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

11264

I N A S S E M B L Y

May 25, 2010

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

AN ACT to amend the not-for-profit corporation law, in relation to historical societies

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

Section 1. Section 1408 of the not-for-profit corporation law is amended by adding a new paragraph (d) to read as follows:

(D) FREEDOM OF INFORMATION LAW.

(1) EACH NOT-FOR-PROFIT CORPORATION OWNING ASSETS WITH PUBLIC ACCESS AND NATIONAL, STATE AND/OR LOCAL LANDMARK DESIGNATION, WHICH RECEIVES PUBLIC FUNDS, SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION AND COPYING ALL RECORDS, EXCEPT THAT SUCH CORPORATION MAY DENY ACCESS TO RECORDS OR PORTIONS THEREOF THAT:

(I) ARE SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATE OR FEDERAL STATUTE;

(II) IF DISCLOSED WOULD CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY UNDER THE PROVISIONS OF SUBDIVISION TWO OF SECTION EIGHTY-NINE OF THE PUBLIC OFFICERS LAW;

(III) IF DISCLOSED WOULD IMPAIR PRESENT OR IMMINENT CONTRACT AWARDS OR COLLECTIVE BARGAINING NEGOTIATIONS;

(IV) ARE TRADE SECRETS OR ARE SUBMITTED TO SUCH CORPORATION BY A COMMERCIAL ENTERPRISE OR DERIVED FROM INFORMATION OBTAINED FROM A COMMERCIAL ENTERPRISE AND WHICH IF DISCLOSED WOULD CAUSE SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF THE SUBJECT ENTERPRISE;

(V) ARE COMPILED FOR LAW ENFORCEMENT PURPOSES AND WHICH, IF DISCLOSED, WOULD:

(A) INTERFERE WITH LAW ENFORCEMENT INVESTIGATIONS OR JUDICIAL PROCEEDINGS;

(B) DEPRIVE A PERSON OF A RIGHT TO A FAIR TRIAL OR IMPARTIAL ADJUDICATION;

(C) IDENTIFY A CONFIDENTIAL SOURCE OR DISCLOSE CONFIDENTIAL INFORMATION RELATING TO A CRIMINAL INVESTIGATION; OR

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

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(D) REVEAL CRIMINAL INVESTIGATIVE TECHNIQUES OR PROCEDURES, EXCEPT ROUTINE TECHNIQUES AND PROCEDURES;

(VI) IF DISCLOSED COULD ENDANGER THE LIFE OR SAFETY OF ANY PERSON;

(VII) ARE INTER-AGENCY OR INTRA-AGENCY MATERIALS WHICH ARE NOT:

(A) STATISTICAL OR FACTUAL TABULATIONS OR DATA;

(B) INSTRUCTIONS TO STAFF THAT AFFECT THE PUBLIC;

(C) FINAL AGENCY POLICY OR DETERMINATIONS;

(D) EXTERNAL AUDITS, INCLUDING BUT NOT LIMITED TO AUDITS PERFORMED BY THE COMPTROLLER AND THE FEDERAL GOVERNMENT; OR

(VIII) ARE EXAMINATION QUESTIONS OR ANSWERS WHICH ARE REQUESTED PRIOR TO THE FINAL ADMINISTRATION OF SUCH QUESTIONS;

(IX) IF DISCLOSED, WOULD JEOPARDIZE SUCH CORPORATION'S CAPACITY TO GUARANTEE THE SECURITY OF ITS INFORMATION TECHNOLOGY ASSETS, SUCH ASSETS ENCOMPASSING BOTH ELECTRONIC INFORMATION SYSTEMS AND INFRASTRUCTURES; OR

(X) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-A OF THE VEHICLE AND TRAFFIC LAW.

(XI) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-B OF THE VEHICLE AND TRAFFIC LAW.

(2) EACH NOT-FOR-PROFIT CORPORATION OWNING ASSETS WITH PUBLIC ACCESS AND NATIONAL, STATE AND/OR LOCAL LANDMARK DESIGNATION, WHICH RECEIVES PUBLIC FUNDS, SHALL MAINTAIN:

(I) A RECORD OF THE FINAL VOTE OF EACH MEMBER IN EVERY CORPORATION PROCEEDING IN WHICH THE MEMBER VOTES;

(II) A RECORD SETTING FORTH THE NAME, PUBLIC OFFICE ADDRESS, TITLE AND SALARY OF EVERY OFFICER OR EMPLOYEE OF SUCH CORPORATION; AND

(III) A REASONABLY DETAILED CURRENT LIST BY SUBJECT MATTER OF ALL RECORDS IN THE POSSESSION OF SUCH CORPORATION, WHETHER OR NOT AVAILABLE UNDER THIS ARTICLE. SUCH CORPORATION SHALL UPDATE ITS SUBJECT MATTER LIST ANNUALLY, AND THE DATE OF THE MOST RECENT UPDATE SHALL BE CONSPICUOUSLY INDICATED ON THE LIST. SUCH CORPORATION AS DEFINED IN THIS SECTION THAT MAINTAINS A WEBSITE SHALL POST ITS CURRENT LIST ON ITS WEBSITE AND SUCH POSTING SHALL BE LINKED TO THE WEBSITE OF THE COMMITTEE ON OPEN GOVERNMENT. ANY SUCH CORPORATION THAT DOES NOT MAINTAIN A WEBSITE SHALL ARRANGE TO HAVE ITS LIST POSTED ON THE WEBSITE OF THE COMMITTEE ON OPEN GOVERNMENT.

S 2. This act shall take effect immediately.