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

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. TEDISCO, FITZPATRICK, BALL, KOLB, SAYWARD -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BARCLAY, BARRA, BOYLE, BURLING, BUTLER, CALHOUN, CONTE, CROUCH, DUPREY, ERRIGO, FINCH, GIGLIO, HAWLEY, HAYES, P. LOPEZ, McDONOUGH, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, QUINN, RABBITT, RAIA, REILICH, SALADINO, SCOZZAFAVA, THIELE, TOBACCO, TOWNSEND, WALKER -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to establishing that no conduit or intermediary may contribute, loan or guarantee in excess of one thousand dollars in connection with the nomination or election of any one candidate for state or local office within the state of New York in any election cycle

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

Section 1. Subdivision 8 of section 14-114 of the election law, as amended by chapter 8 of the laws of 1978 and redesignated by chapter 9 of the laws of 1978, is amended to read as follows:

8. A. Except as may otherwise be provided for a candidate and his family, no person may contribute, loan or guarantee in excess of one hundred fifty thousand dollars within the state in connection with the nomination or election of persons to state and local public offices and party positions within the state of New York in any one calendar year. For the purposes of this subdivision "loan" or "guarantee" shall mean a loan or guarantee which is not repaid or discharged in the calendar year in which it is made.

B. NO CONDUIT OR INTERMEDIARY MAY CONTRIBUTE, LOAN OR GUARANTEE IN EXCESS OF ONE THOUSAND DOLLARS IN CONNECTION WITH THE NOMINATION OR ELECTION OF ANY ONE CANDIDATE FOR STATE OR LOCAL OFFICE WITHIN THE STATE OF NEW YORK IN ANY ELECTION CYCLE. FOR PURPOSES OF THIS SUBDIVISION, "CONDUIT OR INTERMEDIARY" MEANS ANY PERSON WHO RECEIVES AND FORWARDS AN EARMARKED CONTRIBUTION TO A CANDIDATE OR A CANDIDATE'S AUTHORIZED

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

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COMMITTEE. FOR THE PURPOSES OF THIS PARAGRAPH, THE FOLLOWING PERSONS SHALL NOT BE CONSIDERED TO BE CONDUITS OR INTERMEDIARIES:

(I) AN INDIVIDUAL WHO IS AN EMPLOYEE OR A FULL-TIME VOLUNTEER WORKING FOR THE CANDIDATE'S AUTHORIZED COMMITTEE, PROVIDED THAT THE INDIVIDUAL IS NOT ACTING IN HIS OR HER CAPACITY AS A REPRESENTATIVE OF AN ENTITY PROHIBITED FROM MAKING CONTRIBUTIONS;

(II) A FUNDRAISING REPRESENTATIVE CONDUCTING JOINT FUNDRAISING WITH THE CANDIDATE'S AUTHORIZED COMMITTEE;

(III) AN AFFILIATED COMMITTEE;

(IV) A COMMERCIAL FUNDRAISING FIRM RETAINED BY THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE TO ASSIST IN FUNDRAISING; AND

(V) AN INDIVIDUAL WHO IS EXPRESSLY AUTHORIZED BY THE CANDIDATE OR THE CANDIDATE'S AUTHORIZED COMMITTEE TO ENGAGE IN FUNDRAISING, AND WHO OCCUPIES A SIGNIFICANT POSITION WITHIN THE CANDIDATE'S CAMPAIGN ORGANIZATION, PROVIDED THAT THE INDIVIDUAL IS NOT ACTING IN HIS OR HER CAPACITY AS A REPRESENTATIVE OF AN ENTITY PROHIBITED FROM MAKING CONTRIBUTIONS.

C. ANY PERSON WHO IS PROHIBITED FROM MAKING CONTRIBUTIONS OR EXPENDITURES IN CONNECTION WITH AN ELECTION FOR STATE OR LOCAL PUBLIC OFFICE SHALL BE PROHIBITED FROM ACTING AS A CONDUIT FOR CONTRIBUTIONS EARMARKED TO CANDIDATES OR THEIR AUTHORIZED COMMITTEES. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT RESTRICT THE ABILITY OF AN ORGANIZATION OR COMMITTEE TO SERVE AS A COLLECTING AGENT FOR A POLITICAL ACTION COMMITTEE.

D. ANY PERSON WHO RECEIVES AN EARMARKED CONTRIBUTION SHALL FORWARD SUCH EARMARKED CONTRIBUTION TO THE CANDIDATE OR AUTHORIZED COMMITTEE, EXCEPT THAT:

(I) A FUNDRAISING REPRESENTATIVE SHALL FOLLOW THE JOINT FUNDRAISING PROCEDURES SET FORTH AT 11 CFR 102.17; AND

(II) A PERSON WHO IS PROHIBITED FROM ACTING AS A CONDUIT PURSUANT TO PARAGRAPH C OF THIS SUBDIVISION SHALL RETURN THE EARMARKED CONTRIBUTION TO THE CONTRIBUTOR.

E. (I) THE INTERMEDIARY OR CONDUIT OF THE EARMARKED CONTRIBUTION SHALL REPORT THE ORIGINAL SOURCE AND THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE TO THE STATE BOARD OF ELECTIONS, AND TO THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE.

(II) THE REPORT TO THE STATE BOARD OF ELECTIONS SHALL BE INCLUDED IN THE CONDUIT'S OR INTERMEDIARY'S REPORT FOR THE REPORTING PERIOD IN WHICH THE EARMARKED CONTRIBUTION WAS RECEIVED.

(III) THE REPORT TO THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE SHALL BE MADE WHEN THE EARMARKED CONTRIBUTION IS FORWARDED TO THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE.

(IV) THE REPORT BY THE CONDUIT OR INTERMEDIARY SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE NAME AND MAILING ADDRESS OF EACH CONTRIBUTOR AND, FOR EACH EARMARKED CONTRIBUTION IN EXCESS OF ONE HUNDRED DOLLARS, THE CONTRIBUTOR'S OCCUPATION AND THE NAME OF HIS OR HER EMPLOYER;

(B) THE AMOUNT OF EACH EARMARKED CONTRIBUTION, THE DATE RECEIVED BY THE CONDUIT, AND THE INTENDED RECIPIENT AS DESIGNATED BY THE CONTRIBUTOR; AND

(C) THE DATE EACH EARMARKED CONTRIBUTION WAS FORWARDED TO THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE AND WHETHER THE EARMARKED CONTRIBUTION WAS FORWARDED IN CASH OR BY THE CONTRIBUTOR'S CHECK OR BY THE CONDUIT'S CHECK.

(V) FOR EACH EARMARKED CONTRIBUTION PASSED THROUGH THE CONDUIT'S OR INTERMEDIARY'S ACCOUNT, THE INFORMATION SPECIFIED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH SHALL BE ITEMIZED ON THE APPROPRIATE SCHEDULES OF RECEIPTS AND DISBURSEMENTS ATTACHED TO THE CONDUIT'S OR INTERMEDIARY'S

REPORT, OR SHALL BE DISCLOSED BY LETTER, AS APPROPRIATE. FOR EACH EARMARKED CONTRIBUTION FORWARDED IN THE FORM OF THE CONTRIBUTOR'S CHECK OR OTHER WRITTEN INSTRUMENT, THE INFORMATION SPECIFIED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH SHALL BE DISCLOSED AS A MEMO ENTRY ON THE APPROPRIATE SCHEDULES OF RECEIPTS AND DISBURSEMENTS ATTACHED TO THE CONDUIT'S OR INTERMEDIARY'S REPORT, OR SHALL BE DISCLOSED BY LETTER, AS APPROPRIATE. FOR THE PURPOSES OF THIS SUBDIVISION, "EARMARKED" MEANS A DESIGNATION, INSTRUCTION OR ENCUMBRANCE, WHETHER DIRECT OR INDIRECT, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WHICH RESULTS IN ALL OR ANY PART OF A CONTRIBUTION OR EXPENDITURE BEING MADE TO, OR EXPENDED ON BEHALF OF, A CLEARLY IDENTIFIED CANDIDATE OR A CANDIDATE'S AUTHORIZED COMMITTEE.

F. (I) THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE SHALL REPORT EACH CONDUIT OR INTERMEDIARY WHO FORWARDS ONE OR MORE EARMARKED CONTRIBUTIONS WHICH IN THE AGGREGATE EXCEED ONE HUNDRED DOLLARS IN ANY CALENDAR YEAR.

(II) THE REPORT BY THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE IDENTIFICATION OF THE CONDUIT OR INTERMEDIARY;

(B) THE TOTAL AMOUNT OF EARMARKED CONTRIBUTIONS RECEIVED FROM THE CONDUIT OR INTERMEDIARY AND THE DATE OF RECEIPT;

(C) THE INFORMATION REQUIRED UNDER 11 CFR 104.3(A) (3) AND (4) FOR EACH EARMARKED CONTRIBUTION WHICH IN THE AGGREGATE EXCEEDS ONE HUNDRED DOLLARS IN ANY CALENDAR YEAR; AND

(D) A DESCRIPTION OF THE BENEFITS EARNED BY THE INTERMEDIARY OR CONDUIT FOR HIS OR HER EFFORTS, INCLUDING, BUT NOT LIMITED TO, SPECIAL ACCESS TO THE CANDIDATE OR A PUBLIC OFFICIAL; USE OF PUBLIC FACILITIES; GIFTS; PREMIUMS; OR THE LIKE.

(III) THE INFORMATION SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE ITEMIZED ON A SCHEDULE TO BE ATTACHED TO THE REPORT FOR THE REPORTING PERIOD IN WHICH THE EARMARKED CONTRIBUTION IS RECEIVED.

G. (I) A CONDUIT'S OR INTERMEDIARY'S CONTRIBUTION LIMITS ARE NOT AFFECTED BY THE FORWARDING OF AN EARMARKED CONTRIBUTION EXCEPT WHERE THE CONDUIT OR INTERMEDIARY EXERCISES ANY DIRECTION OR CONTROL OVER THE CHOICE OF THE RECIPIENT CANDIDATE.

(II) IF A CONDUIT OR INTERMEDIARY EXERCISES ANY DIRECTION OR CONTROL OVER THE CHOICE OF THE RECIPIENT CANDIDATE, THE EARMARKED CONTRIBUTION SHALL BE CONSIDERED A CONTRIBUTION BY BOTH THE ORIGINAL CONTRIBUTOR AND THE CONDUIT OR INTERMEDIARY. IF THE CONDUIT OR INTERMEDIARY EXERCISES ANY DIRECTION OR CONTROL OVER THE CHOICE OF THE RECIPIENT CANDIDATE, THE REPORT FILED BY THE CONDUIT OR INTERMEDIARY AND THE REPORT FILED BY THE RECIPIENT CANDIDATE OR AUTHORIZED COMMITTEE SHALL INDICATE THAT THE EARMARKED CONTRIBUTION IS MADE BY BOTH THE ORIGINAL CONTRIBUTOR AND THE CONDUIT OR INTERMEDIARY, AND THAT THE ENTIRE AMOUNT OF THE CONTRIBUTION IS ATTRIBUTED TO EACH.

S 2. This act shall take effect immediately.