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

2745

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. O'DONNELL -- Multi-Sponsored by -- M. of A. CLARK, COOK, JOHN, N. RIVERA, ROBINSON -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to establishing penalties for institutions of higher education which do not comply with certain gift disclosure requirements

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

Section 1. Section 207-a of the education law is amended by adding a new subdivision 5 to read as follows:

5. A. IN THE EVENT AN INSTITUTION OF HIGHER EDUCATION FAILS TO COMPLY WITH THE DISCLOSURE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION, THE DEPARTMENT SHALL IMMEDIATELY PROVIDE A NOTIFICATION TO SUCH INSTITUTION OF HIGHER EDUCATION THAT IT MAY BE SUBJECT TO A FULL AUDIT TO BE CONDUCTED BY THE STATE COMPTROLLER IF THE DISCLOSURE REQUIREMENTS ARE NOT MET WITHIN TWENTY-FIVE DAYS OF SUCH NOTIFICATION.

B. IN THE EVENT AN INSTITUTION OF HIGHER EDUCATION FAILS TO COMPLY WITH THE DISCLOSURE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION WITHIN THE TWENTY-FIVE DAYS PROVIDED FOR IN PARAGRAPH A OF THIS SUBDIVISION, UPON THE EXPIRATION OF SUCH TWENTY-FIVE DAYS THE DEPARTMENT MAY REQUEST THE STATE COMPTROLLER TO INITIATE A FULL AUDIT OF THE INSTITUTION OF HIGHER EDUCATION. THE RESULTS OF SUCH AUDIT MAY BE MADE AVAILABLE TO THE PUBLIC AT THE DISCRETION OF THE DEPARTMENT.

C. IN THE EVENT AN AUDIT IS CONDUCTED PURSUANT TO THIS SUBDIVISION AND THE INSTITUTION OF HIGHER EDUCATION IS FOUND TO HAVE UNLAWFULLY WITHHELD FROM THE DEPARTMENT DISCLOSURE INFORMATION REQUIRED BY THIS SECTION, THE DEPARTMENT MAY SEEK DAMAGES IN A COURT OF COMPETENT JURISDICTION. THE DEPARTMENT MAY SEEK SUCH DAMAGES FOR:

(I) ANY GIFTS RECEIVED FROM FOREIGN GOVERNMENTS, FOREIGN LEGAL ENTITIES, OR FOREIGN PERSONS, OR AN EQUIVALENT VALUE OF ANY SUCH GIFTS; OR

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

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(II) PUNITIVE DAMAGES THAT SHALL NOT EXCEED THE LESSER OF TEN PERCENT OF THE VALUE OF THE GIFT RECEIVED, OR SEVENTY-FIVE THOUSAND DOLLARS. ANY DAMAGES RECEIVED, LESS COURT COSTS AND COSTS ARISING FROM THE AUDIT, SHALL BE AWARDED TO THE UNIVERSITY OF THE STATE OF NEW YORK.

D. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO FORGIVE ANY FAILURE TO COMPLY WITH SUBDIVISION THREE OF THIS SECTION, AND EXCUSE ANY DAMAGES THAT AN INSTITUTION OF HIGHER EDUCATION HAS INCURRED AS RESULT OF NONCOMPLIANCE WITH THIS SECTION.

S 2. This act shall take effect immediately.