MEETING EXCEPT THAT CONTAINED IN SUCH NOTICE.

S 469. CORPORATE MEETINGS. 1. EACH CHURCH SHALL DETERMINE THE REQUIREMENTS FOR A QUORUM IN THEIR BY-LAWS THAT SHALL NOT EXCEED FIFTY PERCENT OF THE MEMBERS.

2. THE ACTION OF THE MEETING UPON ANY MATTER OR QUESTION SHALL BE DECIDED IN A MANNER PROVIDED BY THE BY-LAWS.

3. THE PRESIDING OFFICER OF ANY MEETING SHALL BE THE SENIOR PASTOR OF THE CHURCH OR IF NONE, AS SHALL BE SET FORTH IN THE BY-LAWS OF THE CHURCH.

S 470. OWNERSHIP OF PROPERTY. 1. THE TRUSTEES OF EVERY SUCH INCORPORATED OR REINCORPORATED CHURCH SHALL HAVE THE CUSTODY AND CONTROL OF ALL THE REAL AND PERSONAL PROPERTY BELONGING TO THE CORPORATION, EXCEPT IF A CHURCH SHALL BECOME EXTINCT, AT THE OPTION OF ELIM FELLOWSHIP, INC., SUCH PROPERTY SHALL VEST IN AND BECOME THE PROPERTY OF SUCH ELIM FELLOWSHIP, INC. AS PROVIDED IN THE DISSOLUTION CLAUSE OF SUCH CHURCH'S CERTIFICATE OF INCORPORATION.

2. A CHURCH WHICH FAILS TO HOLD REGULAR WORSHIP SERVICES ATTENDED BY SIX OR MORE MEMBERS FOR A PERIOD OF EIGHT CONSECUTIVE MONTHS, MAY BE DECLARED BY ELIM FELLOWSHIP, INC. TO BE DISSOLVED AND EXTINCT, IN WHICH EVENT A DECLARATION OF EXTINCTION SHALL BE FILED IN THE OFFICE OF THE CLERK OF THE COUNTY IN WHICH THE CHURCH IS LOCATED AND THE CHURCH SHALL BE DEEMED TO BE DISSOLVED AND EXTINCT FOR ALL PURPOSES.

S 471. RIGHT OF AFFILIATION AND SELF-GOVERNMENT. 1. EACH INCORPORATED OR REINCORPORATED CHURCH PURSUANT TO THIS ARTICLE SHALL BE DEEMED TO HAVE ENTERED INTO A VOLUNTARY AFFILIATION WITH ELIM FELLOWSHIP, INC. AND SHALL SHARE IN THE PRIVILEGES AND RESPONSIBILITIES OF SUCH FELLOWSHIP.

2. CHURCHES SHALL BE DEEMED TO BE SOVEREIGN, AUTONOMOUS, SELF GOVERNING AND SELF DETERMINING BODIES. THE AFFILIATION OF A CHURCH WITH ELIM FELLOWSHIP, INC. SHALL BE IN MATTERS OF DOCTRINE AND CONDUCT. IN THE EVENT DETERMINATION OF DISAFFILIATION WITH ELIM FELLOWSHIP, INC. IS UNDER CONSIDERATION BY AN AFFILIATED ASSEMBLY, THE PASTOR AND/OR THE CHURCH BOARD SHALL INVITE THE LEADERSHIP OF ELIM FELLOWSHIP, INC. TO DESIGNATE ONE OF ITS ELDERS OR FIELD LEADERS TO PARTICIPATE IN A SPECIALLY CALLED CHURCH MEETING FOR THE EXPRESS MATTER OF GIVING ELIM FELLOWSHIP, INC. THE OPPORTUNITY TO PRESENT THE CASE FOR CONTINUED AFFILIATION.

3. A CHURCH THAT HAS INCORPORATED OR REINCORPORATED UNDER THIS ARTICLE AND WHICH DETERMINES BY THE REQUISITE VOTE AND PROTOCOL TO DISAFFILIATE WITH ELIM FELLOWSHIP, INC. SHALL FORTHWITH FILE A NOTICE OF DISAFFILIATION IN THE OFFICE OF THE CLERK OF THE COUNTY IN WHICH THE CHURCH IS LOCATED.

4. ELIM FELLOWSHIP, INC. SHALL HAVE AUTHORITY TO DISAFFILIATE ANY CHURCH THAT HAS INCORPORATED OR REINCORPORATED UNDER THIS ARTICLE, IF SUCH CHURCH SHALL CEASE TO BE IN GOOD STANDING WITH ELIM FELLOWSHIP, INC. OVER MATTERS OF DOCTRINE AND CONDUCT. ANY SUCH DETERMINATION OF

1 DISAFFILIATION SHALL BE MADE BY THE COUNCIL OF ELDERS OF ELIM FELLOW-
2 SHIP, INC. UPON HEARING OF EVIDENCE. IN THE EVENT OF DISAFFILIATION BY
3 ELIM FELLOWSHIP, INC., A NOTICE OF DISAFFILIATION SHALL BE FILED IN THE
4 OFFICE OF THE CLERK OF THE COUNTY IN WHICH THE CHURCH IS LOCATED.

5 5. A NOTICE OF DISAFFILIATION SHALL NOT INVALIDATE THE INCORPORATION
6 OF THE CHURCH.

7 S 2. This act shall take effect immediately.