

5927

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. TITONE, TOBACCO -- 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
requiring certificates of incorporation of not-for-profit corporations
to include certifications that the initial directors of the corpo-
ration shall commit to the inclusion in the corporation bylaws of a
conflict of interest policy and shall include in the corporate bylaws
a requirement that the directors and officers of the corporation shall
comply with education requirements regarding their fiduciary obli-
gations to the corporation

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

1 Section 1. Subdivision (a) of section 402 of the not-for-profit corpo-
2 ration law is amended by adding two new paragraphs 9 and 10 to read as
3 follows:
4 (9) A CERTIFICATION THAT THE INITIAL DIRECTORS OF THE CORPORATION HAVE
5 INCLUDED IN THE CORPORATE BYLAWS, AND WILL ABIDE BY, A CONFLICT OF
6 INTEREST POLICY WHICH: (I) PROHIBITS THE DIRECTORS AND EXECUTIVE OFFI-
7 CERS OF THE CORPORATION FROM BEING INVOLVED IN DECISIONS RELATING TO
8 BUSINESS BETWEEN THE CORPORATION AND ANY OTHER NOT-FOR-PROFIT CORPO-
9 RATION OF WHICH THE OFFICER OR DIRECTOR, HIS OR HER SPOUSE OR ANY OTHER
10 DISQUALIFIED PERSON IS A DIRECTOR OR OFFICER; AND (II) REQUIRES EACH
11 DIRECTOR AND EXECUTIVE OFFICER OF THE CORPORATION TO CERTIFY TO THE
12 CORPORATION THAT HE OR SHE IS NOT AFFILIATED WITH ANOTHER NOT-FOR-PROFIT
13 CORPORATION WHICH MAY DO BUSINESS WITH THE CORPORATION OR, IF HE OR SHE
14 IS OR BECOMES SO AFFILIATED, TO PROMPTLY DISCLOSE TO THE CORPORATION THE
15 EXISTENCE OF SUCH AFFILIATION. AS USED HEREIN "DISQUALIFIED PERSON"
16 MEANS THE FAMILY OF A DIRECTOR OR EXECUTIVE OFFICER, INCLUDING SUCH
17 PERSON'S SPOUSE, PARENT, SIBLING, CHILD, GRANDCHILD, GREAT-GRANDCHILD,
18 AND THE SPOUSE OF ANY SIBLING, CHILD, GRANDCHILD OR GREAT-GRANDCHILD.

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

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1 (10) A CERTIFICATION THAT THE EXECUTIVE OFFICERS OF THE CORPORATION
2 HAVE INCLUDED IN THE CORPORATE BYLAWS, AND WILL ABIDE BY, A REQUIREMENT
3 THAT: (I) THE EXECUTIVE OFFICERS OF THE CORPORATION SHALL, WITHIN SIX
4 MONTHS OF THE DATE OF INCORPORATION AND EVERY TWO YEARS THEREAFTER,
5 ATTEND AND COMPLETE A COURSE, AT LEAST THREE HOURS IN LENGTH, CONDUCTED
6 BY AN ATTORNEY OR CERTIFIED PUBLIC ACCOUNTANT, WHICH COURSE SHALL
7 INSTRUCT SUCH OFFICERS IN THEIR FIDUCIARY RESPONSIBILITIES AS OFFICERS
8 OF THE CORPORATION; AND (II) THAT THE CORPORATION SHALL MAINTAIN, AS
9 PART OF THE CORPORATE BOOKS AND RECORDS, A RECORD OF THE DATE, LOCATION
10 AND LENGTH OF THE COURSES ATTENDED BY THE EXECUTIVE OFFICERS, INCLUDING
11 THE NAMES OF THE ATTENDEES, THE COURSE PRESENTER AND THE SPONSORING
12 EDUCATION PROVIDER ENTITY, AND THE SIGNATURES OF THE OFFICERS WHO
13 ATTENDED THE PROGRAM.

14 S 2. This act shall take effect January 1, 2010.