

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

8752--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 5, 2009

Introduced by M. of A. KAVANAGH, ESPAILLAT -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Section 14-100 of the election law is amended by adding
2 three new subdivisions 12, 13 and 14 to read as follows:
3 12. "RELATED LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY
4 COMPANY THAT IS AN AFFILIATE OF A CORPORATION WITHIN THE MEANING OF
5 PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION
6 LAW. AS USED IN THIS ARTICLE, CORPORATION MEANS BOTH A FOR-PROFIT CORPO-
7 RATION WITHIN THE MEANING OF SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF
8 SECTION ONE HUNDRED TWO OF THE BUSINESS CORPORATION LAW AS WELL AS A
9 NONPROFIT CORPORATION WITHIN THE MEANING OF SUBPARAGRAPH FIVE OF PARA-
10 GRAPH (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION
11 LAW.
12 13. (1) "RELATED LIMITED LIABILITY PARTNERSHIP," CONSISTENT WITH
13 SECTION TEN OF THE PARTNERSHIP LAW, MEANS, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES, A PARTNERSHIP (I) FORMED BY TWO OR MORE PERSONS PURSUANT TO
15 THE PARTNERSHIP LAW OR WHICH COMPLIES WITH SUBDIVISION (A) OF SECTION
16 121-1202 OF THE PARTNERSHIP LAW AND (II) HAVING ONE OR MORE GENERAL
17 PARTNERS AND ONE OR MORE LIMITED PARTNERS, WHICH (A) IS NOT A PROFES-
18 SIONAL PARTNERSHIP UNDER THIS SECTION, (B) IS AFFILIATED WITH A PROFES-
19 SIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE
20 LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN
21 PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNER-

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

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SHIP THAT IS A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION OR A FOREIGN LIMITED LIABILITY PARTNERSHIP UNDER CLAUSE (I) OR (II) OF THE EIGHTH 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

1 violates any of the provisions of this section, who participates in,
2 aids, abets or advises or consents to any such violations, and any
3 person who solicits or knowingly receives any money or property in
4 violation of this section, shall be guilty of a misdemeanor.

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

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

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

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

51 3. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, EVERY CONTRIBUTION
52 MADE BY A LIMITED LIABILITY COMPANY IS CONSIDERED TO BE A CONTRIBUTION
53 BY THE LIMITED LIABILITY COMPANY AS A WHOLE. INDIVIDUALS MAY NOT ESTAB-
54 LISH A LIMITED LIABILITY COMPANY FOR THE PURPOSE OF EVADING THE CONTRIB-
55 UTION LIMITS THAT WOULD OTHERWISE APPLY TO SUCH INDIVIDUAL.

1 S 4. Severability. If any clause, sentence, paragraph, section or part
2 of this act shall be adjudged by any court of competent jurisdiction to
3 be invalid and after exhaustion of all further judicial review, the
4 judgment shall not affect, impair or invalidate the remainder thereof,
5 but shall be confined in its operation to the clause, sentence, para-
6 graph, section or part of this act directly involved in the controversy
7 in which the judgment shall have been rendered.

8 S 5. This act shall take effect January 1, 2011; provided that
9 contributions legally received prior to the effective date of this act
10 may be retained and expended for lawful purposes and shall not provide
11 the basis for a violation of article 14 of the election law, as amended
12 by this act; and provided, further, that the state board of elections
13 shall notify all candidates and political committees of the applicable
14 provisions of this act within thirty days after this act shall have
15 become a law.