

5713

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. BRENNAN, COLTON -- Multi-Sponsored by -- M. of A. CAHILL, COOK, JACOBS, JOHN, KOON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to financial disclosure of certain political contributions

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

1 Section 1. The public officers law is amended by adding a new section
2 73-c to read as follows:

3 S 73-C. FINANCIAL DISCLOSURE OF POLITICAL CONTRIBUTIONS. 1. AS USED IN
4 THIS SECTION:

5 (A) THE TERM "STATEWIDE ELECTED OFFICIAL" SHALL MEAN THE GOVERNOR,
6 LIEUTENANT GOVERNOR, COMPTROLLER, OR ATTORNEY GENERAL.

7 (B) THE TERM "NEW YORK CITY CITYWIDE ELECTED OFFICIAL" SHALL MEAN THE
8 MAYOR, PRESIDENT OF THE COUNCIL, OR COMPTROLLER OF NEW YORK CITY.

9 (C) THE TERM "REPORTING INDIVIDUAL" SHALL MEAN ANY PERSON REQUIRED TO
10 FILE AN ANNUAL STATEMENT OF FINANCIAL DISCLOSURE PURSUANT TO THIS
11 SECTION.

12 2. EVERY STATEWIDE ELECTED OFFICIAL, MEMBER OF THE LEGISLATURE, NEW
13 YORK CITY CITYWIDE ELECTED OFFICIAL, MEMBER OF THE NEW YORK CITY COUN-
14 CIL, AND BOROUGH PRESIDENT, SHALL FILE A STATEMENT OF FINANCIAL DISCLO-
15 SURE CONTAINING THE INFORMATION SET FORTH IN SUBDIVISION FOUR OF THIS
16 SECTION. SUCH STATEMENT SHALL BE FILED QUARTERLY EACH YEAR ON OR BEFORE
17 THE FIFTEENTH DAY OF JANUARY, APRIL, JULY AND OCTOBER WITH RESPECT TO
18 THE PRECEDING QUARTER.

19 3. IF THE REPORTING INDIVIDUAL IS A MEMBER OF THE LEGISLATURE, SUCH
20 STATEMENT SHALL BE FILED WITH THE LEGISLATIVE ETHICS COMMITTEE ESTAB-
21 LISHED BY SECTION EIGHTY OF THE LEGISLATIVE LAW. IF THE REPORTING INDI-
22 VIDUAL IS A NEW YORK CITY CITYWIDE ELECTED OFFICIAL, MEMBER OF THE NEW
23 YORK CITY COUNCIL, OR BOROUGH PRESIDENT, SUCH STATEMENT SHALL BE FILED
24 WITH THE NEW YORK CITY CONFLICT OF INTEREST BOARD. IF THE REPORTING

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

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1 INDIVIDUAL IS A STATEWIDE ELECTED OFFICIAL, SUCH STATEMENT SHALL BE
2 FILED WITH THE STATE ETHICS COMMISSION ESTABLISHED BY SECTION
3 NINETY-FOUR OF THE EXECUTIVE LAW.

4 4. THE STATEMENT FILED BY THE REPORTING INDIVIDUAL SHALL INCLUDE:

5 (A) THE NAME, ADDRESS AND OFFICE HELD BY THE REPORTING INDIVIDUAL;

6 (B) A LIST OF ALL MONEYS AND LOANS IN EXCESS OF ONE HUNDRED DOLLARS
7 AND PROPERTY, WHETHER REAL OR PERSONAL, WHOSE FAIR MARKET VALUE IS IN
8 EXCESS OF ONE HUNDRED DOLLARS TRANSFERRED, CONTRIBUTED OR GRANTED TO ANY
9 FUND, ORGANIZATION, OR COMMITTEE OVER WHICH A REPORTING INDIVIDUAL HAS,
10 OR APPEARS TO HAVE, DIRECT OR INDIRECT CONTROL, OR ANY MONEYS AND LOANS
11 IN EXCESS OF ONE HUNDRED DOLLARS AND PROPERTY, WHETHER REAL OR PERSONAL,
12 WHOSE FAIR MARKET VALUE IS IN EXCESS OF ONE HUNDRED DOLLARS, TRANS-
13 FERRED, CONTRIBUTED OR GRANTED TO A REPORTING INDIVIDUAL WHERE SUCH
14 REPORTING INDIVIDUAL HAS, OR APPEARS TO HAVE, DIRECT OR INDIRECT CONTROL
15 OVER THE USE OF THE MONEY, LOAN OR PROPERTY;

16 (C) THE DOLLAR AMOUNT OF SUCH MONEY OR LOAN AND FAIR MARKET VALUE OF
17 SUCH PROPERTY;

18 (D) THE NAME, ADDRESS AND EMPLOYER OF THE TRANSFEROR, CONTRIBUTOR OR
19 GRANTOR;

20 (E) THE DATE OF SUCH TRANSFER, CONTRIBUTION, OR GRANT;

21 (F) A LIST OF ALL EXPENDITURES AND PAYMENTS MADE FROM THOSE MONEYS,
22 LOANS AND PROPERTY DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION;

23 (G) THE DATE OF SUCH EXPENDITURE OR PAYMENT;

24 (H) THE NAME, ADDRESS AND EMPLOYER OF THE PERSON TO WHOM SUCH EXPENDI-
25 TURE WAS MADE; AND

26 (I) THE NAME OF ANY FUND, TRUST, COMMITTEE OR OTHER ORGANIZATION
27 CREATED OR ESTABLISHED BY THE REPORTING INDIVIDUAL,
28 PROVIDED, HOWEVER, THAT SUCH REPORTING INDIVIDUAL SHALL NOT BE REQUIRED
29 TO DISCLOSE ANY INFORMATION REQUIRED TO BE DISCLOSED BY ARTICLE FOURTEEN
30 OF THE ELECTION LAW.

31 5. UPON RECEIPT OF A FILED STATEMENT OF FINANCIAL DISCLOSURE, THE
32 LEGISLATIVE ETHICS COMMITTEE, THE STATE ETHICS COMMISSION OR THE NEW
33 YORK CITY CONFLICT OF INTEREST BOARD SHALL MAKE SUCH STATEMENT IMME-
34 DIATELY AVAILABLE FOR PUBLIC INSPECTION.

35 6. A REPORTING INDIVIDUAL WHO KNOWINGLY AND WILFULLY FAILS TO FILE AN
36 ANNUAL STATEMENT OF FINANCIAL DISCLOSURE OR WHO KNOWINGLY AND WILFULLY
37 WITH INTENT TO DECEIVE MAKES A FALSE STATEMENT OR GIVES INFORMATION
38 WHICH SUCH INDIVIDUAL KNOWS TO BE FALSE ON SUCH STATEMENT OF FINANCIAL
39 DISCLOSURE FILED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO A CIVIL
40 PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS. ASSESSMENT OF
41 A CIVIL PENALTY HEREUNDER SHALL BE MADE BY THE STATE ETHICS COMMISSION
42 OR BY THE LEGISLATIVE ETHICS COMMITTEE, AS THE CASE MAY BE, WITH RESPECT
43 TO PERSONS SUBJECT TO THEIR RESPECTIVE JURISDICTIONS. THE STATE ETHICS
44 COMMISSION ACTING PURSUANT TO SUBDIVISION THIRTEEN OF SECTION
45 NINETY-FOUR OF THE EXECUTIVE LAW OR THE LEGISLATIVE ETHICS COMMITTEE
46 ACTING PURSUANT TO SUBDIVISION TWELVE OF SECTION EIGHTY OF THE LEGISLA-
47 TIVE LAW, AS THE CASE MAY BE, MAY, IN LIEU OF A CIVIL PENALTY, REFER A
48 VIOLATION TO THE APPROPRIATE PROSECUTOR AND UPON SUCH CONVICTION, BUT
49 ONLY AFTER SUCH REFERRAL, SUCH VIOLATION SHALL BE PUNISHABLE AS A CLASS
50 A MISDEMEANOR. A CIVIL PENALTY FOR FALSE FILING MAY NOT BE IMPOSED HERE-
51 UNDER IN THE EVENT THE VALUE OR AMOUNT OF A CONTRIBUTION REPORTED HERE-
52 UNDER IS INCORRECT UNLESS SUCH REPORTED INFORMATION IS FALSELY UNDER-
53 STATED. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO
54 OTHER PENALTY, CIVIL OR CRIMINAL MAY BE IMPOSED FOR A FAILURE TO FILE,
55 OR FOR FALSE FILING, OF SUCH STATEMENT, EXCEPT THAT THE APPOINTING
56 AUTHORITY MAY IMPOSE DISCIPLINARY ACTION AS OTHERWISE PROVIDED BY LAW.

1 THE STATE ETHICS COMMISSION AND THE LEGISLATIVE ETHICS COMMITTEE SHALL
2 EACH BE DEEMED TO BE AN AGENCY WITHIN THE MEANING OF ARTICLE THREE OF
3 THE STATE ADMINISTRATIVE PROCEDURE ACT AND SHALL ADOPT RULES GOVERNING
4 THE CONDUCT OF ADJUDICATORY PROCEEDINGS AND APPEALS RELATING TO THE
5 ASSESSMENT OF THE CIVIL PENALTIES HEREIN AUTHORIZED. SUCH RULES, WHICH
6 SHALL NOT BE SUBJECT TO THE APPROVAL REQUIREMENTS OF THE STATE ADMINIS-
7 TRATIVE PROCEDURE ACT, SHALL PROVIDE FOR DUE PROCESS PROCEDURAL MECH-
8 ANISMS SUBSTANTIALLY SIMILAR TO THOSE SET FORTH IN SUCH ARTICLE THREE
9 BUT SUCH MECHANISMS NEED NOT BE IDENTICAL IN TERMS OR SCOPE. ASSESSMENT
10 OF A CIVIL PENALTY SHALL BE FINAL UNLESS MODIFIED, SUSPENDED OR VACATED
11 WITHIN THIRTY DAYS OF IMPOSITION AND UPON BECOMING FINAL SHALL BE
12 SUBJECT TO REVIEW AT THE INSTANCE OF THE AFFECTED REPORTING INDIVIDUAL
13 IN A PROCEEDING COMMENCED AGAINST THE STATE ETHICS COMMISSION OR LEGIS-
14 LATIVE ETHICS COMMITTEE, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL
15 PRACTICE LAW AND RULES.
16 S 2. This act shall take effect immediately.