

8752

2009-2010 Regular Sessions

I N A S S E M B L Y

June 5, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to establishing new contribution limits, expanding the types of organizations prohibited from making contributions and aggregating certain contributions

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

1 Section 1. Section 14-100 of the election law is amended by adding
2 three new subdivisions 12, 13 and 14 to read as follows:
3 12. "RELATED LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY
4 COMPANY THAT IS AN AFFILIATE OF A CORPORATION WITHIN THE MEANING OF
5 PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION
6 LAW. AS USED IN THIS ARTICLE, CORPORATION MEANS BOTH A FOR-PROFIT CORPO-
7 RATION WITHIN THE MEANING OF SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF
8 SECTION ONE HUNDRED TWO OF THE BUSINESS CORPORATION LAW AS WELL AS A
9 NONPROFIT CORPORATION WITHIN THE MEANING OF SUBPARAGRAPH FIVE OF PARA-
10 GRAPH (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION
11 LAW.
12 13. (1) "RELATED LIMITED LIABILITY PARTNERSHIP," CONSISTENT WITH
13 SECTION TEN OF THE PARTNERSHIP LAW, MEANS A PARTNERSHIP WITHOUT LIMITED
14 PARTNERS OPERATING UNDER AN AGREEMENT GOVERNED BY THE LAWS OF THIS
15 STATE, WHICH (A) IS NOT A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION,
16 (B) IS AFFILIATED WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY,
17 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL
18 SERVICE CORPORATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGIS-
19 TERED LIMITED LIABILITY PARTNERSHIP THAT IS A PROFESSIONAL PARTNERSHIP
20 UNDER THIS SECTION OR A FOREIGN LIMITED LIABILITY PARTNERSHIP UNDER
21 CLAUSE (I) OR (II) OF THE EIGHTH UNDESIGNATED PARAGRAPH OF SECTION TWO
22 OF THE PARTNERSHIP LAW, AND (C) RENDERS SERVICES RELATED OR COMPLEMEN-
23 TARY TO THE PROFESSIONAL SERVICES RENDERED BY, OR PROVIDES SERVICES OR
24 FACILITIES TO, SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY,
25 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL
26 SERVICE CORPORATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGIS-

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

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1 TERED LIMITED LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PART-
2 NERSHIP.

3 (2) FOR PURPOSES OF THIS SUBDIVISION, SUCH A PARTNERSHIP IS AFFILIATED
4 WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFES-
5 SIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPO-
6 RATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED
7 LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PARTNERSHIP IF (A) AT
8 LEAST A MAJORITY OF PARTNERS IN ONE PARTNERSHIP ARE PARTNERS IN THE
9 OTHER PARTNERSHIP, (B) AT LEAST A MAJORITY OF THE PARTNERS IN EACH PART-
10 NERSHIP ALSO ARE PARTNERS, HOLD INTERESTS OR ARE MEMBERS IN A LIMITED
11 LIABILITY COMPANY OR OTHER BUSINESS ENTITY, AND EACH PARTNERSHIP RENDERS
12 SERVICES PURSUANT TO AN AGREEMENT WITH SUCH LIMITED LIABILITY COMPANY OR
13 OTHER BUSINESS ENTITY, OR (C) THE PARTNERSHIPS OR THE PARTNERSHIP AND
14 SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH FOREIGN
15 PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH PROFESSIONAL
16 SERVICE CORPORATION, OR SUCH FOREIGN PROFESSIONAL SERVICE CORPORATION
17 ARE AFFILIATES WITHIN THE MEANING OF PARAGRAPH (A) OF SECTION NINE
18 HUNDRED TWELVE OF THE BUSINESS CORPORATION LAW.

19 14. "SINGLE SOURCE" MEANS ANY PERSON, PERSONS IN COMBINATION, OR ENTI-
20 TY WHO OR WHICH ESTABLISHES, MAINTAINS, OR CONTROLS ANOTHER ENTITY AND
21 EVERY ENTITY SO ESTABLISHED, MAINTAINED, OR CONTROLLED, INCLUDING EVERY
22 POLITICAL COMMITTEE ESTABLISHED, MAINTAINED, OR CONTROLLED BY THE SAME
23 PERSON, PERSONS IN COMBINATION, OR ENTITY. IF A CANDIDATE ACCEPTS MORE
24 THAN ONE CONTRIBUTION FROM A SINGLE SOURCE, THE CONTRIBUTIONS SHALL BE
25 TOTALED TO DETERMINE THE PARTICIPANT'S OR CANDIDATE'S COMPLIANCE WITH
26 THE APPLICABLE CONTRIBUTION LIMIT. A GENERAL PARTNER OR GENERAL MANAGER
27 AND EACH PARTNERSHIP AND LIMITED LIABILITY COMPANY IT CONTROLS SHALL BE
28 PRESUMED, IN THE ABSENCE OF EVIDENCE DEMONSTRATING THE CONTRARY, TO BE A
29 SINGLE SOURCE FOR THE PURPOSE OF COMPLIANCE WITH THE APPLICABLE CONTRIB-
30 UTION LIMIT.

31 S 2. Subdivisions 1 and 2 of section 14-116 of the election law,
32 subdivision 1 as redesignated by chapter 9 of the laws of 1978 and
33 subdivision 2 as amended by chapter 260 of the laws of 1981, are amended
34 and a new subdivision 3 is added to read as follows:

35 1. No corporation [or], joint-stock association, LIMITED LIABILITY
36 COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED
37 LIABILITY PARTNERSHIP doing business in this state, except [a corpo-
38 ration or association] AN ENTITY organized or maintained for political
39 purposes only, shall directly or indirectly pay or use or offer, consent
40 or agree to pay or use any money or property for or in aid of any poli-
41 tical party, committee or organization, or for, or in aid of, any
42 [corporation, joint-stock or other association] ENTITY organized or
43 maintained for political purposes, or for, or in aid of, any candidate
44 for political office or for nomination for such office, or for any poli-
45 tical purpose whatever, or for the reimbursement or indemnification of
46 any person for moneys or property so used. Any officer, director, stock-
47 holder, MEMBER, PARTNER, attorney or agent of any corporation [or],
48 joint-stock association, LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED
49 LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP which
50 violates any of the provisions of this section, who participates in,
51 aids, abets or advises or consents to any such violations, and any
52 person who solicits or knowingly receives any money or property in
53 violation of this section, shall be guilty of a misdemeanor.

54 2. Notwithstanding the provisions of subdivision one of this section,
55 any corporation or an organization financially supported in whole or in
56 part, by such corporation, OR ANY LIMITED LIABILITY COMPANY, PROFES-

1 SIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PART-
2 NERSHIP may make expenditures, including contributions, not otherwise
3 prohibited by law, for political purposes, in an amount not to exceed
4 five thousand dollars in the aggregate in any calendar year; provided
5 that no public utility shall use revenues received from the rendition of
6 public service within the state for contributions for political purposes
7 unless such cost is charged to the shareholders of such a public service
8 corporation.

9 3. FOR THE PURPOSES OF SUBDIVISION TWO OF THIS SECTION, ALL OF THE
10 COMPONENT MEMBERS OF A CONTROLLED GROUP OF CORPORATIONS WITHIN THE MEAN-
11 ING OF SECTION ONE THOUSAND FIVE HUNDRED SIXTY-THREE OF THE INTERNAL
12 REVENUE CODE OF THE UNITED STATES SHALL BE DEEMED TO BE ONE CORPORATION,
13 AND PROVIDED FURTHER, CONTRIBUTIONS GIVEN BY A SUBSIDIARY OF A CORPO-
14 RATION THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, A
15 RELATED LIMITED LIABILITY PARTNERSHIP THAT IS WHOLLY OR IN PART
16 CONTROLLED BY THE CORPORATION, OR A RELATED LIMITED LIABILITY COMPANY
17 THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, ARE DEEMED TO
18 BE A CONTRIBUTION BY THE CORPORATION. ALL SINGLE SOURCES OF CONTRIB-
19 UTIONS, INCLUDING FROM AFFILIATED CORPORATE ENTITIES, WITHIN THE MEANING
20 OF PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPO-
21 RATION LAW, TOGETHER MAY MAKE CONTRIBUTIONS, NOT OTHERWISE PROHIBITED BY
22 LAW, FOR POLITICAL PURPOSES, IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND
23 DOLLARS IN THE AGGREGATE IN ANY CALENDAR YEAR.

24 S 3. Subdivision 2 of section 14-120 of the election law, as added by
25 chapter 79 of the laws of 1992, is amended and a new subdivision 3 is
26 added to read as follows:

27 2. Notwithstanding subdivision one of this section, a partnership, as
28 defined in section ten of the partnership law, [may be considered a
29 separate entity for the purposes of this section, and as such] may make
30 contributions in the name of said partnership without attributing such
31 contributions to the individual members of the partnership provided that
32 any such contribution made by a partnership to a candidate or to a poli-
33 tical committee, shall not exceed[, twenty-five hundred dollars. In the
34 event that such partnership contribution to any such candidate or poli-
35 tical committee exceeds twenty-five hundred dollars, the aggregate
36 amount of such contribution shall be attributed to each partner whose
37 share of the contribution exceeds ninety-nine dollars] FIVE THOUSAND
38 DOLLARS. ANY PARTNERSHIP THAT IS RELATED TO A CORPORATION WILL HAVE ITS
39 CONTRIBUTIONS AGGREGATED WITH THAT RELATED CORPORATION FOR THE PURPOSES
40 OF CALCULATING THE CONTRIBUTIONS GIVEN. INDIVIDUALS MAY NOT ESTABLISH A
41 PARTNERSHIP, AS DEFINED IN SECTION TEN OF THE PARTNERSHIP LAW, FOR THE
42 PURPOSE OF EVADING THE CONTRIBUTION LIMITS THAT WOULD OTHERWISE APPLY TO
43 SUCH INDIVIDUAL.

44 3. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, EVERY CONTRIBUTION
45 MADE BY A LIMITED LIABILITY COMPANY IS CONSIDERED TO BE A CONTRIBUTION
46 BY THE LIMITED LIABILITY COMPANY AS A WHOLE. INDIVIDUALS MAY NOT ESTAB-
47 LISH A LIMITED LIABILITY COMPANY FOR THE PURPOSE OF EVADING THE CONTRIB-
48 UTION LIMITS THAT WOULD OTHERWISE APPLY TO SUCH INDIVIDUAL.

49 S 4. This act shall take effect January 1, 2011; provided that
50 contributions legally received prior to the effective date of this act
51 may be retained and expended for lawful purposes and shall not provide
52 the basis for a violation of article 14 of the election law, as amended
53 by this act; and provided, further, that the state board of elections
54 shall notify all candidates and political committees of the applicable
55 provisions of this act within thirty days after this act shall have
56 become a law.